



**U.S. Department of Justice**  
Immigration and Naturalization Service

HQEXM 70/28

Office of the Executive Associate Commissioner

425 I Street NW  
Washington, DC 20536

February 14, 2003

MEMORANDUM FOR REGIONAL DIRECTORS

FROM: Johnny N. Williams /s/  
Executive Associate Commissioner  
Office of Field Operations

SUBJECT: Waiver of Photograph for I-90, Applicants Seeking a Replacement or Renewal Form I-551

Recently, some applicants filing Form I-90, *Application to Create Permanent Resident Card*, for replacement or renewal Form I-551, *Permanent Resident Card*, have sought a waiver from the requirement at 8 CFR § 264.5(e)(1)(i) that all I-90 applicants provide photographs accompanying their application. These applicants have sought such a waiver based on religious grounds, stating that their faith prohibited them from being photographed.

The regulations, at 8 C.F.R. § 264.5(e)(iii) for replacement of permanent resident cards provide that the photograph requirement may be waived only “in cases of confinement due to advanced age or physical infirmity.” However, the Alien Documentation, Identification and Telecommunication System (ADIT) manual states that “religious/ethnic reasons” as well as “physical disfigurement” may be acceptable reasons to waive the photograph requirement. Based on this statement in the ADIT manual, the Immigration and Naturalization Service (Service) has on occasion granted photograph waiver requests on religious grounds, in addition to the grounds specifically provided by regulation. However, in light of national security concerns arising from the events of September 11, 2001, and because Form I-551 is evidence of legal status to enter and remain in the United States, the potential for misuse were it issued without a photograph is too great to allow discretionary waivers beyond what is specifically provided by the regulations at 8 C.F.R. § 264.5(e)(3)(iii).

In addition, the purpose behind the waiver at 8 CFR § 264.5(e)(3)(iii) is to accommodate those who are confined due to advanced age or physical infirmity to nonetheless obtain a replacement of the permanent resident card. In light of the concerns mentioned above, the

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Service should seek to accommodate the applicant by a home visit to accomplish the photograph requirement, in lieu of granting the waiver under 8 C.F.R. § 264.5(e)(3)(iii). Only in extraordinary circumstances where no such accommodation is possible and when the Service officer is certain that the card will not be misused, should the waiver be granted pursuant to 8 C.F.R. § 264.5(e)(3)(iii). A supervisory approval is required for any such photo waiver.

This memorandum covers only waivers of the photograph. Certain alterations to the ADIT photograph requirements, in cases involving disfigurement, for example, are acceptable in accordance with past practice and guidance, so long as the person remains clearly identifiable from the photograph.

The Office of Field Operations requests your assistance in disseminating this policy memorandum to your respective offices and ensuring its immediate implementation. Questions regarding the above policy can be directed to Michael Hardin, Office of Adjudications, (202) 514-4754.