

I-751, Petition to Remove Conditions on Residence

Purpose of This Form.

This form is for a conditional resident who obtained such status through marriage to petition to the Bureau of Citizenship and Immigration Services (CIS) to remove the conditions on his or her residence. The CIS is comprised of offices of the former Immigration and Naturalization Service (INS).

Who May File.

If you were granted conditional resident status through marriage to a U.S. citizen or permanent resident, use this form to petition for the removal of those conditions.

If you are still married, the petition should be filed jointly by you and the spouse through whom you obtained conditional status. However, you may apply for a waiver of this joint filing requirement if:

- You entered the marriage in good faith, but your spouse subsequently died;
- You entered the marriage in good faith, but the marriage was later terminated due to divorce or annulment;
- You entered the marriage in good faith and have remained married, but have been battered or subjected to extreme cruelty by your U.S. citizen or permanent resident spouse; or
- The termination of your status and removal would result in extreme hardship.

You may include your conditional resident children in your petition, or they may file separately.

General Filing Instructions.

Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A." If an answer is "none," write "none." If you need extra space to answer any item, attach a sheet of paper with your name and your Alien Registration Number (A#), and indicate the number of the item to which the answer refers. You must file your petition with the required initial evidence. Your petition must be properly signed and accompanied by the correct fee. If you are under 14 years of age, your parent or guardian may sign the petition on your behalf.

Translations. Any foreign language document must be accompanied by a full English translation that the translator has certified as complete and correct, and by the translator's certification that he or she is competent to translate the foreign language into English.

Copies. If these instructions state that a copy of a document may be filed with this petition and you choose to send us the original, we may keep that original for our records.

Initial Evidence.

Permanent Resident Card. You must file your petition with a copy of your Permanent Resident Card or Alien Registration Card, and a copy of the Permanent Resident or Alien Registration cards of any of your conditional resident children you are including in your petition. Submit copies of both front and back sides of the card.

Evidence of the Relationship. Submit copies of documents indicating that the marriage upon which you were granted conditional status was entered in "good faith" and was not for the purpose of circumventing immigration laws. Submit copies of as many documents as you wish to establish this fact and to demonstrate the circumstances of the relationship from the date of the marriage to the present date, and to demonstrate any circumstances surrounding the end of the relationship, if it has ended. The documents should cover the period from the date of your marriage to the filing of this petition. Examples of such documents are:

- Birth certificate(s) of child(ren) born to the marriage.
- Lease or mortgage contracts showing joint occupancy and/or ownership of your communal residence.
- Financial records showing joint ownership of assets and joint responsibility for liabilities, such as joint savings and checking accounts, joint federal and state tax returns, insurance policies that show the other spouse as the beneficiary, joint utility bills, joint installments or other loans.
- Other documents you consider relevant to establish that your marriage was not entered into in order to evade the U.S. immigration laws.
- Affidavits sworn to or affirmed by at least two people who have known both of you since your conditional residence was granted and have personal knowledge of your marriage and relationship. (Such persons may be required to testify before an immigration officer as to the information contained in the affidavit.) The original affidavit must be submitted and also contain the following information regarding the person making the affidavit: his or her full name and address; date and place of birth; relationship to you or your spouse, if any; and full information and complete details explaining how the person acquired his or her knowledge. Affidavits must be supported by other types of evidence listed above.

If you are filing to waive the joint filing requirement due to the death of your spouse, submit also a copy of the death certificate with your petition.

If you are filing to waive the joint filing requirement because your marriage has been terminated, submit also a copy of the divorce decree or other document terminating or annulling the marriage with your petition.

If you are filing to waive the joint filing requirement because you and/or your conditional resident child were battered or subjected to extreme cruelty, also file your petition with the following:

- Evidence of the physical abuse, such as copies of reports or official records issued by police, judges, medical personnel, school officials and representatives of social service agencies, and original affidavits as described under **Evidence of the Relationship**; or

- Evidence of the abuse, such as copies of reports or official records issued by police, courts, medical personnel, school officials, clergy, social workers and other social service agency personnel. You may also submit any legal documents relating to an order of protection against the abuser or relating to any legal steps you may have taken to end the abuse. You may also submit evidence that you sought safe haven in a battered women's shelter or similar refuge, as well as photographs evidencing your injuries.
- A copy of your divorce decree, if your marriage was terminated by divorce on grounds of physical abuse or extreme cruelty.

