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 October 27, 2023

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August 2020

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ADVANCED ISSUES IN IMMIGRATION

October 27, 2023

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ADVANCED ISSUES IN IMMIGRATION



Agenda

- 8:25 A.M.** Welcome and Overview
Rachel Van Tyle & Emma Mahern, Co-chairs
- 8:30 A.M. Ethical Use of Interpreters
Kristin A. Hoffman & Rachel Van Tyle
- 9:30 A.M. Refreshment Break**
- 9:45 A.M. Agency Panel #1 – Executive Office for Immigration Review & Office of the Principal Legal Advisor
Jennifer Peyton, Renae M. Hansell & Karen Lundgren
- 11:00 A.M. AILA Indiana chapter meeting & luncheon
All attendees are welcome to see the benefits of AILA Indiana membership
- 11:30 A.M. Luncheon**
- 12:15 P.M. Agency Panel #2 – United States Citizenship and Immigration Services, Local and Chicago offices
Cecilia Deypalubos & Ken Madsen
- 1:30 P.M. Agency Panel #3 – Social Security Administration and Indiana BMV
Matthew Kestian, Doug Nguyen, Eric Martinez, & Charo Boyd
- 3:00 P.M. Refreshment Break**
- 3:15 P.M. Break Out Sessions
Employment – *Angela D. Adams*
Removal/Humanitarian - *Michelle Geisler*
Family - *Thushanti Kamalakanth*
- 3:45 P.M. Break Out Sessions – Round #2
Employment – *Angela D. Adams*
Removal/Humanitarian - *Michelle Geisler*
Family - *Thushanti Kamalakanth*
- 4:15 P.M. Adjournment**

October 27, 2023

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ADVANCED ISSUES IN IMMIGRATION

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Cecilia Deypalubos

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Hon. Renae M. Hansell

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Karen E. Lundgren

Office of the Principal Legal Advisor

Kenneth Madsen

U.S. Citizenship and Immigration
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Eric Martinez

United States Social Security
Administration

Doug Nguyen

United States Social Security
Administration

Hon. Jennifer I. Peyton

Executive Office for Immigration Review

October 27, 2023

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Rachel Van Tyle, Exodus Refugee Immigration, Indianapolis



Director of Legal Services at Exodus Refugee Immigration

WORK

Director of Immigration Services @ Neighborhood Christian Legal Clinic

Staff Attorney @ Neighborhood Christian Legal Clinic

Volunteer Attorney @ Neighborhood Christian Legal Clinic

Legal Intern @ Indiana Coalition Against Domestic Violence

Legal Intern Ozanam Legal Clinic @ Society of St. Vincent de Paul

EDUCATION

Spanish @ Kukulcan Educational Spanish Community

Juris Doctor @ Northern Kentucky University—Salmon P. Chase College of Law

BS, Liberal Arts @ Xavier University

Indiana Honors Diploma @ Brebeuf Jesuit Preparatory School

Emma Mahern, Muñoz Legal, Indianapolis



Emma Mahern was born and raised in Indianapolis. Her passion for working with immigrants began while attending Indiana University and working in restaurants alongside immigrants from many countries. Before attending law school she pursued that passion by living and working at a shelter for Spanish-speaking families in Chicago, Illinois where she had the opportunity to deepen her understanding of the challenges that face many newly arriving immigrant families. In 2014, she graduated summa cum laude from the Robert H. McKinney School of Law where she was selected as the Faculty Prize recipient and a Kennedy Scholar. She is licensed to practice in Indiana, and before the Federal Courts of the Northern and Southern Districts of Indiana. She is a member of the American Immigration Lawyers Association (AILA) as well as the National Immigration Project of the National Lawyers Guild.

Angela Adams, Adams Immigration Law LLC, Indianapolis



Angela has been practicing immigration law since 2004. Prior to opening Adams Immigration Law LLC in 2017, she served as Associate General Counsel for immigration at Indiana University for three years. At IU, she assisted students, faculty, physicians and staff on various immigration issues, including but not limited to PERM labor certification, National Interest Waivers, Conrad 30 waivers, EB-1 Outstanding Professors and Researchers, H-1B issues, naturalization, Deferred Action for Childhood Arrivals (DACA), and international student visa matters. Before joining IU, she was a partner in the immigration group at Lewis & Kappes in Indianapolis, where she practiced in all areas of immigration, including family-based and employment-based immigration, asylum, and deportation/removal defense.

Angela was a partner in the immigration group at Lewis & Kappes in Indianapolis where she practiced in all areas of immigration. Prior to entering law school, she served as an Education Consultant for the Indiana Department of Education Division of Language Minority and Migrant Programs. She also taught English in Saltillo, Mexico, and she is fluent in Spanish.

Angela earned a B.S. in SPEA Public Affairs-Management from Indiana University Bloomington and her J.D. from the IU Robert H. McKinney School of Law in Indianapolis. She has served on the Board of Directors for the Immigrant Welcome Center (past president), Mexican Scholarship Fund (vice chair), La Plaza, and Hispanic Education Center. She is co-founder of "META: Mapping Education Towards Achievement" Hispanic Post-secondary Awareness Seminar at IUPUI. She currently serves as Chapter Chair for the Indiana Chapter of the American Immigration Lawyers Association (AILA). A frequent speaker and writer on immigration, she has consulted on immigration policy in the Indiana General Assembly and on Capitol Hill. In 2014, Angela was recognized by the Indiana Latino Scholarship Fund for her efforts to increase educational opportunities for immigrant students.

Angela was named to Indianapolis Business Journal's "Forty under 40" in 2014 and "Women of Influence" in 2011; United Way of Central Indiana "Diversity Advocate Award" 2013; Indiana Super Lawyers "Rising Star" in immigration 2009, 2010, and 2012; Indiana Lawyer "Up and Coming Lawyer Award" in 2007; and was a member of the Stanley K. Lacy Executive Leadership Series Class XXXVI.

Charo Boyd, SSA Indianapolis Public Affairs Specialist, Indianapolis



Charo N. Boyd is the Social Security Administration's (SSA) Public Affairs Specialist for Southern Indiana. Her area goes up to Lafayette and down to Evansville. She is the primary SSA media contact for television, radio, and newspapers in the aforementioned area. Boyd is also responsible for informing the public about SSA programs and benefits. She is often the guest speaker for retirement and disability seminars. She also trains HR Managers, Financial Planners, Tax Preparers, Social Workers, Case Managers, Disability Advocates, and Attorneys on various SSA topics.
www.socialsecurity.gov

Cecilia Deypalubos, USCIS Field Director Immigration Services Officer



Michelle Geisler, Flora Legal Group, Indianapolis



Michelle has nearly a decade of experience practicing law, serving families by assisting them through various immigration channels, including admissibility issues and waivers, adjustment of status, removal of conditions, and consular processing. She graduated from the University of Arkansas in 2012 with a Bachelor of Science in International Business, minoring in German and Economics, receiving Cum Laude honors and distinctions. Michelle furthered her legal expertise by completing her Juris Doctor at Michigan State University, College of Law. During both her undergraduate and graduate pursuits, Michelle studied abroad in Germany and Poland, respectively. Her time outside of the United States gave her intentional insight into her passion for international laws and assisting others in navigating the complexities of immigration.

Renae M. Hansell, EOIR Assistant Chief Immigration Judge, Memphis, TN



Kristin A. Hoffman, Luna Language Services, Indianapolis



Kristin Hoffman serves as the Director of Translation at LUNA Language Services. She applies her people-first philosophy to the role, which encompasses supporting the internal translation department and external clients. Her team supports the translation of documents and audiovisual assets across 200+ languages.

Before joining LUNA, Kristin served as the Director of the Worker Rights and Protection Project (WRAPP) at Indiana Legal Services. Her work encompassed language access rights under Title VI and service to a broad range of community members. Through her work at Indiana Legal Services, Kristin advocated for the rights of low-wage immigrants and migrant farm workers.

Kristin focuses on serving marginalized communities and creating positive impact. As an attorney, she brings a unique skill set to LUNA's clients and a deep understanding of language access best practices.

Kristin graduated with a degree in anthropology from Cornell University and earned her JD from the University of Cincinnati College of Law. As an anthropology major, she deepened her understanding of societies and cultures. Her interest in social justice and learning from others drive her professional pursuits.

When she's not working, Kristin serves as the Vice President of the board for Proteus, Inc., a non-profit organization serving farmworkers in Iowa, Indiana, and Nebraska. She also generously gives her time as a board member for Grace Horizon, a non-profit organization in Anderson, Indiana serving survivors of sexual exploitation and human trafficking.

Thushanti Kamalakanth, TK Immigration LLC, Goshen



Matthew Kestian, General Counsel, Indiana Bureau of Motor Vehicles



Matthew Kestian is an experienced leader, attorney, and trainer who has served in and driven change in several local, state, and federal government roles. Successfully led Soldiers in combat and peacekeeping. Successfully litigated complex criminal cases including homicides, crimes against children, and financial crimes. Led multi-disciplinary teams to improve outcomes for children and families and legal outcomes in a county's sexual assault response team and a child welfare agency's state-wide legal team.

Karen E. Lundgren, OPLA Chief Counsel, Chicago



Kenneth S. Madsen, USCIS Asylum Office Director, Chicago



Eric Martinez, SSA Deputy Regional Communications Director, Chicago



Doug Nguyen, SSA Regional Communications Director, Chicago



Jennifer Peyton, EOIR Assistant Chief Immigration Judge, Chicago



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Executive Office for Immigration Review

and Office of the Principal Legal Advisor..... Hon. Jennifer I. Peyton

Hon. Renae M. Hansell

Karen E. Lundgren

Section Three

Agency Panel #2

United States Citizenship and Immigration

**Services, Local and Chicago Office..... Cecilia Deypalubos
Kenneth Madsen**

Section Four

Agency Panel #3

**Social Security Administration
and Indiana BMV.....**

**Matthew Kestian
Doug Nguyen
Eric Martinez
Charo Boyd**

Need A Social Security Card?

