

Families & Immigration: A Practical Guide
4th Edition
Table of Contents

Chapter 1	Qualifying Family Relationships and Eligibility for Visas	
§ 1.1	Overview of the Family Immigration Process: A Two-Step Process.....	1-2
§ 1.2	The Immediate Relative Category & Definition of “Child” and “Spouse”	1-5
§ 1.3	K Visas for Fiancé(e)s, Spouses and Children of U.S. Citizens.....	1-12
§ 1.4	Petitions under the Preference System: Definition of Siblings and Sons and Daughters	1-19
§ 1.5	The Preference Categories.....	1-21
§ 1.6	Derivative Beneficiaries	1-27
§ 1.7	How the Preference System Works	1-30
§ 1.8	Using the State Department Visa Bulletin to Make an Estimate of When Your Client Can Immigrate	1-31
§ 1.9	Advising Your Client about When a Visa May Become Available	1-38
§ 1.10	Child Status Protection Act (CSPA)	1-38
§ 1.11	Protection for the Beneficiaries of a Family Petition when a Qualifying Relative Dies	1-47
§ 1.12	When Is a Visa Petition Terminated or No Longer Valid?	1-49
§ 1.13	Diversity Immigrants, Employment Visas, and Children in Juvenile Court Proceedings	1-54
Appendix 1-A	USCIS Policy Memorandum, “Approval of Petitions and Applications after the Death of the Qualifying Relative under New Section 204(l) of the Immigration and Nationality Act.” December 16, 2010	
Appendix 1-B	USCIS Policy Memorandum, “Adjudication of Immigration Benefits for Transgender Individuals; Addition of <i>Adjudicator’s Field Manual</i> (AFM) Subchapter 10.22 and Revisions to AFM Subchapter 21.3 (AFM Update AD2-02),” April 13, 2012	
Appendix 1-C	“Revised Guidance for the Child Status Protection Act (CSPA)” by Donald Neufeld, Acting Associate Director, Domestic Operations, April 30, 2008	
Appendix 1-D	USCIS Policy Memorandum “Clarification of Aging Out Provisions as They Affect Preference Relatives and Immediate Family Members Under The Child Status Protection Act Section 6 And Form I-539 Adjudications for V Status” by Michael Aytes, CIS Associate Director, Domestic Operations, dated June 14, 2006	
Appendix 1-E	USCIS Interoffice Memorandum on “Section 6 of the Child Status Protection Act” by Joe Cuddihy, Director of International Affairs. March 23, 2004	

Chapter 2 Submitting the Petition

§ 2.1	Completing Government Forms.....	2-1
§ 2.2	Completing the Visa Petition, Form I-130	2-3
§ 2.3	The G-325A and Photograph: Required in a Petition for a Husband or Wife.....	2-11
§ 2.4	Documenting the Visa Petition.....	2-11
§ 2.5	What Documents Are Needed to Prove Family Relationship?	2-12
§ 2.6	Obtaining Documents in the United States to Show Family Relationship	2-14
§ 2.7	Obtaining Documents from Other Countries	2-14
§ 2.8	Making Proper Copies of Documents	2-15
§ 2.9	Making Certified Translations of Documents	2-16
§ 2.10	Documenting the Immigration Status of the Petitioner	2-17
§ 2.11	Filing the I-130 Packet	2-18
§ 2.12	CIS Challenges to a Marriage	2-20
§ 2.13	The Legal Standard for a Marriage	2-21
§ 2.14	Documentation to Show that a Marriage Is Bona Fide	2-23
§ 2.15	What Will Happen at the Marriage Fraud Interview?	2-23
§ 2.16	Preparing Your Client: Self-Defense Techniques for CIS Interviews	2-24
§ 2.17	Special Rules that Affect Spousal Visa Petitions	2-26
§ 2.18	Appealing a Denial by CIS of an I-130 Petition.....	2-29
Appendix 2-A	Sample Completed I-130	
Appendix 2-B	Form I-94	
Appendix 2-C	FBI Background Check Instructions	
Appendix 2-D	Sample Completed G-325A	
Appendix 2-E	CIS Fact Sheet on Submitting Photographs	

Chapter 3 Adjustment of Status and Conditional Residence

§ 3.1	What Is Adjustment of Status?.....	3-2
§ 3.2	Who Is Eligible for Adjustment of Status Based on a Family Petition?	3-3
§ 3.3	What Forms and Documents Are Needed to Apply for Adjustment of Status	3-15
§ 3.4	The Application for Adjustment, Form I-485	3-18
§ 3.5	Form G-325A, Fingerprints, Photos and Medical Exam.....	3-19
§ 3.6	Submitting the Adjustment Application.....	3-21
§ 3.7	The Effect of Leaving the Country.....	3-22
§ 3.8	What Will Happen at the Adjustment Interview?	3-23
§ 3.9	The Decision: Approvals and Denials.....	3-25
§ 3.10	Introduction: The Immigration Marriage Fraud Amendment Act.....	3-27
§ 3.11	What Is Conditional Permanent Residency?	3-28
§ 3.12	Who Is a Conditional Permanent Resident?.....	3-29