If you are filing for a waiver of the joint filing requirement because the termination of your status and removal would result in "extreme hardship," you must submit with your petition evidence that your removal would result in hardship significantly greater than the hardship encountered by other aliens who are removed from this country after extended stays. The evidence must relate only to those factors that arose since you became a conditional resident.

If you are a child filing separately from your parent, also submit your petition a full explanation as to why you are filing separately, along with copies of any supporting documentation.

When to File.

Filing jointly. If you are filing this petition jointly with your spouse, you must file it during the **90 days** immediately before the second anniversary of the date you were accorded conditional resident status. This is the date your conditional residence expires.

However, if you and your spouse are outside the United States on orders of the U.S. Government during the period in which the petition must be filed, you may file it within **90 days** of your return to the United States.

Filing with a request that the joint filing requirement be waived. You may file this petition at any time after you are granted conditional resident status and before you are removed.

Effect of not filing. If this petition is not filed, you will automatically lose your permanent resident status as of the second anniversary of the date on which you were granted conditional status. You will then become removable from the United States. If your failure to file was through no fault of your own, you may file your petition late with a written explanation and request that the CIS excuse the late filing. Failure to file before the expiration date may be excused if you demonstrate when you submit the application that the delay was due to extraordinary circumstances beyond your control and that the length of the delay was reasonable.

Where to File.

If you live in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands, Virginia or West Virginia, mail your petition to:

**USCIS Vermont Service Center
75 Lower Welden Street
St. Albans, VT 05479-0001**

If you live in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee or Texas, mail your petition to:

**USCIS Texas Service Center
P.O. Box 850965,
Mesquite, TX 75185-0965**

If you live in Arizona, California, Guam, Hawaii or Nevada, mail your petition to:

**USCIS California Service Center
P.O. Box 10751
Laguna Niguel, CA 92607-0751**

If you live elsewhere in the United States mail your petition to:

**USCIS Nebraska Service Center
P.O. Box 87751
Lincoln, NE 68501-7751**

NOTE: If you or your spouse are currently serving with or employed by the U.S. Government, either in a civilian or military capacity and assigned outside the United States, mail your petition to the CIS Service Center having jurisdiction over your residence of record in the United States. Include a copy of the U.S. Government orders assigning you and your spouse abroad.

Fee.

The fee for this petition is **\$200.00**. The fee must be submitted in the exact amount. It cannot be refunded. **Do not mail cash.**

All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the **U.S. Department of Homeland Security**. Do not use the initials USDHS or DHS.

Except:

- If you live in Guam and are filing this petition there, make your check or money order payable to the "Treasurer, Guam."
- If you live in the Virgin Islands and are filing this application there, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands"

Checks are accepted subject to collection. An uncollected check will render the petition and any document issued invalid. A charge of \$30.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

Processing Information.

Acceptance. Any petition that is not signed or accompanied by the correct fee will be rejected with a notice that the petition is deficient. You may correct the deficiency and resubmit the petition. A petition is not considered properly filed until accepted by the CIS.

Initial processing. Once a petition has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form or file it without the required initial evidence, you will not establish a basis for eligibility and we may deny your petition.

Requests for more information or interview. We may request more information or evidence, or we may request that you appear at a CIS office for an interview. We may also request that you submit the originals of any copies. We will return these originals when they are no longer required.

Decision. You will be advised in writing of the decision on your petition.

Penalties.

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

Do You Need Help or CIS Forms?

If you need information on immigration laws, regulations or procedures or CIS forms, call our National Customer Service Center at **1-800-375-5283** or visit our internet website at **www.uscis.gov**.

Privacy Act Notice.

We ask for the information on this form and associated evidence to determine if you have established eligibility for the immigration benefit you are seeking. Our legal right to ask for this information is in 8 USC 1184, 1255 and 1258. Failure to provide this information and any requested evidence may delay a final decision or result in denial of your request.