Request a Replacement Social Security Card Online

Social Security Numbers for Noncitizens

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Section Five

Employment..... Angela Adams

Section Six

Removal/Humanitarian..... Michelle Geisler

Section Seven

Family..... Thushanti Kamalakanth

Slide Presentation

Section One

Working With a Language Service Provider (LSP) Ethics and Best Practices

Kristin A. Hoffman
LUNA Language Services
Indianapolis, Indiana

Rachel Van Tyle
Exodus Refugee Immigration
Indianapolis, Indiana

Section One

**Working With a
Language Service Provider (LSP)**

**Ethics and Best Practices..... Kristin A. Hoffman
Rachel Van Tyle**

Slide Presentation

Working With a Language Service Provider (LSP)

Ethics and Best Practices

Presented by: Kristin Hoffman & Rachel Van Tyle



Goals of Presentation



1 Overview of LSP industry & standards



2 Review relevant Rules of Professional Conduct



3 Offer some best practices when working with LSPs



4 Use case studies to highlight ethical issues that can come with using an LSP

Find a Language Professional



Translators

We translate written text.



books



contracts



websites

Translators do the writing



Interpreters

We interpret spoken or sign language.



medical appointments



court proceedings



conferences

Interpreters do the talking

International Standard 17100:2015(E) –Translation

Translators shall have the following competencies

- a) Translation competence
- b) Linguistic and textual competence in source and target language
- c) Competence in research, information acquisition and processing
- d) Cultural competence
- e) Technical competence
- f) Domain competence

Translator qualifications

- a) A recognized graduate qualification in translation
- b) A recognized graduate qualification in any other field plus two years of full-time professional experience in translating
- c) Five years of full-time professional experience in translating.

Translation Process by 2 qualified linguists

- a) Translate
- b) Edit
- c) Proofread

State and National Certifications for Interpreters:

- 1) Medical–Certification Commission for Healthcare Interpreters (CCHI); National Board of Certification for Medical Interpreters
- 2) Legal–Federal Court Interpreter Certification; National Center for State Courts
- 3) Indiana Supreme Court certification for spoken language (low passing rate for written exam)
- 4) RID: Registry of Interpreters for the Deaf, Inc. (certification, registry and professional development)

Trainings:

- Bridging the Gap is nationally recognized and mostly known in the medical field
- *any 40-hour trained interpreters should all be trained in ethics and confidentiality*



Understanding Technology in Translation

- Computer Assisted Technology (CAT)
- Translation Memory
- Machine Translation & AI

Rule 1.1. Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, **thoroughness and preparation reasonably necessary** for the representation.

Rule 1.3. Diligence

A lawyer shall act with **reasonable diligence** and promptness in representing a client.



Rule 1.4. Communication

(a) A lawyer shall:

- (1) **promptly inform** the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
- (2) **reasonably consult** with the client about the means by which the client's objectives are to be accomplished;
- (3) **keep the client reasonably informed** about the status of the matter;
- (4) **promptly comply** with reasonable requests for information; and
- (5) **consult with the client** about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law or assistance limited under Rule 1.2(c).

(b) A lawyer **shall explain** a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Rule 1.6. Confidentiality of Information

- (a) A lawyer shall not reveal information relating to representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

Acting Competently to Preserve Confidentiality

Comments to Rule

[16] A lawyer must **act competently to safeguard information** relating to the representation of a client against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See Rules 1.1, 5.1 and 5.3.

[17] When **transmitting a communication** that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule.

Rule 1.5. Fees

- (a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or **an unreasonable amount for expenses**. The factors to be considered in determining the reasonableness of a fee include the following:
- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
 - (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
 - (3) the fee customarily charged in the locality for similar legal services;
 - (4) the amount involved and the results obtained;
 - (5) the time limitations imposed by the client or by the circumstances;
 - (6) the nature and length of the professional relationship with the client;
 - (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
 - (8) whether the fee is fixed or contingent.

Conflicts of Interest

Family member interpreters

- Trauma
- Inaccurate interpretation

Interested parties

- Biased claims



Language Access Special Considerations

- Languages of less diffusion
- Identifying mistranslation or misinterpretation in the record
- Denial of language services when required
- Denial of Accommodations

ANNALS OF IMMIGRATION

A TRANSLATION CRISIS AT THE BORDER

THE
NEW YORKER

For migrants who speak Mayan languages, a grassroots group of interpreters is often their only hope for receiving asylum.

By Rachel Nolan

December 30, 2019

ADA Compliance

Title II and Title III entities are required to “effectively communicate”

- Title II: State and local governments
- Title III: Businesses and nonprofit organizations that serve the public

The purpose of the effective communication rule is to

- Ensure people with a vision, hearing, or speech disability can communicate with, receive information from, and convey information to the covered entity



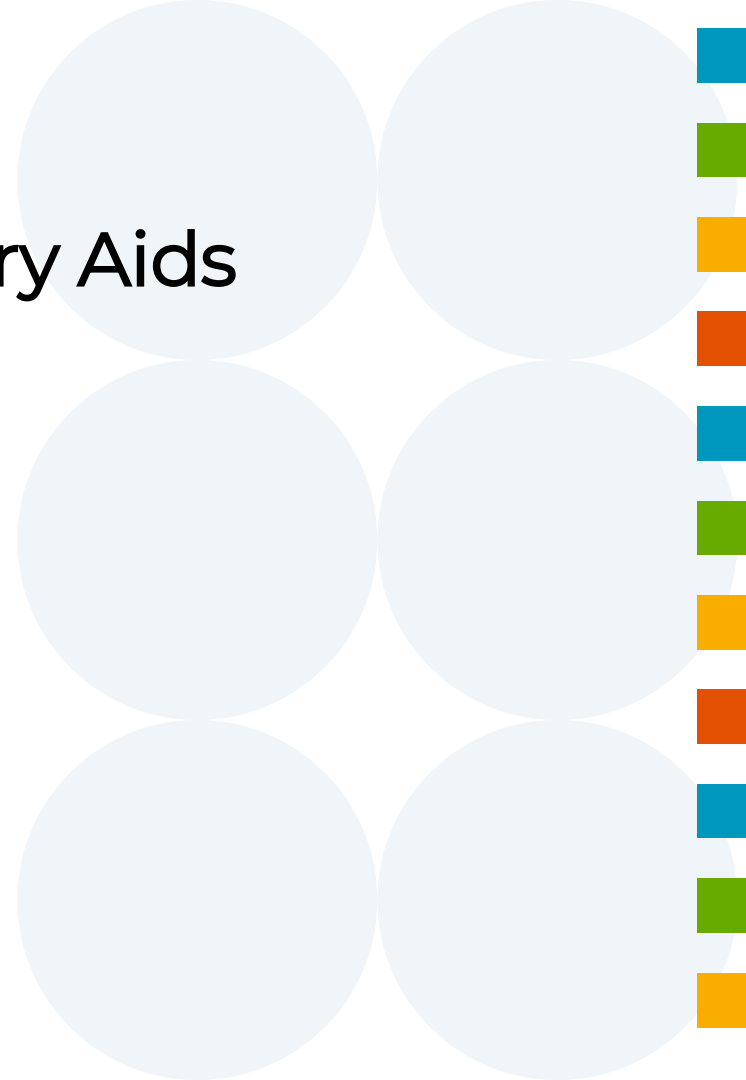
ADA Compliance: Auxiliary Aids

For people who are blind:

- Providing qualified reader
- Information in large print
- Braille

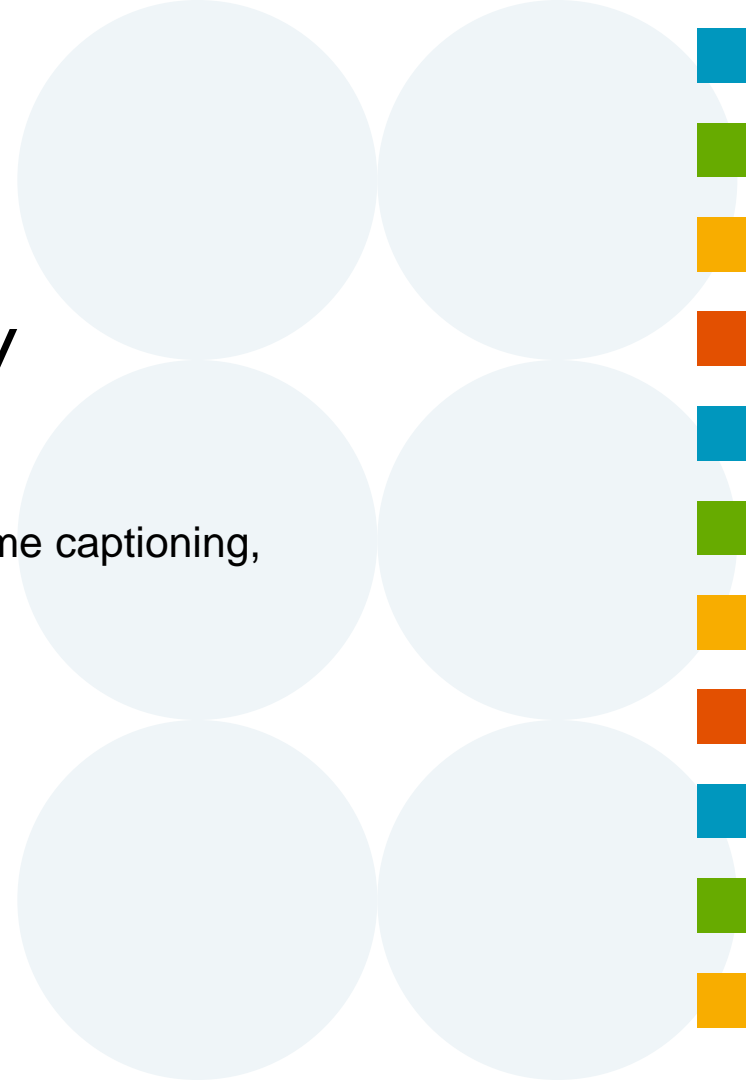
For people who are deaf or with hearing loss:

- Qualified notetaker
- Qualified sign language interpreter
- Written materials



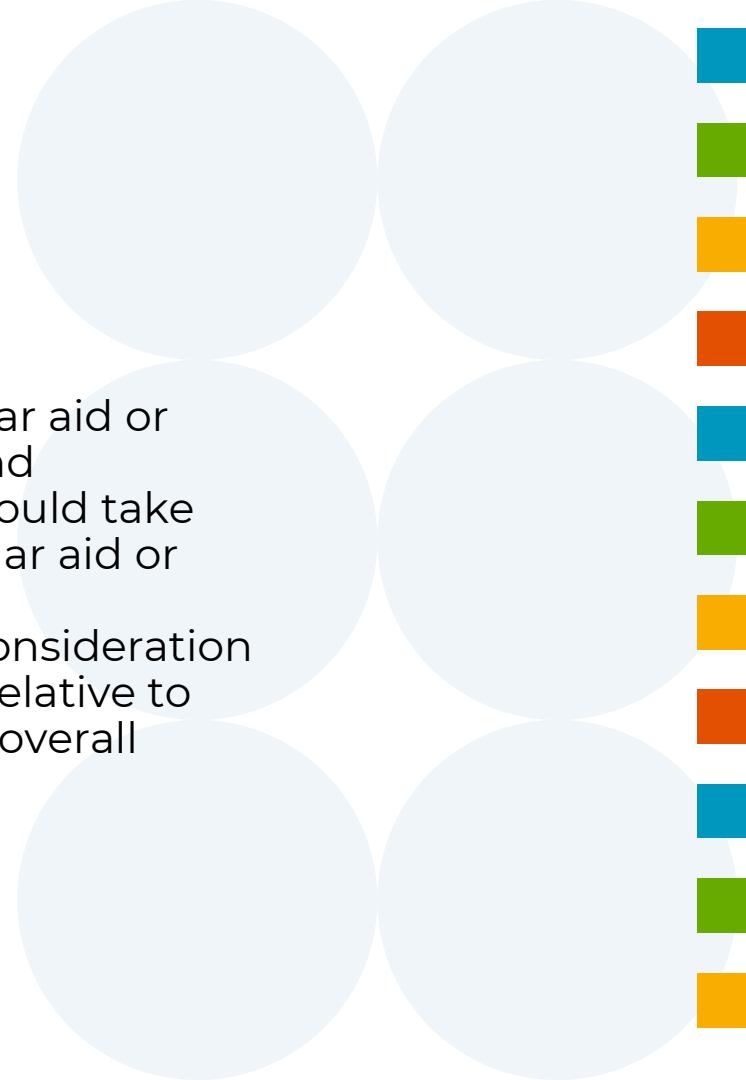
ADA Compliance: Auxiliary Aids Technology

- Assistive listening systems
- Open captioning, closed captioning, real-time captioning, and closed caption decoders and devices
- Telephone headset amplifiers
- Videotext displays
- Screen reader software



ADA Undue Burden

- Title II: in determining whether a particular aid or service would result in undue financial and administrative burdens, a title II entity should take into consideration the cost of the particular aid or service in light of all resources available
- Title III: A title III entity should take into consideration the nature and cost of the aid or service relative to their size, overall financial resources, and overall expenses



What aid should you provide?

- Title II entities are required to give primary consideration to the choice of aid or service requested by the person who has a communication disability
- Title III entities are encouraged to consult with the person with a disability to discuss what aid or service is appropriate
- Covered entities are required to provide aids and services unless doing so would result in an “undue burden”

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Section Two

Agency Panel #1

Executive Office for Immigration Review and Office of the Principal Legal Advisor

Hon. Jennifer I. Peyton

Executive Office for Immigration Review
Chicago, Illinois

Hon. Renae M. Hansell

U.S. Department of Justice | EOIR
Memphis Immigration Court
Memphis, Tennessee

Karen E. Lundgren

Office of the Principal Legal Advisor
Chicago, Illinois

Section Two

Agency Panel #1

Executive Office for Immigration Review

and Office of the Principal Legal Advisor..... Hon. Jennifer I. Peyton

Hon. Renae M. Hansell

Karen E. Lundgren

Section Three

Agency Panel #2

United States Citizenship and Immigration Services, Local and Chicago Office

Cecilia Deypalubos

U.S. Citizenship and Immigration Services
Indianapolis, Indiana

Kenneth Madsen

U.S. Citizenship and Immigration Services
Chicago, Illinois

Section Three

Agency Panel #2

United States Citizenship and Immigration

**Services, Local and Chicago Office..... Cecilia Deypalubos
Kenneth Madsen**

Section Four

Agency Panel #3

Social Security Administration and Indiana BMV

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Deputy General Counsel
Indiana Bureau of Motor Vehicles
Indianapolis, Indiana

Doug Nguyen

United States Social Security Administration
Chicago, Illinois

Eric Martinez

United States Social Security Administration
Baltimore, Maryland

Charo Boyd

United States Social Security Administration
Indianapolis, Indiana

Section Four

Agency Panel #3

**Social Security Administration
and Indiana BMV.....**

**Matthew Kestian
Doug Nguyen
Eric Martinez
Charo Boyd**

Need A Social Security Card?

Request a Replacement Social Security Card Online

Social Security Numbers for Noncitizens

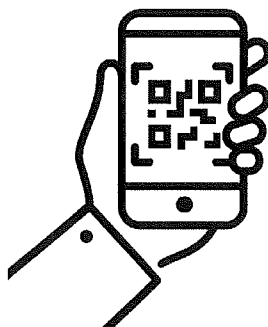
Social Security Number and Card – Deferred Action for Childhood Arrivals



Need a Social Security card? ¿Necesita una tarjeta de Seguro Social?

Scan the QR code to get started. You may be able to start or complete your request online.

Escanee el código QR para comenzar. Es posible que pueda comenzar su solicitud por internet.



Open the camera app on a smart phone or tablet.

1

Abra la aplicación de la cámara en un teléfono inteligente o tableta.

Point the camera at the QR code.

2

Apunte la cámara al código QR.

Tap the banner that appears.

3

Toque el banner que aparece.

SSA.gov | SeguroSocial.gov



Information for Advocates, Social Service Agencies, and Other Third Parties

Request a Replacement Social Security Card Online

If your clients need a replacement Social Security card, let them know that they may be able to request a replacement card online using their personal *my* Social Security account. In most cases, you might not need the physical card, simply knowing your Social Security number is enough. When you do need a replacement card, the most secure and convenient way is to request one with your personal *my* Social Security account. To take advantage of this service option, your client must:

- Have or create a *my* Social Security account.
- Be a U.S. citizen age 18 or older with a U.S. mailing address (this includes APO, FPO, and DPO addresses).
- Not be requesting a name change or any other change to your card.
- Have a driver's license or state-issued identification card from one of the many participating states or the District of Columbia.

Now, you can serve your clients faster because they no longer have to make time to visit one of our local Social Security offices to request a new card. They can make this request online from the convenience of their preferred location or from a computer in your office.

With a *my* Social Security account, those who reside in a participating area can easily request a new card and have it sent to their verified mailing address. They can visit www.ssa.gov/ssnumber to find out if their state participates in our replacement card services, and even subscribe to receive alerts when we update the page.

Please encourage your clients to go online when they need to request a replacement Social Security card. We're asking agencies and other organizations to assist our mutual customers by sending clients to www.ssa.gov/myaccount.

Our fact sheet, *How To Create An Online Account* (Publication No. 05-10540), provides step-by-step instructions to create an account.

If your clients are experiencing issues with their request they can get help through their *my* Social Security account or they can call our toll-free number, **1-800-772-1213** (TTY **1-800-325-0778**).

Contacting Social Security

The most convenient way to do business with us from any location and on any device is to visit www.ssa.gov to get information and use our online services.

Or, call us toll-free at **1-800-772-1213** or at **1-800-325-0778** (TTY) if you're deaf or hard of hearing. We can answer your call from 7 a.m. to 7 p.m., weekdays. You can also use our automated services via telephone, 24 hours a day. We look forward to serving you.



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Social Security Administration

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Request a Replacement Social Security Card Online

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Social Security Numbers for Noncitizens

Does a noncitizen need a Social Security number (SSN)?

Unless you are a noncitizen who wants to work in the United States, you probably don't need an SSN.

Generally, only noncitizens authorized to work in the United States by the Department of Homeland Security (DHS) can get an SSN. SSNs are used to report a person's wages to the government and to determine that person's eligibility for Social Security benefits. You need an SSN to work, collect Social Security benefits, and receive other government services.

Lawfully admitted noncitizens can get many benefits and services without an SSN. You don't need an SSN to get a driver's license, register for school, get private health insurance, or apply for school lunch programs or subsidized housing.

Some organizations use SSNs to identify you in their records. Most, however, will identify you by some other means if you request it.

We can't assign an SSN solely for you to get a driver's license or access a service that requires a credit check.

Although many companies, such as banks and credit companies, may ask for your SSN, you generally aren't required to provide one if you don't have one.

How can I get an SSN and card?

If you are an immigrant, you can apply two ways:

- You can apply in your home country before coming to the United States when filing an application for an immigrant visa with the U.S. Department of State. In most cases, if you apply for an SSN and card with your immigrant visa application, you don't have to visit a Social Security office in the United States. (For more information, see www.ssa.gov/ssnvisa).
- If you are lawfully present in the United States, you must contact your local Social Security office. See the section below for what you need to submit to the Social Security office.

If you are a nonimmigrant, there are two ways that you can apply, depending on your visa status:

- If lawfully present in the United States and applying for work authorization or permanent resident status from DHS, U.S. Citizenship and Immigration Services (USCIS), you can apply for your SSN or replacement card. This can be done on the same USCIS application Form I-765 (*Application for Employment Authorization*), or via Form I-485 (*Application for Lawful Permanent*

Residency or to Adjust Status). (For more information, see www.ssa.gov/ssnvisa/ebe.html).

- If lawfully present in the United States and your visa status allows you to work, then you must contact your local Social Security office to apply.

What do I need to submit to the Social Security office?

You need to prove your identity and work-authorized immigration status.

To prove your identity and work-authorized immigration status, show us your current U.S. immigration documents and your unexpired foreign passport. Acceptable immigration documents include your:

- Form I-551 (*Lawful Permanent Resident Card, Machine-Readable Immigrant Visa*).
- Form I-94 (*Arrival/Departure Record*).
- Form I-766 (*Employment Authorization Document/EAD*).
- Admission stamp showing a class of admission permitting work.

Exchange visitors: If you're a J-1 or J-2 exchange visitor, we also need to see your DS-2019, *Certificate of Eligibility for Exchange Visitor Status or EAD*. If you are a J-1 student, student intern, or international visitor, you must provide a letter from your sponsor. The letter should be on sponsor letterhead with an original signature that authorizes your employment.

International students: If you're an F-1 or M-1 student, we need to see your Form I-20, *Certificate of Eligibility for Nonimmigrant Student Status or Designated School Official (DSO) letter*. For information on other documents that students must provide, read *International Students and Social Security Numbers* (Publication No. 05-10181).

You need to prove your age.

You must present your foreign birth certificate if you have it or can get it within 10 business days. If not, we can consider other documents, such as your unexpired passport or a document issued by DHS, as evidence of your age.

You need to complete an application.

You will need to complete an *Application for a Social Security Card* (Form SS-5).

Important: All documents must be either originals or copies certified by the issuing agency. We cannot accept photocopies or notarized copies of documents. We also cannot accept a receipt showing you applied for the document.