§ 3.13	Removal of Conditional Residency if the Marriage Still Exists after Two Years: The I-751 “Joint Petition”	3-30
§ 3.14	When to File the I-751 Joint Petition	3-30
§ 3.15	Completing the I-751 Joint Petition	3-33
§ 3.16	Application Procedure: Filing, Interview, Denials.....	3-34
§ 3.17	Termination of Conditional Residency by CIS during the “Testing Period”	3-37
§ 3.18	Introduction to Waivers of the I-751 Joint Filing Requirement	3-38
§ 3.19	When to File	3-39
§ 3.20	How to File a Waiver	3-40
§ 3.21	The “Good Faith” Waiver	3-41
§ 3.22	How to Show Extreme Hardship.....	3-41
§ 3.23	The Battery or Extreme Cruelty Waiver	3-43
§ 3.24	Proof of Battery or Extreme Cruelty	3-44
§ 3.25	Additional Help for Battered Spouses and Children	3-44
§ 3.26	Filing a Waiver if the U.S. Citizen or Permanent Resident Spouse Has Died	3-44
§ 3.27	Dependent Sons and Daughters.....	3-45
§ 3.28	Special Situations Involving Conditional Residency and Waivers	3-46
Appendix 3-A	INA Sections 245(a) through (c)	
Appendix 3-B	INA Section 245(i)	
Appendix 3-C	Comparison of 245(a) and 245(i) Adjustment Provisions Section 245(i) Memoranda	
Appendix 3-D	Section 245(i) Memorandum dated March 9, 2005	
Appendix 3-E	Section 245(i) Memorandum dated April 14, 1999	
Appendix 3-F	Memorandum dated April 3, 2009, “I-751 Filed Prior to Termination of Marriage”	
Appendix 3-G	Memorandum dated December 23, 2012, “Revised Guidance Concerning Adjudication of Certain I-751 Petitions”	
Appendix 3-H	Sample Letters to Clients Regarding Conditional Residency	

Chapter 4 Applying for Permanent Residence through Consular Processing

§ 4.1	Overview and Definition of Terms	4-1
§ 4.2	And Now Introducing U.S. Consulates	4-6
§ 4.3	How the DHS, the NVC and U.S. Consular Offices Divide Responsibility in Visa Cases	4-6
§ 4.4	Submitting the Fees and the Required Forms.....	4-8
§ 4.5	Obtaining the Necessary “Civil Documents”	4-13
§ 4.6	Getting Ready for the Immigrant Visa Interview.....	4-16
§ 4.7	What Will Happen at the Interview?.....	4-19
§ 4.8	Your Alien Registration Card.....	4-22
§ 4.9	Spotlight: The U.S. Consulate at Ciudad Juarez	4-23

Appendix 4-A	Screen image of the “Immigrant Visa Processing: the National Visa Center (NVC)” page of the NVC website
Appendix 4-B	NVC Fee Bill Invoices for the Immigrant Visa Application and the Affidavit of Support, including NVC’s letter of instructions
Appendix 4-C	NVC letter of instructions directing the attorney of record to go on-line for further details and providing the Case Number Barcode Cover Sheet required for all documents submitted electronically or by hard mail
Appendix 4-D	NVC letter scheduling immigrant visa interview at a US Consulate
Appendix 4-E	Letter from U.S. Consulate in Ciudad Juarez, Mexico regarding the immigrant visa interview
Appendix 4-F	List of telephone numbers for US Consular Offices in Mexico to schedule immigrant visa interviews, Application Support Center appointments and to select DHL courier locations

Chapter 5 Grounds of Inadmissibility

§ 5.1	Overview of Admissibility, Admission and Removal.....	5-2
Part One	The Grounds of Inadmissibility -- Health, Alien Smuggling, Visa and Document Fraud, and Miscellaneous	
§ 5.2	Health-Related Grounds: Communicable Diseases, Required Vaccinations Dangerous Disorders and Addiction and Abuse.....	5-6
§ 5.3	Alien Smuggling: Grounds of Inadmissibility	5-11
§ 5.4	Misrepresentation and/or Visa Fraud	5-14
§ 5.5	Document Fraud: Ground of Inadmissibility and Deportability	5-17
§ 5.6	False Claim to U.S. Citizenship	5-19
§ 5.7	Likely to become a Public Charge	5-24
§ 5.8	Miscellaneous Grounds: Terrorists, Draft Dodgers, Unlawful Voters, Stowaways, Child Abductors, Pornographers	5-44
Part Two	Immigration Violations Relating to Unlawful Status and Removal	
§ 5.9	Entry, Admission and Effective Dates	5-48
§ 5.10	Unlawfully Present in the United States without Being Admitted or Paroled	5-49
§ 5.11	Three- and Ten-Year Bars for Those Unlawfully Present Who Depart and Then Apply for Admission and the Family Waiver.....	5-51
§ 5.12	Permanent Bar to Persons Who Were Unlawfully Present for More than One Year or Were Ordered Removed, and Who Enter or Attempt to Enter without Being Admitted	5-59
§ 5.13	Failure to Attend Removal Proceedings.....	5-64
§ 5.14	Past Removal or Deportation/Exclusion	5-65
§ 5.15	Outline of the IIRIRA Grounds of Inadmissibility.....	5-69