All the information provided on this form, including addresses, are protected by the Privacy Act and the Freedom of Information Act. This information may be released to another government agency. However, the information will not be released in any form whatsoever to a third party who requests it without a court order, or without your written consent. In the case of a child, the written consent must be provided by the parent or legal guardian who filed the form on the child's behalf.

Paperwork Reduction Act Notice.

We try to create forms and instructions that are accurate, can be easily understood and that impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is as follows: (1) 15 minutes to learn about the law and form; (2) 15 minutes to complete the form; and (3) 50 minutes to assemble and file the petition; for a total estimated average of 1 hour and 20 minutes per petition. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, write to the Bureau of Citizenship and Immigration Services, HQRFS, 425 I Street, N.W., Room 4034, Washington, DC 20529; OMB No. 1615-0038. Do not mail your completed application to this address.

I-751, Petition to Remove Conditions on Residence

START HERE - Please Type or Print in Black Ink.

FOR CIS USE ONLY

Part 1. Information about you.

| | | |
|-------------------------|-------------------------|----------------------|
| Family Name (Last Name) | Given Name (First Name) | Full Middle Name |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

Address: (Street Number and Name) Apt. #

C/O: (In Care Of)

City State/Province

Country Zip/Postal Code

Mailing Address, if different than above: (Street Number and Name) Apt. #

C/O: (In Care Of)

City State/Province

Country Zip/Postal Code

Date of Birth (mm/dd/yyyy) Country of Birth Country of Citizenship

Alien Registration Number (#A) Social Security # (if any)

Conditional Residence Expires on (mm/dd/yyyy) Daytime Phone # (Area/Country Code)

Part 2. Basis for petition. (Check one.)

a. My conditional residence is based on my marriage to a U.S. citizen or permanent resident, and we are filing this petition together.

b. I am a child who entered as a conditional permanent resident and I am unable to be included in a joint petition to remove the conditional basis of an alien's permanent residence (Form I-751) filed by my parent(s).

OR

My conditional residence is based on my marriage to a U.S. citizen or permanent resident, but I am unable to file a joint petition and I request a waiver because: **(Check one.)**

c. My spouse is deceased.

d. I entered into the marriage in good faith but the marriage was terminated through divorce/annulment.

e. I am a conditional resident spouse who entered a marriage in good faith, and during the marriage I was battered by or was the subject of extreme cruelty by my U.S. citizen or permanent resident spouse or parent.

f. I am a conditional resident child who was battered by or subjected to extreme cruelty by my U.S. citizen or conditional resident parent(s).

g. The termination of my status and removal from the United States would result in an extreme hardship.

| | |
|---|---------|
| Returned | Receipt |
| Date <input type="text"/> | |
| Date <input type="text"/> | |
| Resubmitted | |
| Date <input type="text"/> | |
| Date <input type="text"/> | |
| Reloc Sent | |
| Date <input type="text"/> | |
| Date <input type="text"/> | |
| Reloc Rec'd | |
| Date <input type="text"/> | |
| Date <input type="text"/> | |
| <input type="checkbox"/> Petitioner Interviewed on <input type="text"/> | |

Remarks

Action Block

To Be Completed by
Attorney or Representative, if any.

Fill in box if G-28 is attached to represent the applicant.

ATTY State License #

Part 3. Additional information about you.

1. Other Names Used (including maiden name):
2. Date of Marriage (mm/dd/yyyy) 3. Place of Marriage 4. If your spouse is deceased, give the date of death (mm/dd/yyyy)
5. Are you in removal, deportation or rescission proceedings? Yes No
6. Was a fee paid to anyone other than an attorney in connection with this petition? Yes No
7. Since becoming a conditional resident, have you ever been arrested, cited, charged, indicted, convicted, fined or imprisoned for breaking or violating any law or ordinance (excluding traffic regulations), or committed any crime for which you were not arrested? Yes No
8. If you are married, is this a different marriage than the one through which conditional residence status was obtained? Yes No
9. Have you resided at any other address since you became a permanent resident? (If yes, attach a list of all addresses and dates.) Yes No
10. Is your spouse currently serving with or employed by the U.S. government and serving outside the United States? Yes No

If you answered "Yes" to any of the above, provide a detailed explanation on a separate sheet(s) of paper. Place your name and Alien Registration Number (A#) at the top of each sheet and give the number of the item that refers to your response.