We may use one document for two purposes. For example, we may use your DHS EAD as proof of both your identity and work-authorized immigration status. Your birth certificate or passport may serve as proof of age. **However, you must provide at least two separate documents.**

When should I apply?

If you cannot apply using one of the forms noted above, we recommend you wait 10 days after arriving in the United States to apply for an SSN. This will make it easier for us to verify your DHS documents online. This will speed up the processing of your SSN application.

We will mail your SSN card as soon as we have all of your information and have verified your documents with the issuing offices.

How much does applying for an SSN and card cost?

Applying for an SSN and card is free.

What if I need an SSN for reasons other than work?

You may not be authorized by DHS to work in the United States. If so, you can get an SSN only if you can prove you need it for a valid nonwork reason.

Government benefits or services: If you do not have permission to work, you may apply for an SSN only if one of the following applies:

- A federal law requires you to provide your SSN to get a particular benefit or service.
- A state or local law requires you to provide your SSN to get general assistance benefits for which you already have qualified.

Applicants for a nonwork SSN are required to provide proof of identity and age documents. Examples of the documents are listed below:

- **Proofs of identity and age**
 - Form I-94 (Arrival-Departure Record).
 - Form I-862 (Notice to Appear).
 - Form I-385 (Alien Booking Record).
 - Office on Trafficking in Persons (OTIP) Certification Letter.
 - Office of Refugee Resettlement (ORR) Certification Letter.

- **Proofs of identity only**

- Form I-220A (Order of Release on Recognizance).

NOTE: Form I-220A (Order of Release on Recognizance) does not meet Social Security requirements to serve as proof of age.

If you need an SSN to meet state or local requirements, **in addition to the identity and age document, you must submit a letter from the government agency.** It must be on letterhead stationery (no form letters or photocopies) and:

- Specifically identify you as the applicant.
- Specifically state the nonwork reason the SSN is required.
- Cite the law requiring you to have an SSN.
- Indicate that you meet all agency requirements, except having the SSN.
- Contain an agency contact name, signature, and telephone number.

Do you need a number for tax purposes?

You may not need an SSN for tax purposes if you aren't authorized to work in the United States. You can apply for an *Individual Taxpayer Identification Number* from the Internal Revenue Service (IRS). Visit the IRS in person, or call the IRS toll-free number, **1-800-TAXFORM (1-800-829-3676)**, and request Form W-7, *Application for IRS Individual Taxpayer Identification Number*.

A business or government agency may ask you for an SSN. If you are not authorized to work in the United States, ask if they can identify you in some other way. In most cases, you'll be able to get the service or license you need without an SSN.

If you are assigned an SSN for nonwork purposes, you cannot use it to work.

Contacting Us

There are several ways to do business with us including online, by mail, by phone, and in person. If you cannot use our online services, we can help you by phone when you call our national toll-free 800 number.

If you don't have access to the internet, we offer many automated services by telephone, 24 hours a day, 7 days a week, so you may not need to speak with a representative. Call us toll-free at **1-800-772-1213** or at our TTY number, **1-800-325-0778**, if you're deaf or hard of hearing. We provide free interpreter services upon request. For quicker access to a representative, try calling early in the day (between 8 a.m. and 10 a.m. local time) or later in the day. **We are less busy later in the week (Wednesday to Friday) and later in the month.**



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Social Security Administration
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Social Security Numbers for Noncitizens
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Social Security Number and Card — Deferred Action For Childhood Arrivals

How do I apply for a Social Security number (SSN)?

Deferred Action for Childhood Arrival applicants may be eligible to apply using our automated process called Enumeration Beyond Entry (EBE). You may use this process if you are applying to the United States Citizenship and Immigration Services (USCIS) for employment authorization.

USCIS Form I-765 (Application for Employment Authorization) — Enumeration Beyond Entry

You may not need to visit a Social Security office or Social Security Card Center if you apply using the Form I-765. If you selected questions (Box 13.a – Box 17.b) to apply for an SSN, when USCIS approves your application, they will send us the information to issue you an SSN original or replacement card. You should receive your SSN card no later than 7 to 10 business days after we receive the information from USCIS. We will mail the card to the address you provided on the I-765 application. For more information, see *Apply For Your Social Security Number While Applying For Employment Authorization and/or Lawful Permanent Residency*.

If you are unable to use Form I-765 to apply for an SSN, you will need to call your local Social Security office. To apply for an SSN you must submit several documents, including your USCIS documents. These documents will show you have permission to work in the United States and prove your immigration status, age, and identity.

You must show Social Security

You must show us the originals or certified copies of two documents:

- Employment Authorization Document (EAD).
- Your foreign birth certificate (if you have one or can get one within 10 business days). If you cannot, we may accept your:
 - Foreign passport.
 - U.S. military record.
 - Religious record showing age or date of birth.

If you do not have or cannot get one of the above preferred documents within 10 business days, we may accept your:

- U.S. driver's license.
- U.S. state-issued identification card.
- School record (issued five or more years ago) showing age or date of birth.

Please note: While you may have shown USCIS photocopies of the above documents, you must submit to us either originals or copies certified by the agency that issued them. **We cannot accept photocopies or notarized copies.** We must independently verify the documentation you show us.

If you are not eligible for Employment Authorization, contact us if you are required to have an SSN to receive a benefit.

Contacting Social Security

The most convenient way to do business with us from anywhere, on any device, is to visit www.ssa.gov. There are several things you can do online: apply for benefits; get useful information; find publications; and get answers to frequently asked questions.

Or, you can call us toll-free at **1-800-772-1213** or at **1-800-325-0778** (TTY) if you're deaf or hard of hearing. We can answer your call from 7 a.m. to 7 p.m., weekdays. You can also use our automated services via telephone, 24 hours a day. We look forward to serving you.



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Family

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Family..... Thushanti Kamalakanth

Slide Presentation

Family Based Immigration

October 27, 2023

This presentation is compiled from various family-based PowerPoint materials from AILA conferences.

GENERAL 2-STEP PROCESS

Step 1: Petitioner (USC/LPR) files petition for relative



Step 2: Beneficiary (relative) files an application to immigrate



Consular
Processing:



Adjustment of
Status:



I- 130 Petition for Alien Relative

- An I- 130 petition is the formal process by which a U.S. citizen or lawful permanent resident formally initiates the process to sponsor a qualifying foreign national relative who wants to immigrate to the U.S.

The petition must include evidence to prove up the immigration status of the petitioner and the relationship to the foreign national beneficiary

USC Petitions

- U.S. Citizens
 - Immediate Relative
 - Spouse
 - Unmarried child (under 21)
 - Parent of a U.S. citizen (if the U.S. citizen is 21 or older)
 - Preference Categories
 - F1 - Unmarried sons and daughters (21 or older)
 - F3 - Married child
 - F4 - Siblings

LPR Petitions

- Lawful Permanent Residents (Preference Category only)
 - F2A - Spouse
 - F2A - Unmarried child (under 21)
 - F2B - Unmarried sons and daughters (21 or older)

Adam Walsh Act

Petitioners can only be prevented from filing for family members under exceptional circumstances. Under the Adam Walsh Act petitioners are prohibited from filing for a family member if they have been convicted of a “specified offense” against a minor

Who is a “Child”?

- Unmarried person under the age of 21
- Stepchild relationship must have been formed before 18th birthday
- Adopted child – before age 16 (plus additional requirements)
- Children Born In or Out of Wedlock

Immediate Relative vs. Preference Category

- Immediate Relative
 - No waiting period
 - No derivatives
 - Each beneficiary requires own I-130
- Preference Category
 - Subject to annual limits
 - Derivatives allowed: Unmarried children under 21, Spouses, No additional I-130 required

Immediate Relative vs. Preference Category

- Example: Julia is a U.S. citizen and just turned 21 years old. She wants to petition for her parents. Julia must file separate I-130 petitions for her mother and for her father, since they are immediate relatives.

Immediate Relative vs. Preference Category

- Example: John is an LPR that wants to file for both his wife and daughter. John **can file** one I-130 petition for his wife. His daughter would be a derivative.
- Why might John file two petitions?

Examples

- *1. Roberto is the brother of a U.S. citizen. He has a wife and six-year-old son.*
 - a. Can Roberto immigrate through a preference visa petition?
 - *Yes. Roberto is a fourth preference (F4) because he is the brother of a U.S. citizen.*
 - b. Can Roberto's spouse and child immigrate as well?
 - *Yes. His wife and six-year-old son qualify as spouse and child, so they can be derivative beneficiaries*

Examples

- *2. Marta is the daughter of a U.S. citizen. She has a husband, a married nineteen-year-old son, and an unmarried twenty-one-year-old son.*
 - a. Will Marta immigrate through a preference visa petition?
 - *Yes. Marta is a third preference relative.*
 - b. Does she have a spouse or child (as defined in the INA)?
 - *Only Marta's husband can qualify as a derivative beneficiary, unless the CSPA helps the 21-year-old unmarried son.*

Priority Date

- **The date the –I-130 is filed with USCIS is the priority date**
- **The priority date is used to determine when a relative may apply for an immigrant visa**
- **Immediate relatives are exempt from the visa bulletin**
- **The visa bulletin determines when the relative can apply for an immigrant visa. These dates are based on a congressionally mandated quota**

Current Quota System

- Worldwide Quota: 226,000 family/140,000 employment-based (including dependents)
- Per Country Quota: 25,620 (7% of total)
- Results in long backlogs in most categories
- Per Country Quotas impact China, India, Philippines, and Mexico (oversubscribed)
- Impacts only preference categories, Immediate relatives of U.S. citizens are not subject to a numerical limit within the overall cap

Visa Bulletin

- Prepared monthly by U.S. Department of State (DOS), but used by both DOS and USCIS
- Forecast of visa availability based on past usage
- Cannot obtain Permanent Residence if visa is unavailable.
- Retrogression possible

Visa Bulletin June 2023: Dates for Filing



Family-Sponsored	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
F1	01JAN17	01JAN17	01JAN17	01DEC02	22APR15
F2A	C	C	C	C	C
F2B	01JAN17	01JAN17	01JAN17	01JAN02	01OCT13
F3	08FEB10	08FEB10	08FEB10	15JUN01	08NOV03
F4	01FEB08	01FEB08	22FEB06	01APR01	22APR04

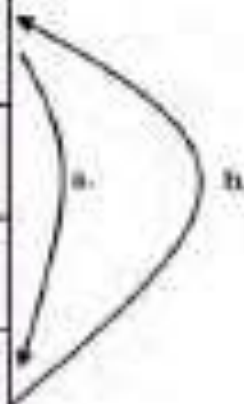
Visa Bulletin June 2023: Final Action Dates



Family-Sponsored	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
F1	15DEC14	15DEC14	15DEC14	01APR01	01MAR12
F2A	08SEP20	08SEP20	08SEP20	01NOV18	08SEP20
F2B	22SEP15	22SEP15	22SEP15	01JUN01	22OCT11
F3	08DEC08	08DEC08	08DEC08	01NOV97	08JUN02
F4	08APR07	08APR07	15SEP05	01AUG00	22AUG02

- Unmarried son or daughter of a USC marries. (a)
- Married son or daughter of a USC divorces. (b)

Immediate Relative	Spouses, Unmarried Children, & Parents of USC
First (F1)	Unmarried Sons/Daughters of USC
Second (2A)	Spouses & Children of LPR
Second (2B)	Unmarried Sons/Daughters of LPR
Third (F3)	Married Sons/Daughters of USC
Fourth (F4)	Brothers & Sisters of USC's



LPR Child of Son/Daughter Gets Married

- Example: Juan, an LPR, petitions his child, Patricia (family-based 2A). Patricia gets married. Because LPRs cannot immigrate married sons or daughters, the petition is terminated.
- What if Juan Naturalizes before Patricia gets married?

