

# Immigration Information

[TEXT ONLY](#) [HOME](#) [WHAT'S NEW](#) [FAQS](#) [SEARCH](#) [GLOSSARY](#)[TRANSLATE](#) [PRINTPAGE](#)[CONTENTS](#) [PREVIOUS](#) [NEXT](#) [QUERY](#) [QUERY HELP](#) [CLEAR SEARCH](#) [HIT LIST](#) [PREVIOUS HIT](#) [NEXT HIT](#) [LAW](#)

INSERTS/Adjudicator's Field Manual - Redacted Public Version/Adjudicator's Field Manual - Redacted Public Version (3 of 3),  
Sources of Information / Conducting Research.

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## Chapter 14 Sources of Information / Conducting Research.

- [14.1 The Importance of Research](#)
- [14.2 Basic Principles of Effective Legal Research](#)
- [14.3 Primary Research Sources](#)
- [14.4 Decisions of Administrative Appellate Bodies](#)
- [14.5 Decisions of Federal Courts](#)
- [14.6 Other USCIS and Governmental Resources](#)
- [14.7 Supplemental Materials and Non-Governmental Resources](#)
- [14.8 USCIS and DHS Databases](#)
- [14.9 Internet and Intranet Resources](#)
- [14.10 Procedures for Requesting Library of Congress Research](#)

### 14.1 The Importance of Research.(Chapter 14.1, Revised 07-12-2005).

As an adjudications officer, your decisions about applications must be grounded in the law. Even when the outcome of an issue seems obvious, you must insure that the justification for your decision is based on authority (see for example AFM chapter 72.4 "Step-by- step discussion of the decision process"). You keep in mind the sources for your authority, which will guide you in applying the eligibility requirements consistently to each applicant. In addition to the Immigration and Nationality Act (INA) and other statute governing immigration law enacted by Congress and signed by the President, your actions as an adjudicator should be governed by the following:

- Code of Federal Regulations (CFR)
- Other foreign and domestic laws
- Treaties
- Interpretations
- Court decisions
- BIA and AAO decisions
- Operating Instructions
- ICE Intelligence Program and ICE Forensic Document Laboratory publications (see Interview F Section)
- USCIS policies and procedures, field manuals, policy memoranda, the Administrative Manual, &

official policy documents

- Department of State Foreign Affairs Manual, particularly Volume 9, Appendices B, C, and E, with foreign document availability and information about content and format
- Other secondary sources (i.e., legal dictionaries, legal encyclopedias, etc.)

Note: The list of potential reference works above is not exhaustive, nor is it an endorsement of any resource.

## 14.2 Basic Principles of Effective Legal Research.

Legal research is a search for authorities and standards to apply in resolving legal issues. Successful research is a process in which you build upon what you already know. If you approach research in this way, you are bound to be successful. For example, you may have nothing more than a reference to a section of the U.S. Code. From that information, you can obtain the U.S. Code section number. *U.S. Code Annotated* will often refer to judicial cases dealing with the particular section of law. (This resource should be available in your office; please check with your local district counsel.) The cases often cite various relevant regulations, law review articles, and other interpretive materials. Thus from a very small amount of information, you will be able to locate a wealth of materials.

The following sources will provide you with the information you need when conducting your research.

## 14.3 Primary Research Sources.

The **Immigration and Nationality Act**, often referred to as "The Act" or "INA," is the primary source of immigration law. Any lawful action by USCIS or by any of its officers must be traced back to, and authorized by, the provisions of the United States Code. Sections of the INA are often referred to by their section number in the Act. The Act itself is part of the larger U.S. Code (U.S.C.), beginning at 8 U.S.C. 1101 et seq., and its sections are frequently referred to by their U.S.C. citations, rather than by their INA citations.

The other major source of authority in immigration law is the *Code of Federal Regulations (CFR)*. When Congress enacts a statute pertaining to immigration or naturalization, it generally vests the Director of Homeland Security with authority to implement the statute and promulgate regulations. The statute takes effect on the effective date either the date it was signed into law or a specific date noted in the law itself. Implementing regulations are published by USCIS.

Regulations, though not issued by Congress, have the force of law. USCIS's regulations are contained in the **Code of Federal Regulations (8 CFR)**. Other parts of the *Code of Federal Regulations* may have an effect on immigration issues as well, especially State Department regulations, which can be found at **22 CFR**. The *Code of Federal Regulations* can change nearly every day. To keep track of changes in Federal regulations, review the selected chapters that are published on I-LINK, as well as the hard copy of the *Federal Register*. Chapters 8 and portions of several other titles of the *Code of Federal Regulations* are contained in I-LINK and are updated whenever a new I-LINK disk is distributed. However, you should recognize that there may well be regulations that have become effective since the most recent I-LINK CD was produced.

Changes to the Federal regulations are published daily in the *Federal Register*. The *Federal Register* also publishes Executive Orders and Presidential statements. When rules are published in the *Federal Register*, they almost always contain a preamble, which is a statement by the promulgating agency that explains the basis for issuing the rule. By reading the preamble, you will often find guidance on how to apply a specific provision of the regulation. Several features in the *Federal Register* will help you determine whether a rule is

regulation has been changed. At the front of each issue of the *Federal Register* appears a table of contents arranged by agency name, which is followed by a "list of CFR parts affected" by that day's issue. You scan this list to determine whether there are any recent amendments that affect current immigration regulations. At the end of each day's issue, you will also find a cumulative list of parts affected, listing all CFR parts for the current month.

You can access the *Federal Register* on-line at [http://www.archives.gov/federal\\_register/](http://www.archives.gov/federal_register/) or in hard copy at your district office. It is also available on I-LINK and includes the following for certain years:

- Notices
- Proposed regulations
- Interim regulations
- Final regulations
- Executive orders and proclamations
- Corrections
- Extensions

The *Federal Register* also publishes a monthly pamphlet, *LSA: List of CFR Sections Affected*. This list is cumulative, listing (by *Federal Register* page number) the CFR section affected. By following this procedure, you will ensure that you are aware of the most current version of the regulations. After the initial publication of regulations in the *Federal Register*, they are then compiled annually by subject and issuing agency and published in the more familiar *Code of Federal Regulations (CFR)*. Recent *Federal Register* notices relating to U.S. immigration programs can also be found in I-LINK.

[Go to the Ne](#)