Part 4. Information about the spouse or parent through whom you gained your conditional residence.

| | | |
|----------------------------|----------------------------|----------------------|
| Family Name | First Name | Middle Name |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Address | | |
| <input type="text"/> | | |
| Date of Birth (mm/dd/yyyy) | Social Security # (if any) | A# (if any) |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

Part 5. Information about your children. List all your children. Attach other sheet(s) if necessary.

| Name (First/Middle/Last) | Date of Birth (mm/dd/yyyy) | A # (if any) | If in U.S., give address/immigration status | Living with you? |
|--------------------------|----------------------------|----------------------|---|--|
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

Part 5. Signature. *Read the information on penalties in the instructions before completing this section. If you checked block "a" in Part 2, your spouse must also sign below.*

I certify, under penalty of perjury of the laws of the United States of America, that this petition and the evidence submitted with it is all true and correct. If conditional residence was based on a marriage, I further certify that the marriage was entered in accordance with the laws of the place where the marriage took place and was not for the purpose of procuring an immigration benefit. I also authorize the release of any information from my records that the Bureau of Citizenship and Immigration Services needs to determine eligibility for the benefit sought.

| | | |
|----------------------|----------------------|----------------------|
| Signature | Print Name | Date (mm/dd/yyyy) |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Signature of Spouse | Print Name | Date (mm/dd/yyyy) |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

NOTE: If you do not completely fill out this form or fail to submit any required documents listed in the instructions, you may not be found eligible for the requested benefit and this petition may be denied.

Part 6. Signature of person preparing form, if other than above.

I declare that I prepared this petition at the request of the above person and it is based on all information of which I have knowledge.

| | | |
|-----------------------|--|----------------------|
| Signature | Print Name | Date (mm/dd/yyyy) |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Firm Name and Address | Daytime Phone Number (Area/Country Code) | () |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

**Instructions for I-751, Petition to
Remove Conditions on Residence****Instructions**

Read these instructions carefully to properly complete this form. If you need more space to complete an answer, use a separate sheet of paper. Write your name and Alien Registration Number (A-Number), if any, at the top of each sheet of paper and indicate the section and number of the item to which the answer refers.

What Is the Purpose of This Form?

This form is for a conditional resident who obtained such status through marriage to petition to U.S. Citizenship and Immigration Services (USCIS) to remove the conditions on his or her residence.

Who May File Form I-751?

If you were granted conditional resident status through marriage to a U.S. citizen or permanent resident, use this form to petition for the removal of those conditions. If you have dependent children who acquired conditional resident status concurrently with you and entered the United States within 90 days of your arrival, then include the names and A-Numbers of these children in Part 5 of this form in order to have their conditional status removed. If you have dependent children who acquired conditional resident status after 90 days from the date of your adjustment or if the conditional resident parent is deceased, then those dependent children must file Form I-751 separately to have their conditional status removed.

If you are still married, the petition should be filed jointly by you and the spouse through whom you obtained conditional status. However, you may apply for a waiver of this joint filing requirement if:

1. You entered the marriage in good faith, but your spouse subsequently died;
2. You entered the marriage in good faith, but the marriage was later terminated due to divorce or annulment;
3. You entered the marriage in good faith and have remained married, but you have been battered or subjected to extreme cruelty by your U.S. citizen or permanent resident spouse; or
4. The termination of your status and removal would result in extreme hardship.

When Should I File Form I-751?

1. **Filing jointly.** If you are filing this petition jointly with your spouse, you must file it during the **90 days** immediately before the second anniversary of the date you were accorded conditional resident status. This is the date your conditional residence expires.
2. **Filing with a request that the joint filing requirement be waived.** You may file this petition at any time after you are granted conditional resident status and before you are removed.

3. **Effect of not filing.** If this petition is not filed, you will automatically lose your permanent resident status as of the second anniversary of the date on which you were granted conditional status.

You will then become removable from the United States. If your failure to file was through no fault of your own, you may file your petition late with a written explanation and request that USCIS excuse the late filing. Failure to file before the expiration date may be excused if you demonstrate when you submit the application that the delay was due to extraordinary circumstances beyond your control, and that the length of the delay was reasonable.