Evidentiary Requirements

- Burden of Proof: preponderance of the evidence
- Exceptions requiring clear and convincing evidence
- Copies vs. originals
- The certificate:
 - Spouse: A copy of your marriage certificate; Evidence you or your spouse terminated any prior marriages (if applicable)
 - Child: A copy of your child's birth certificate(s).
 - Parent: A copy of your birth certificate.
 - Brother/Sister: A copy of the birth certificate for you and your sibling.
- But what if you can't produce the certificate?

Evidentiary Requirements: Spouses

- Must prove marriage is legal and bona fide
- Bona fide relationship
 - Marriage certificate
 - Documentation showing joint ownership of property;
 - A lease/mortgage showing joint tenancy of a common residence
 - Combined financials;
 - Birth certificates of children born to you and your spouse together;
 - Affidavits sworn to or affirmed by third parties
 - Evidence of name change
 - Photos

Evidentiary Requirements: Spouses

- Example: Jane has been married eight times before this one. One of her husbands died and the other marriages ended in divorce. She now wants to immigrate George, whom she has just married. What documentation must she submit to prove family relationship?
- Jane needs her marriage certificate with George, seven divorce certificates and one death certificate. Ask George if this is his first marriage. If not, you also need proof of termination of all of his previous marriages.

Evidentiary Requirements: Spouses

- Law of Place of Marriage governs (i.e., Marriage between cousins; marriage involving minor; common law marriages; religious vs. civil marriages)
- Marriages Abroad
- Marriage during removal proceedings
- Fiancé(e)s
- Conditional residence status
 - Entered into in Good Faith but Terminated through Death of Spouse
 - Entered into in Good Faith but Terminated through Divorce

Evidentiary Requirements: Children/Parent

- In Wedlock
- Out of Wedlock
- Legitimated Children
- Stepchildren
- Children of Fiancé(e)
- CSPA

Evidentiary Requirements: Siblings

- Siblings can petition for one another only if they meet the definition of a child from one or both parents.
- Half-siblings may petition for one another.
- DNA testing?

Special Situations

- VAWA
- Widow/Widower
- CSPA
- K-Visa for Fiancé(e)s of USC

Widow/Widower

- Married to USC at the time he/she passed away
 - Pending/approved I-130 OR filed I-360 within 2 years of spouse's death
 - Not remarried
 - Can prove bona fide marital relationship
 - Admissible to the U.S.
-
- Other types of petitioners: Humanitarian Reinstatement & 204(l)

CSPA: Child Status Protection Act

- **Immediate Relatives:** Your unmarried children under the age of 21 are granted benefits of the CSPA, which “freezes” their ages as of the date of the principal’s filing of Form I-130 or I-360, whichever is applicable.
- This provision prevents them from aging out if they turn 21 prior to adjudication of their adjustment of status or visa application.
- **Preference category-** Adjusted Age Formula

“K” Visas for Fiancé(e)s

- Met at least once in person in last two years
- Plan to marry within 90 days of entering country
- Not inadmissible (may need waiver)
- Allows derivative children
- Notice requirement for drug/alcohol crimes or DV

I. 485 Family Based Adjustment

- **General Requirements**

- I-130 Petition: Need either an approved I-130 petition, or for immediate relatives, can file the I-130 concurrently with I-485

- **Admissibility – Must be “admissible” to the United States**

- Must maintain non-immigrant status prior to filing, unless relative is an immediate relative
- If someone has a serious criminal conviction, fraud, misrepresentation, deportation, etc. then a hardship waiver will be needed to waive the inadmissibility
- Prohibitions to adjustment:
 - EWI Entry, Crewman or transit visa (unless 245(i))
 - Unlawful employment or unlawful presence unless USCIS petitioner

485 Family Based Adjustment

- Four Types of Family Based Ways to AOS
 1. Inspected and Admitted with visa immediately available (i.e. immediate relative)
 2. 245(i) old petition
 3. PIP Military family member and visa immediately available
 4. VAWA (abuse from petitioner)

245(i)

- INA § 245(i): Under INA § 245(i), people who entered without inspection or who are otherwise ineligible for adjustment due to the INA § 245(c) bars may adjust their status if they can show they were the beneficiary of a qualifying petition or labor certification filed on or before April 30, 2001. With some exceptions, people who adjust status under § 245(i) must pay a penalty fee of one thousand dollars in addition to the regular application fees
- If between January 14, 1998- April 30, 2001- must show principal physically present in US on December 21, 2000.

245(i) Continued

- Juan is an LPR who submitted an I-130 for his wife Maria in 1997. Maria entered the United States without inspection in 1995. Since the I-130 was submitted before April 30, 2001, Maria is eligible for adjustment under § 245(i). She is not eligible for 245(a) because she entered without inspection. Maria does not need to establish physical presence in the United States on December 21, 2000 because Juan filed the I-130 before January 15, 1998.

245(i) Continued

- Charlie is a U.S. citizen who married Ana in 1997, but he did not submit an I-130 petition for her until May 23, 2012. Ana entered the United States without inspection in 1996. Ana is not eligible for § 245(i) adjustment because her I-130 was filed after April 30, 2001. Nor is she eligible for § 245(a) adjustment of status since she did not enter with inspection. Therefore, Ana must do consular processing in order to immigrate. (Note that, at minimum, she will need to file for a waiver of the ten-year bar for “unlawful presence” if she leaves the country to do consular processing.)

245(i) Grandfathered

- Lamar, a USC, petitioned for his brother Hogan in 1997. Hogan, who entered the United States without inspection, married Magda, who is also a USC, in May 2013. Magda then submitted an immediate relative petition for Hogan. Although the second I-130 (the one Magda submitted for Hogan) was submitted after April 30, 2001, USCIS will allow Hogan to adjust in the United States under 245(i) because the petition Lamar filed for Hogan was pending prior to the April 30, 2001 deadline

245(i) Grandfathered

- Jeff, an LPR, petitions for his unmarried daughter Nicole in 1995. Nicole, who entered with a visitor's visa that has now expired, marries an LPR in June 2010. As a result of her marriage, the petition filed by her LPR father is void. Her LPR husband files an I-130 for her in the month they marry. Can she adjust status? Yes. Nicole was an eligible beneficiary of an I-130 petition filed by her father at the time he petitioned for her. Because her father's petition was "approvable when filed," Nicole is "grandfathered" or protected under § 245(i). By being "grandfathered" by the original petition, Nicole is able to take advantage of 245(i) adjustment based on a new petition filed after the § 245(i) deadline of April 30, 2001.

245(i) Grandfathered

- John was the principal beneficiary of a petition filed by his USC brother in 1999. John's daughter Jane entered the United States in 2002. Jane can still qualify for § 245(i) adjustment if she can prove that her father, the principal beneficiary, was present in the United States on December 21, 2000. She is not required to provide her own physical presence on that date

I-485 Continued

- Physical presence— must be present in the U.S. to file I-485 with USCIS
- Cannot travel outside the U.S. until Advance Parole is issued by USCIS
 - Exception to this is if the beneficiary is in a dual intent visa status
- Financial Sponsorship – Petitioner must sign and file an I-864 affidavit of support on behalf of the foreign national
 - Can obtain a co- sponsor if petitioner does not make sufficient income or have sufficient assets.

I-485 Continued

- Conditional Green Card vs. Permanent Green Card
- If spouse and USC married less than 2 years, USCIS will only issue a 2 year green card.
- Beneficiary spouse will need to file a removal of conditions application after 21 months from approval of Green Card
- If married more than 2 years, USCIS will issue a -10 year Green Card. No removal of conditions needed.




I-485 Continued

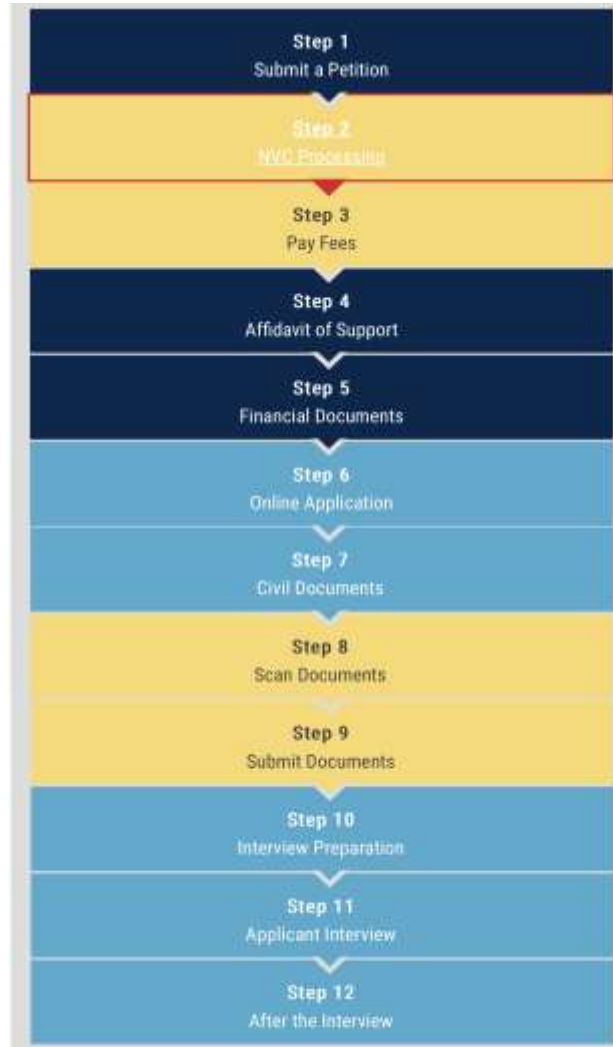
- I-693 Medical Exam
 - Required in all adjustment petitions.
 - Must remain sealed
 - Can file concurrently with petition or can file after the case is pending with USCIS
 - If submitting after I-485 is filed, should wait until requested by USCIS
 - Valid for 2 years upon completion by civil surgeon
 - No longer need to submit within 60 days from completion by civil surgeon.
 - Currently need to be fully vaccinated for COVID-19.