Part Three	Crimes and the Grounds of Inadmissibility	
§ 5.16	Clients with Criminal Records	5-71
§ 5.17	What Is a Criminal Conviction?.....	5-73
§ 5.18	What Evidence Can the DHS Submit to Show a Conviction? What Evidence Can Be Used to Prove an Offense is Inadmissible?	5-79
§ 5.19	Inadmissibility Based on Drug Offenses.....	5-84
§ 5.20	Crimes Involving Moral Turpitude	5-89
§ 5.21	The Ground of Inadmissibility, Petty Offense and Youth Exceptions, Definition of Sentence Imposed, and Formal Admissions	5-93
§ 5.22	Aggravated Felonies.....	5-95
§ 5.23	Other Criminal Grounds of Inadmissibility.....	5-101
§ 5.24	Clearing Up a Criminal Record.....	5-103
Appendix 5-A	“Current Vaccination Criteria for U.S. Immigration,” Fact Sheet from the Dept. of Health and Human Services Centers for Disease Control and Prevention (CDC)	
Appendix 5-B	“Section 212(a)(6) of the Immigration and Nationality Act, Illegal Entrants and Immigration Violators: Revisions to the Adjudicator’s Field Manual (AFM) to Include a New Chapter 40.6 (AFM Update Ad07-18)”	
Appendix 5-C	USCIS “Public Charge Questions and Answers” dated May 25, 1999	
Appendix 5-D	USCIS “Fact Sheet: Public Charge,” dated October 20,2009	
Appendix 5-E	“Analysis of Final Affidavit-of-Support Rule and Forms” by Charles Wheeler of the Catholic Legal Immigration Network, Inc.	
Appendix 5-F	Sponsored Immigrants & Benefits, from the National Immigration Law Center: Affidavit of Support Fact Sheets	
Appendix 5-G	Three and Ten Year Bar and Permanent Bar Chart	
Appendix 5-H	USCIS Interoffice Memorandum, “Consolidation of Guidance Concerning Unlawful Presence for Purposes of Sections 212(a)(9)(B)(i) and 212(a)(9)(C)(i)(I) of the Act,” dated May 6, 2009	
Appendix 5-I	Sample Letter Requesting Court Documents	
Appendix 5-J	Sample Request for FBI Report	
Chapter 6	Waivers of Inadmissibility	
§ 6.1	Waivers of Grounds of Inadmissibility	6-1
§ 6.2	What Is a Waiver?	6-2
§ 6.3	What Is Discretion?	6-3
§ 6.4	How to Find the Waivers in the Act.....	6-4
§ 6.5	Waiver of Inadmissibility for Visa Fraud and Waiver of Deportability for Persons Inadmissible at Admission	6-5
§ 6.6	Waiver for Certain Crimes under INA § 212(h)	6-9
§ 6.7	Waiver of Inadmissibility/Exemption for Alien Smuggling	6-12
§ 6.8	Document Fraud Waiver of Inadmissibility	6-15

§ 6.9	Waiver for Communicable Disease, Lack of Vaccinations, or Dangerous Mental Disorders under INA § 212(g).....	6-17
§ 6.10	Waivers for Unlawful Presence, Past Removal, and Other Related Immigration Offenses.....	6-20
§ 6.11	Waiver for Criminal Convictions Occurring before April 1, 1997 under INA § 240A(a) Cancellation of Removal.....	6-24
§ 6.12	Procedure for Applying for a Waiver.....	6-25
§ 6.13	How Do You Establish Extreme Hardship?.....	6-28
Appendix 6-A	Sample Waiver Application including Cover Letter, Declaration and List of Supporting Documents in Support of Waiver of Unlawful Presence Bar	
Appendix 6-B	Procedures for Adjudication of Form I-601 for Overseas Adjudication Officers	
Appendix 6-C	Process Map of the Provisional Waiver Form I-601A Application Process	
Appendix 6-D	Sample Provisional Unlawful Presence Waiver	
Chapter 7	Special Issues -- The Violence Against Women Act (VAWA)	
§ 7.1	Overview of Self-Petitioning under the Violence Against Women Act (“VAWA”)	7-1
§ 7.2	Requirements for VAWA Self-Petition of an Abused Spouse.....	7-3
§ 7.3	Requirements for a VAWA Self-Petition for an Abused Child	7-12
§ 7.4	Requirements for a VAWA Self-Petition for an Abused Parent.....	7-15
§ 7.5	Procedures for Self-Petitioning under VAWA.....	7-17
Appendix 7-A	Document Gathering for Self-Petitioning Under the Violence Against Women Act (excerpt)	
Appendix 7-B	Aytes memo, April 11, 2008, “Adjustment of Status for VAWA self-petitioner who is present without inspection: Revision of Adjudicator’s Field Manual (AFM) Chapter 23.5”	