General Instructions**Step 1. Fill Out Form I-751**

1. Type or print legibly in black ink.
2. If extra space is needed to complete any item, attach a continuation sheet, indicate the item number, and date and sign each sheet.
3. Answer all questions fully and accurately. State that an item is not applicable with "N/A." If the answer is none, write "NONE."

Translations. Any document containing a foreign language submitted to USCIS must be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

Copies. Unless specifically required that an original document be filed with an application or petition, an ordinary legible photocopy may be submitted. Original documents submitted when not required will remain a part of the record, even if the submission was not required.

What Initial Evidence Is Required?**Permanent Resident Card**

You must file your petition with a copy of your Permanent Resident Card or Alien Registration Card, and a copy of the Permanent Resident or Alien Registration cards of any of your conditional resident children you are including in your petition. Submit copies of both front and back sides of the card.

Exception

Those who reside overseas pursuant to military or Government orders, including conditional resident dependents residing overseas and listed under Part 5 of the form, must submit the following items with Form I-751:

1. Two passport-style photos for applicants and dependents, regardless of age.

2. Two completed fingerprint cards (Form FD-258) for applicants and dependents between the ages of 14 and 79. You must indicate your Alien Registration Number (A-Number) on the fingerprint card and ensure that the completed cards are not bent, folded, or creased. The fingerprint cards must be prepared by a U.S. Embassy or consulate, USCIS Office, or U.S. Military installation.

In order for USCIS to identify filings based on military or government orders, applicants are required to indicate on top of Form I-751, "**ACTIVE MILITARY**" or "**GOVERNMENT ORDERS**" and submit a copy of their current military or government orders.

Evidence of the Relationship

Submit copies of documents indicating that the marriage upon which you were granted conditional status was entered in "good faith" and was not for the purpose of circumventing immigration laws. Submit copies of as many documents as you wish to establish this fact and to demonstrate the circumstances of the relationship from the date of the marriage to the present date, and to demonstrate any circumstances surrounding the end of the relationship, if it has ended. The documents should cover, but not limited to, the following examples:

1. Birth certificate(s) of child(ren) born to the marriage;
2. Lease or mortgage contracts showing joint occupancy and/or ownership of your communal residence;
3. Financial records showing joint ownership of assets and joint responsibility for liabilities, such as joint savings and checking accounts, joint federal and state tax returns, insurance policies that show the other spouse as the beneficiary, joint utility bills, joint installments, or other loans;
4. Other documents you consider relevant to establish that your marriage was not entered into in order to evade the U.S. immigration laws; and
5. Affidavits sworn to or affirmed by at least two people who have known both of you since your conditional residence was granted and have personal knowledge of your marriage and relationship. (Such persons may be required to testify before an immigration officer as to the information contained in the affidavit.) The original affidavit must be submitted and also contain the following information regarding the person making the affidavit: his or her full name and address; date and place of birth; relationship to you or your spouse, if any; and full information and complete details explaining how the person acquired his or her knowledge. Affidavits must be supported by other types of evidence listed above.

If you are filing to waive the joint filing requirement due to the death of your spouse, submit a copy of the death certificate with your petition.

If you are filing to waive the joint filing requirement because your marriage has been terminated, submit a copy of the divorce decree or other document terminating or annulling the marriage with your petition.

If you are filing to waive the joint filing requirement because you and/or your conditional resident child were battered or subjected to extreme cruelty, submit:

1. Evidence of the abuse, such as copies of reports or official records issued by police, courts, medical personnel, school officials, clergy, social workers, and other social service agency personnel. You may also submit any legal documents relating to an order of protection against the abuser or relating to any legal steps you may have taken to end the abuse. You may also submit evidence that you sought safe haven in a battered women's shelter or similar refuge, as well as photographs evidencing your injuries; and
2. A copy of your divorce decree, if your marriage was terminated by divorce on grounds of physical abuse or extreme cruelty.

If you are filing for a waiver of the joint filing requirement because the termination of your status and removal would result in "extreme hardship," you must submit evidence that your removal would result in hardship significantly greater than the hardship encountered by other aliens who are removed from this country after extended stays. The evidence must relate only to those factors that arose since you became a conditional resident.