Consular Processing

- Once I-130 is approved, Approved Petition is sent to National Visa Center
 - CEAC System
 - Form DS-260
 - Affidavit of Support Issues
- Documentarily Qualified Email
- Scheduling of Interview
 - Profile to Create Online – For instance, Ciudad Juarez requires this.
 - Medical Exam – possible ways this can go wrong?
 - Courier Services to choose
 - Review documentation with client to bring to interview
 - Every consulate is different – so review Reciprocity Table
 - Always prepare clients to bring more bona fides

NVC Process

-  Petitioner
-  Applicant
-  Both Petitioner and Applicant



<https://travel.state.gov/content/travel/en/us-visas/immigrate/the-immigrant-visa-process/step-1-submit-a-petition.html>

Affidavit of Support

- Why do we need to talk about affidavits of support?
- Who does / does not have to submit an affidavit of support?
- What are the requirements to be a sponsor or joint sponsor?
- What are the obligations?
- What evidence must be submitted?
- How do you analyze sufficiency of taxes?

Who Needs to Submit an Affidavit of Support?

- The following intending immigrants must submit either a Form I-864 Affidavit of Support, or a Form I-864W Intending Immigrant's Affidavit of Support Exemption if they are exempt from the Affidavit of Support requirement.
 - **All** family-based immigrants
 - Employment-based immigrants, but only if a U.S. citizen or LPR relative filed the I-140 petition or where the relative has a “significant ownership interest” in the entity that filed the petition.
 - 8 CFR §213a.1: defines “relative” as a husband, wife, father, mother, child, adult son or daughter, brother, or sister.
 - 8 CFR §213a.2(b)(2): if the relative who owns an interest in the company is not a USC or LPR, the I-864 is not required.
 - 8 CFR §213a.1: defines “Significant ownership interest” as 5% or more.

Who Does NOT Need to Submit an Affidavit of Support?

- Exempt and does NOT need to file an I-864:
 - Investment-based intending immigrants
 - Diversity immigrants
 - Refugees and asylees
 - Cuban adjustment applicants
 - Registrants under INA §249
 - VAWA Self petitioners
 - U-Visa
 - Persons who have already earned or can be credited with 40 “qualifying quarters” of employment
 - Children under age 18 who will automatically derive U.S. citizenship at the same time that they become permanent residents, because of a parent’s U.S. citizenship

How is “sponsor” defined under the INA?

INA §213A(f)(1): A sponsor is

- (A) A U.S. Citizen, U.S. National, or U.S. Lawful Permanent Resident;
- (B) At least 18 years old;
- (C) Domiciled in the United States;
 - 8 CFR §213a.1: “the place where a sponsor has his or her principal residence, as defined in §101(a)(33) of the Act, with the intention to maintain that residence for the foreseeable future.”
 - INA §101(a)(33): the “principal, actual dwelling place in fact, without regard to intent.”
- (D) AND Able to demonstrate that they have the means to meet the financial support requirements.

Federal Poverty Guidelines (2023)



48 Contiguous States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana

Alaska

Hawaii

Sponsor's Household Size	100% of HHS Poverty Guidelines*	125% of HHS Poverty Guidelines*	Sponsor's Household Size	100% of HHS Poverty Guidelines*	125% of HHS Poverty Guidelines*	Sponsor's Household Size	100% of HHS Poverty Guidelines*	125% of HHS Poverty Guidelines*
	<i>For sponsors on active duty in the U.S. armed forces who are petitioning for their spouse or child</i>	<i>For all other sponsors</i>		<i>For sponsors on active duty in the U.S. armed forces who are petitioning for their spouse or child</i>	<i>For all other sponsors</i>		<i>For sponsors on active duty in the U.S. armed forces who are petitioning for their spouse or child</i>	<i>For all other sponsors</i>
2	\$28,720	\$24,650	2	\$24,640	\$30,800	2	\$22,680	\$28,350
3	\$24,860	\$31,075	3	\$31,070	\$38,838	3	\$28,590	\$36,738
4	\$30,000	\$37,500	4	\$37,500	\$46,875	4	\$34,500	\$43,125
5	\$35,140	\$43,925	5	\$43,930	\$54,913	5	\$40,410	\$50,513
6	\$40,280	\$50,350	6	\$50,360	\$62,950	6	\$46,320	\$57,990
7	\$45,420	\$56,775	7	\$56,790	\$70,988	7	\$52,230	\$65,288
8	\$50,560	\$63,200	8	\$63,220	\$79,025	8	\$58,140	\$72,675
	Add \$5,140 for each additional person	Add \$6,425 for each additional person		Add \$6,430 for each additional person	Add \$8,038 for additional person		Add \$5,910 for each additional person	Add \$7,387 for each additional person

Who must be included in the household size?

Regardless of where they reside, count the following in this calculation:

- The sponsor;
- The sponsor's spouse;
- The sponsor's children under the "age of majority," excluding stepchildren not living with the sponsor and not listed as dependents for tax purposes;
- The intending immigrant;
- All derivatives of the intending immigrant who are obtaining lawful permanent resident status at the same time or within six months;
- All dependents claimed on the sponsor's most recent tax return, including children who have reached the age of majority and would not otherwise be counted; and
- All noncitizens the sponsor has previously sponsored in an I-864 Affidavit of Support, unless the obligation has ended.

Anyone else who may reside with the sponsor should only be included if they are dependents of the sponsor (they are listed as dependents on the sponsor's tax returns).

What Are the Sponsor's Obligations?

- 8 CFR §213a.2(d): Legally binding contract against the sponsor, as well as any joint sponsor or contributing household member.
 - The sponsor's obligations do not begin until the intending immigrant obtains lawful permanent resident status.
 - This means that a sponsor may withdraw the Affidavit of Support at any time before the intending immigrant is granted permanent residence.
- INA §213A(d): If a sponsor moves, he or she must notify both USCIS and the state in which the sponsored immigrant resides within 30 days.
 - The sponsor does this by filing Form I-865, Sponsor's Change of Address.

When Do the Obligations End?

The commitment **ends** if:

- INA §213A(a)(2), (3); 8 CFR §213a.2(e)(2)(i)(A) – (B), (E): the immigrant becomes a U.S. citizen,
- Dies, or;
- Can be credited with 40 quarters of work in the United States.



Supporting Evidence to include:

- Complete Form I-864, Affidavit of Support Under Section 213A of the INA
- Include proof of citizenship or residency, plus proof of domicile if overseas
- Income evidence (8 CFR 213a.2(c)(i):
 - Federal income tax returns or transcripts. Submit transcripts if possible.
 - Only need the most recent year's tax return (no longer need 3 years)
 - Proof of current income (payroll, etc.)
- Proof of assets, when income on tax returns is insufficient:
 - Bank Statements, Deed of the house, Vehicle title, etc.
 - 8 CFR §213a.2(c)(2)(iii)(B) discusses assets.

What if the Petitioner's income is not enough?

Can you use income from a Qualifying Household Member?

- who is a qualifying household member?
- income from the intending immigrant
 - Lawful income
 - non-lawful income
 - When is the I-864A needed or not needed?

How about a Joint Sponsor?

- What is the limit? No more than 2 joint per family
- Household Income- I-864A, §213a.2(c)(2)(i)(C)(1)
- Considerations for joint sponsors who are married: I-864A
 - a. If the beneficiary earns, lawful income, you can include it. For example, you are applying for adjustment of status and the beneficiary is already earning income with an EAD.

How long does a case take?

- USCIS Historic Processing times (median): <https://egov.uscis.gov/processing-times/historic-pt>
- How to find "current" processing times? <https://egov.uscis.gov/processing-times/>
- NOTE: 80th percentile of processing. By definition, these processing times are longer than normal.
- How do we advise clients?

Example Processing Times (May 15, 2023)



Check Case Processing Times

Select your form, form category, and the office that is processing your case

Refer to your receipt notice to find your form, category, and office. For more information about case processing times and reading your receipt notice, visit the [More Information About Case Processing Times](#) page.

Form *
I-130 | Petition for Alien Relative

Form Category *
U.S. citizen filing for a spouse, parent, or child under 21

Field Office or Service Center *
All Field Offices

Get processing time

Processing time for Petition for Alien Relative (I-130) at All Field Offices



Check your case status to track the status of an immigration application, petition, or request.

Form *
I-485 | Application to Register Permanent Residence or Adjust Stat

Form Category *
Family-based adjustment applications

Field Office or Service Center *
Philadelphia PA

Get processing time

Processing time for Application to Register (I-485) at Philadelphia PA



Inadmissibility Grounds

- **Do any grounds of Inadmissibility apply to my client?**
 - INA §212(a)
 - Immigration Violations
 - Fraud and Misrepresentation
 - Criminal and Drug Issues
 - Health Related Grounds
 - Alien Smuggling
 - False Claim to U.S. Citizenship
 - Ineligible for Citizenship
 - Security and Political Grounds
 - Prior Removal Orders
 - Other

Immigration Violations

- INA §212(a)(6)(i) –Present without inspection or parole (entered without inspection or “EWI”)
- INA §212(a)(9)(B) – Unlawful presence (triggered upon subsequent departure)
 - Over 180 days but less than one year of ULP = 3 year bar
 - One year or more of ULP = 10 year bar
- INA §212(a)(9)(C) –“Permanent” Bar
 - Aggregate period of more than one year of ULP + entry or attempted re-entry without admission or
 - ordered deported or removed + unlawful re-entry or attempted re-entry without admission

Exceptions

- **Are there any exceptions?**

- Perm Bar

- Battered woman or child & travel linked to abuse

- 212(a)(6)(B) Failure to Attend Removal Proceedings

- Reasonable cause for failure to attend

- 212(a)(6)(C)(ii) False claim to USC

- False claim before 9/30/96

- Child exemption (reasonably mistaken by 16 + child of USC parents)

Waiver Of Grounds of Inadmissibility (I-601)

4 SPECIFIC WAIVERS ALLOWED BY INA

1. Certain Health-Related Grounds §212(g)
2. Criminal Conduct §212(h)
3. Fraud or Misrepresentation §212(i)
4. Unlawful Presence §212(a)(B)(v)

Waiver Of Grounds of Inadmissibility (I-601)

1. Certain Health-Related Grounds §212(g)

- Noncitizen Applicant is determined to have a communicable disease of public health significance

or

-Class A Mental/Physical Condition

Waiver Of Grounds of Inadmissibility (I-601)

Certain Health-Related Grounds §212(g)

- Noncitizen Applicant must be the spouse, unmarried son/daughter, parent of USC, LPR, or noncitizen who has been issued an immigrant visa
- DO NOT NEED QUALIFYING RELATIVE
- If it's a mental or physical disorder, USCIS is looking for behaviors that may pose, or have posed, risk or threat to others

IN SUM: Should demonstrate that Noncitizen Applicant no longer ill or receiving treatment that keeps illness and harmful behavior in check.