If you are a child filing separately from your parent, submit a full explanation as to why you are filing separately, along with copies of any supporting documentation.

Criminal History

If you have ever been arrested or detained by any law enforcement officer for any reason, and no charges were filed, submit an original official statement by the arresting agency or applicable court order confirming that no charges were filed.

If you have ever been arrested or detained by any law enforcement officer for any reason, and charges were filed, or if charges were filed against you without an arrest, submit an original or court-certified copy of the complete arrest record and/or disposition for each incident (e.g., dismissal order, conviction record, or acquittal order).

If you have ever been convicted or placed in an alternative sentencing program or rehabilitative program (such as a drug treatment or community service program), submit:

1. An original or court-certified copy of your sentencing record for each incident, and evidence that you completed your sentence, specifically:
 - A. An original or certified copy of your probation or parole record; or
 - B. Evidence that you completed an alternative sentencing program, or rehabilitative program.
2. An original or court-certified copy of the court order vacating, setting aside, sealing, expunging, or otherwise removing the arrest or conviction; or
3. If no record is available, an original statement from the court that no record exists of your arrest or conviction.

NOTE: Unless a traffic incident was alcohol or drug related, you do not need to submit documentation for traffic fines and incidents that did not involve an actual arrest if the only penalty was a fine of less than \$500 and/or points on your driver's license.

Where to File?

If you live in Alaska, American Samoa, Arizona, California, Colorado, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, or Wyoming, mail your petition to the California Service Center:

USCIS California Service Center
P.O. Box 10751
Laguna Niguel, CA 92607-1075

If you live in Alabama, Arkansas, Connecticut, Delaware, Washington, D.C., Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, U.S. Virgin Islands, or West Virginia, mail your petition to the Vermont Service Center:

USCIS Vermont Service Center
75 Lower Welden St.
P.O. Box 200
St. Albans, VT 05479-0001

NOTE: If you or your spouse are currently serving with or employed by the U.S. Government, either in a civilian or military capacity and assigned outside the United States, mail your petition to the USCIS Service Center having jurisdiction over your residence of record in the United States. Include a copy of the U.S. Government orders assigning you and your spouse abroad.

What Is the Filing Fee?

The filing fee for a Form is **\$505**.

An additional biometric fee of **\$85** is required when filing Form I-751. **After you submit Form I-751, USCIS will notify you about when and where to go for biometric services.**

You may submit one check or money order for both the application and biometric fees, for a total of **\$590**.

NOTE: Each conditional resident dependent, eligible to be included on the principal applicant's Form I-751 and listed under Part 5 of Form I-751, is required to submit an additional biometric services fee of **\$85**, including dependents residing overseas pursuant to military or Government orders, regardless of age.

Use the following guidelines when you prepare your check or money order for the Form I-751 and the biometric service fee:

1. The check or money order must be drawn on a bank or other financial institution located in the United States and must be payable in U.S. currency; and
2. Make the check or money order payable to **U.S. Department of Homeland Security**, unless:
 - A. If you live in Guam, make it payable to **Treasurer, Guam**.
 - B. If you live in the U.S. Virgin Islands, make it payable to **Commissioner of Finance of the Virgin Islands**.
 - C. If you live outside the United States, Guam, or the U.S. Virgin Islands, contact the nearest U.S. Embassy or consulate for instructions on the method of payment.

NOTE: Spell out U.S. Department of Homeland Security; do not use the initials "USDHS" or "DHS."

How to Check If the Fees Are Correct?

The form and biometric fees on this form are current as of the edition date appearing in the lower right corner of this page. However, because USCIS fees change periodically, you can verify if the fees are correct by following one of the steps below:

1. Visit our Web site at www.uscis.gov, select "FORMS," and check the appropriate fee;
2. Review the Fee Schedule included in your form package, if you called us to request the form; or

3. Telephone our National Customer Service Center at 1-800-375-5283 and ask for the fee information.

NOTE: If your Form I-751 requires payment of a biometric service fee for USCIS to take your fingerprints, photograph, or signature, you can use the same procedure to obtain the correct biometric fee.