Waiver Of Grounds of Inadmissibility (I-601)

Certain Health-Related Grounds §212(g)

Vaccinations

- Subsequently vaccinated against disease for which Noncitizen Applicant failed to present documentation of previous vaccination
- Civil Surgeon Panel Physician certifies that Vaccine not medically appropriate (age of Noncitizen Applicant, allergies, reasonable period between doses, seasonal)
- Vaccine would be contrary to Noncitizen Applicant's religious or moral beliefs

*First 2 instances waivers liberally applied. 3rd instance, considers factors.

INA 212(a)(6)(C)(i)

- Any noncitizen who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this chapter is inadmissible.
- Statutory Elements:
 - Fraud or willful misrepresentation
 - Materiality
 - Procure or Sought to Procure an immigration benefit

Fraud or Willful Misrepresentation

- **Fraud** typically involves a false representation of a material fact with knowledge of its falsity and intent to deceive. And it must be believed and acted upon.
- **Willful misrepresentation** must be willful but does not require intent to deceive, nor evidence that the officer believed or acted on the false representation.
- If Jane makes a typographic error as to her date of birth is it material. When could it be?

Extreme Hardship

- Presence of lawful permanent resident or United States citizen family ties to this country;
- Qualifying relative's family ties outside the United States;
- Conditions in the country or countries to which the qualifying relative would relocate and the extent of the qualifying relative's ties to such countries;
- Financial impact of departure from this country; and
- Significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate.

Qualifying Relative

- USC or LPR spouse or parent
- Does not have to be Petitioner
- VAWA self-petitioner does not need QR
- Other relatives as indirect sources of EH and/or discretionary considerations

Positive Exercise of Discretion

- Be Creative – this is your opportunity to paint your client in the best light possible
- Examples of Factors to Highlight:
 - Length of Residence
 - Work and Education History
 - Volunteerism – formal and informal
 - Extent and circumstances of Fraud
- Accept responsibility and express remorse when appropriate
- Explain any mitigating factors – why did your client lie?

Waiver – Section 212(h) of the INA

What can be waived?:

- Crime Involving Moral Turpitude
- Controlled Substance of such subsection insofar as it relates to a single offense of simple possession of 30 grams or less of marijuana
- Multiple Criminal Offenses with Aggregate Sentence of 5 years or more,
- Prostitution
- Serious Criminal Activity and Asserted Immunity

Crimes Involving Moral Turpitude

- Crime involving moral turpitude involves reprehensible conduct committed with some degree of scienter, either specific intent, deliberateness, willfulness, or recklessness
- Carefully analyze relevant statute
- What is the *mens rea*?
- Is it divisible and which section was your client convicted under?
- Evaluate case law either directly on point or related to a similar statute
- Common convictions – DUI, simple assault, domestic violence

Exceptions:

- Petty Offense Exception
 - Maximum Penalty is one year or less
 - Actual Sentence is 6 months or less
 - Includes Suspended Sentence
 - Can only be used for one CIMT
- Juvenile Offenses
 - Crime was committed while under 18 years of age
 - Crime was committed more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States

How Is the Crime Waived?

Prostitution:

- inadmissible only under subparagraph (D)(i) or (D)(ii) of such subsection or the activities occurred more than 15 years before the date of application for a visa, admission, or adjustment of status,
- the admission to the United States would not be contrary to the national welfare, safety, or security of the United States, and
- the noncitizen has been rehabilitated.

Permission to Reapply for Admission (I-212)

INA §212(a)(9)(C) - PERMANENT BAR

RE-ENTERED or attempted to re-enter the USA **illegally** *after* being being unlawfully present for over one year **or** after an order of **Removal**.

-Noncitizen *cannot* seek admission without being granted consent to reapply; thus, Noncitizen must seek to apply for I-212 consent to reenter to be admitted.

-Noncitizen *cannot* seek admission until after he/she has spent 10 consecutive years **outside** the USA after he/she has departed.

How is the Crime Waived?

- Is the spouse, parent, son, or daughter of a U.S. citizen or a lawful permanent residence
- Denial of admission would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter;
or
- Is a VAWA self-petitioner



Form I-751, Petition to Remove Conditions on Residence

- What is this? Conditional Permanent Residency INA §216. "2-Year Green Card"
- Requirement to file within 90 days of GC expiry.
 - Termination of status if not filed timely!
Exceptions for Good Cause.
- Filing Jointly
- Hardship waiver
- Interview / waiver of interview
- Combine with later-filed Naturalization?

Dual Representation Defined

- Two parties represented concurrently in one matter are part of multi-party or dual representation.
- Dual representation is a common part of family-based immigration as there is always a petitioner and beneficiary of the petition to represent, usually it involves two spouses.

Challenges of Multi-Party Representation

- An attorney cannot give themselves 100% to any one party in terms of their duties of
 - LOYALTY, and
 - CONFIDENTIALITY under Rule 1.6.

Hypo #1

Daisy (a USC) and Donald (a foreign national) come to you for help with a marriage-based one-step adjustment of status. You prepare and file the case, and while it is pending, Donald calls because Daisy has thrown him out of the house. He says that she is on drugs and has been physically and emotionally abusing him. What do you do?

Hypo #2

- Merida and Belle were your clients for a marriage-based green card. After a year and a half, you contact them to let them know it is time to file their I-751 Petition to Remove the condition. Merida responds that she and Belle have separated and are divorcing. She wants to know if you can represent her in the I-751.
- Would your answer be different if instead of divorcing, Merida confides that Belle has been physically abusing her?

Ways People Become U.S. Citizens

- Naturalization
- Acquisition of Citizenship at Birth in the U.S.
- Acquisition of Citizenship at Birth Outside the U.S.
- Acquisition of Citizenship by Operation of Law After Birth

Naturalization

- Requirements to Naturalize INA §316
 - **Age** -18 or older
 - **Lawful Permanent Resident Status** defined pursuant to INA §318
 - **Continuous Residence in the U.S.**-Must be a continuous resident for 5 years after LPR status granted.
 - **Physical Presence**-must be physically present in the U.S. for 2.5 years of the 5 years of continuous residence.
 - Must reside in the state where the petition is filed 3 months prior to filing.
 - **Good Moral Character**-5 year look back or 3 if in the military pursuant to INA §§316(a)(3), 319(a)(1) respectively.
 - **English & Civics Tests**-must demonstrate knowledge of the English Language (speak, read, and write) and U.S. History and Government
 - **Attachment to the Constitution & Oath**-must be willing to and take the oath of allegiance and be willing to bear arms or perform noncombatant service

Requirement: Continuous Residence

- Residency in the United States
 - Five years
 - Three years if living in marital union with U.S. citizen ("USC") spouse
 - What is marital union?
 - VAWA exception
 - Residency not required if married to USC regularly employed abroad with U.S. Government/military, U.S. Corporation, or Religious Organization

Requirement: Continuous Residence

- Breaks in Continuous Residency

- Absence for six months or less should NOT break continuous residence for naturalization purposes (exception later).
- Absence for more than six months but less than one year have a rebuttable presumption that they broke continuous residence.
- Absence for one year or more WILL break continuous residence.

Requirement: Physical Presence

- Physical Presence in the United States
 - 2 ½ years or 914 days
 - 1 ½ years or 548 days if living in marital union with U.S. citizen spouse
 - What constitutes a day in the U.S.?
 - Exception - Not required if married to USC regularly employed abroad with U.S. Government/military, U.S. Corporation, or Religious Organization

Requirement: Good Moral Character

- Applicant must be a person of Good Moral Character
 - Person of Good Moral Character for 5 years or 3 if living in marital union with U.S. citizen spouse
 - One year lookback for military natz
 - Good Moral Character defined at INA §101(f)
 - Aggravated Felony (INA §101(a)(43)) after Nov 29, 1990 is permanent bar to a finding of Good Moral Character
 - Person on probation is not a person of Good Moral Character even if underlying crime would not affect eligibility
 - Criminal conviction may trigger removal proceedings
 - Taxes
 - Child support

Requirement: English Language

- No person (unless exempt) shall be naturalized as a citizen who cannot demonstrate an understanding of the English language, including an ability to read, write, and speak words in ordinary use in the English language, and a knowledge and understanding of the fundamentals of the history and the principles and form of government of the United States.
- INA §323(a)

Requirement: English Language

English Test:

- Speaking
 - Applicant must be prepared to exchange pleasantries with the USCIS officer and review the entire N400 in the English language
 - Prepare your client for this far in advance, confidence vs reality can sometimes be very different and this can be the sneaky kill shot for an application
- Reading
 - Applicant must read presented sentence out loud during interview
 - Three chances
- Writing
 - Applicant must write out sentence that officer states out loud
 - Three chances
- Remember: does not have to be perfect, but does need to be proficient enough for the officer to understand and gauge ability to communicate in English.

Requirement: English Language

Exemptions to the English Requirement

- 55/15 Rule INA §312(b)(2)
 - At least 55 years old and be an LPR for 15 years at time of application
- 50/20 Rule
 - At least 50 years old and be an LPR for 20 years
- Even if exempt from English test, may still need to pass civics test (more on exemptions to civics test later)

Requirement: History & Civics

- 100 questions on U.S. history and civics
 - 10 questions asked at random, only need 6 to pass
- Interviewing officer must accept your first answer, counsel client to take their time

Requirement: History & Civics

- Exemption to the History and Civics Exam
- 60/20 rule
 - Must be at least 60 years old and an LPR for 20 years
 - Is exempt from English test AND
 - Takes a simplified version of the civics/history test
 - Only study 20 of the 100 questions
 - Still has 10 chances to get 6 correct

Requirement: History & Civics

- What if the client doesn't pass one or both of the exams?
 - They will be scheduled for a retest 60-90 days after the first interview 8 CFR §312.5(a)
- What if the client can't learn English or the History/Civics content?
 - Exams can be waived if applicant cannot learn or demonstrate ability to pass based on a physical/developmental disability or mental impairment
 - N-648 must be completed by an authorized medical professional. Choose one that is most familiar with your client's medical situation
 - These are tough to get approved (discretionary), so the focus of the provided information should create a clear nexus between their disability and their ability to demonstrate knowledge of English and/or civics and government
 - Nearly impossible for client's disability to improve

Requirement: Oath of Allegiance

Client is not a United States Citizen until they take the Oath of Allegiance and are presented a Certificate of Naturalization.

Answer **Item Numbers 45. - 50.** If you answer "No" to any of these questions, include a typed or printed explanation on additional sheets of paper and provide any evidence to support your answers.

45. Do you support the Constitution and form of Government of the United States? Yes No
46. Do you understand the full Oath of Allegiance to the United States? Yes No
47. Are you willing to take the full Oath of Allegiance to the United States? Yes No
48. If the law requires it, are you willing to bear arms on behalf of the United States? Yes No
49. If the law requires it, are you willing to perform noncombatant services in the U.S. armed forces? Yes No
50. If the law requires it, are you willing to perform work of national importance under civilian direction? Yes No

Requirement: Oath of Allegiance

Waivers and Modification of the Oath

- Waivers: clients who cannot understand the oath (i.e. because of a disability)
- Modifications: religious or moral convictions
 - Should list criteria upon which USCIS will modify the oath
- Check out the USCIS Policy Manual as a starting point!

Naturalization Process

- File the Application:
 - N-400, N-426/DD-214 (military), N-648 (waiver), I-551, supporting documents
 - Filing Fee \$725.00 Waiver available
 - Online or Paper
- Interview/English & Civics Exam
 - Recommendation for Approval
 - Notice of Continuance
 - USCIS must make a decision within 120 days of interview or client may request transfer to U.S. District Court INA §336(b)
- Swearing in
 - Client not a citizen until sworn in *Abou-Haidar v. Gonzales*, 437 F.3d 206 (1st Cir. 2006)

If denied:

- Administrative Appeal with USCIS (Form N-336)
- If denial is upheld, decision may be reviewed by the U.S. District Court

U.S. Citizenship at Birth inside the U.S.

- Birth in the United States

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. U.S. Const Amnd XIV Sec 1.; INA §301(a)

- What is the United States? INA §101(a)(38)

- CONUS
- Alaska
- Hawaii
- Puerto Rico
- Guam
- U.S. Virgin Islands
- Commonwealth of Northern Mariana Islands (as of 11/3/1986)

U.S. Citizenship at Birth inside the U.S.

- What isn't the United States? 8 FAM 301.1-2
 - U.S. registered ship/aircraft in international waters/airspace, or U.S. Exclusive Economic Zone *Lam Mow v. Nagle*, 24 F.2d 316 (9th Cir. 1928)
 - U.S. Embassies/Consulates *Persinger v. Iran*, 729 F.2d 835 (D.C. Cir. 1984)
 - American Samoa & Swains Island *Fitisemanu v. U.S.*, 1 F.4th 862 (10th Cir. 2001)

LPR Child of Son/Daughter Gets Married

- Example: Juan, an LPR, petitions his child, Patricia (family-based 2A). Patricia gets married. Because LPRs cannot immigrate married sons or daughters, the petition is terminated.
- What if Juan Naturalizes before Patricia gets married?

U.S. Citizenship at Birth Outside the U.S.

- Born Abroad to One (or more) U.S. citizen parents (current law)
 - Must use the law in force at the time of the subject's birth
 - Two USC Parents INA §301(c)
 - One parent must have resided in the U.S. before birth
- One USC Parent, one Foreign National Parent INA §301(g) (current)
 - USC Parent resided in the U.S. for five years, two of which are after age 14
 - If unwed USC father must establish paternity
 - USC unwed mother: One-year physical presence in the U.S. INA §309(a)

**CHART B: ACQUISITION OF CITIZENSHIP
DETERMINING IF CHILDREN BORN OUTSIDE THE U.S. AND
BORN OUT OF WEDLOCK ACQUIRED U.S. CITIZENSHIP AT BIRTH**

PART 1 — Mother was a U.S. citizen at the time of the child's birth.

PART 2 — Mother was not a U.S. citizen at the time of the child's birth and the child was legitimated or acknowledged by a U.S. citizen father.

Please Note: A child cannot acquire citizenship at birth through an adoption.¹

PART 1: MOTHER IS A U.S. CITIZEN AT THE TIME OF THE CHILD'S BIRTH

Date of Child's Birth:	Requirements:
Prior to 12/24/52 ²	Mother was a U.S. citizen who had resided in the U.S. or its outlying possessions at some point prior to birth of child. EXCEPTION: The child will not acquire citizenship through the U.S. citizen mother if he or she was legitimated by the father under the following circumstances: ³ 1. The child was born before 5/24/34; 2. The child was legitimated before turning 21; and 3. The legitimation occurred before 1/13/41.
On/after 12/24/52	Mother was U.S. citizen physically present in the U.S. or its outlying possessions for a continuous period of 1 year at some point prior to birth of child.

PART 2: MOTHER WAS NOT A U.S. CITIZEN AT THE TIME OF THE CHILD'S BIRTH AND THE CHILD HAS BEEN LEGITIMATED OR ACKNOWLEDGED BY FATHER, WHO WAS A U.S. CITIZEN WHEN CHILD WAS BORN⁴

Date of Child's Birth:	Requirements:
Prior to 1/13/41:	1. Child legitimated at any time after birth, including adulthood, under law of father's domicile. 2. Use CHART A for residency requirements to determine if child acquired citizenship at birth.
On/after 1/13/41 and prior to 12/24/52:	1. Child legitimated before age 21 under law of father's domicile, or paternity established through court proceedings before 12/24/52. 2. Use CHART A for residency requirements to determine if child acquired citizenship at birth unless paternity established through court proceeding. ⁵
On/after 12/24/52 and prior to 11/15/68:	1. Child legitimated before age 21 under law of father or child's domicile. ⁶ 2. Use CHART A for residency requirements to determine if child acquired citizenship at birth.
On/after 11/15/68 and prior to 11/15/71:	OPTION A: 1. Child legitimated before age 21 under law of father or child's domicile. 2. Use CHART A for residency requirements to determine if child acquired citizenship at birth. OPTION B:⁷ 1. Child/father blood relationship established by clear and convincing evidence; ⁸ 2. Father must have been a U.S. citizen at the time of child's birth; 3. Father, unless deceased, must provide written statement under oath that he will provide financial support for child until she reaches 18; and 4. While child is under age 18, child must be legitimated under law of child's residence or domicile, ⁹ or father must acknowledge paternity of child in writing under oath, or paternity must be established by competent court. 5. Use CHART A for residency requirements to determine if child acquired citizenship at birth.
On/after 11/15/71 ¹⁰	1. Child/father blood relationship established by clear and convincing evidence; ⁸ 2. Father must have been a U.S. citizen at the time of child's birth; 3. Father, unless deceased, must provide written statement under oath that he will provide financial support for child until s/he reaches 18; and 4. While child is under age 18, child must be legitimated under law of child's residence or domicile, or father must acknowledge paternity of child in writing under oath, or paternity must be established by competent court. 5. Use CHART A for residency requirements to determine if child acquired citizenship at birth.

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Please Note: This Chart is intended as a general reference guide and the ILRC recommends practitioners research the applicable laws and INS interpretations for additional information.

Example #1

- Example: Magdalena and Juan were both born and raised in Puerto Rico and therefore are U.S. citizens. In 1980, when both were age 20, they married. In 1983, they moved to Mexico where their child Eduardo was born on February 16, 1989.

Example #2

- Example: Alfredo was born in New York on March 17, 1925. His parents were natives and citizens of Mexico. In 1928, the whole family moved to Mexico where Alfredo has lived ever since. In Mexico, Alfredo fathered a child, Mauricio, who was born on June 21, 1948. Mauricio's mother, Nicolasa, is a native and citizen of Mexico. Alfredo and Nicolasa have never been married, but Alfredo legitimated Mauricio under Mexican law in 1949. Mauricio wants to know if he acquired U.S. citizenship at birth.

Citizenship By Operation of Law

- Child Citizenship Act of 2000, INA §320
 - One parent must be a U.S. Citizen
 - Child must be a Lawful Permanent Resident
 - Child must be under 18 years old
 - Child must be unmarried
 - Child must be residing in the U.S. in the *legal* and *physical* custody of the USC parent
 - Adopted children may qualify INA §101(b)(3)(E)
 - If the child is illegitimate at birth, father must legitimate child before age 18
- Child acquires citizenship by operation of law when final condition is met

Example #1

- James was born on July 13, 1987 in Korea. James, his mother, and his father all became lawful permanent residents of the U.S. in 1990. His mother naturalized in 1998. James father has not yet naturalized. James lived with both his parents in the U.S. Under the “Child Citizenship Act of 2000,” James became a U.S. citizen automatically on February 27, 2001 because at that time he was under 18, unmarried, a lawful permanent resident, and was living in the legal and physical custody of his U.S. citizen mother. It is no longer required that both parents are U.S. citizens for derivation if both parents have custody.

Citizenship By Operation of Law

Definition of Custody

USCIS presumes legal custody under the CCA in certain situations:

- Both parents have legal custody over their biological child where they are married, living together, and the child resides with them.
- A parent has legal custody where her biological child resides with her, and the other parent is deceased.
- A parent has legal custody if the child was born out of wedlock, the parent lives with the child, and (if the parent was the dad) the parent has legitimated the child while the child was under 16.
- Both parents have legal custody where the child's parents are legally separated or divorced and a court has awarded the parents joint custody.

8 CFR §320.1

Citizenship By Operation of Law Process

Certificate of Citizenship

Submit N-600 to USCIS

- Can apply for a U.S. passport at a U.S. passport office or a U.S. post office
- Can apply for a U.S. passport even if abroad
- Can apply for a U.S. passport even if applying for a Certificate of Citizenship