Address Changes

If you change your address and you have an application or petition pending with USCIS, you may change your address online at www.uscis.gov, click on "Online Change of Address," and follow the prompts. You may also complete and mail Form AR-11, Alien's Change of Address Card, to:

U.S. Citizenship and Immigration Services
Change of Address
P.O. Box 7134
London, KY 40742-7134

For commercial overnight or fast freight services only, mail to:

U.S. Citizenship and Immigration Services
Change of Address
1084-I South Laurel Road
London, KY 40744

Processing Information

Acceptance. Any application that is not signed or accompanied by the correct fee will be rejected with a notice that the application is deficient. You may correct the deficiency and resubmit the application. However, an application is not considered properly filed until accepted by USCIS.

Initial Processing. Once the application has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form or file it without the required initial evidence, you will not establish a basis for eligibility, and we may deny your application.

Requests for More Information. We may request more information or evidence, or we may request that you appear at a USCIS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer needed.

Decision. The decision on Form I-751 involves a determination of whether you have established eligibility for the requested benefit. You will be notified of the decision in writing.

USCIS Forms and Information

To order USCIS forms, call our toll-free number at 1-800-870-3676. You can also get USCIS forms and information on immigration laws, regulations, and procedures by telephoning our National Customer Service Center at 1-800-375-5283 or visiting our Internet Web site at www.uscis.gov.

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through our Internet-based system, **InfoPass**. To access the system, visit our Web site. Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen.

Accommodations for Individuals With Disabilities and Impairments

USCIS is committed to providing reasonable accommodations for individuals with disabilities and impairments.

Accommodations vary with the disability and/or impairment and involve modifications to practices or procedures. For example, if you are:

1. Unable to use your hands, you may be permitted to take a test orally rather than in writing;
2. Hearing-impaired, you may be provided with a sign-language interpreter for a USCIS-sponsored training session; or
3. Unable to travel to a designated USCIS location for an interview, you may be visited at your home or a hospital.

If you believe that you, your spouse, and/or your child(ren) need us to accommodate a disability and/or impairment, check the appropriate "Yes" box(es) and then check any applicable box(es) that describe(s) the nature of the disability(ies) and/or impairment(s). Also, write the type(s) of accommodation(s) you are requesting on the line(s) provided. If you are requesting a sign-language interpreter, indicate which language. If you need more space, use a separate sheet of paper.

NOTE: All domestic USCIS facilities meet the Accessibility Guidelines of the Americans with Disabilities Act, so you do not need to contact us to request an accommodation for physical access to a domestic USCIS office.

USCIS consider requests for accommodations on a case-by-case basis. Asking for an accommodation will not affect your eligibility for the benefit.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-751, we will deny your Form I-751 and may deny any other immigration benefit.

In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit for which you are filing. Our legal right to ask for this information can be found in the Immigration and Nationality Act, as amended. We may provide this information to other Government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your Form I-751.

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 3 hours and 20 minutes per response, including the time for reviewing instructions, and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Products Division, Office of the Executive Secretariat, 20 Massachusetts Avenue, N.W., Washington, DC 20529-2020. OMB No. 1615-0038. **Do not mail your application to this address.**



I-751 RECEIPT NOTICE

Receipt Number : EAC-12-012-
Reference Number: A200
Petitioner:
Receipt Date: 10/12/2011
Receipt Time: 20:44

J. ABRAMS ESQ
ABRAMS & ABRAMS LLP
7 PENN PLAZA SUITE 1800
NEW YORK , NY 10001

**** THE ABOVE RECEIPT NUMBER MUST ACCOMPANY ALL INQUIRIES ****

Amount Received: \$590.00

Your conditional resident status is extended for a period of one year. During the one-year extension you are authorized employment and travel. (This extension and authorization for employment and travel does not apply to you if your conditional resident status has been terminated.)

In order to further process your petition, you will be receiving an Application Support Center(ASC) appointment notice with a specific time, date, and location to capture your fingerprints, photo, and signature. You MUST wait for your appointment notice before going to the ASC for biometric processing.

NOTE: Conditional resident applicants, including conditional resident dependents residing overseas pursuant to military or government orders WILL NOT RECEIVE an ASC appointment notice. To complete biometric processing, these applicants must submit the required items listed on the I-751 form instructions.

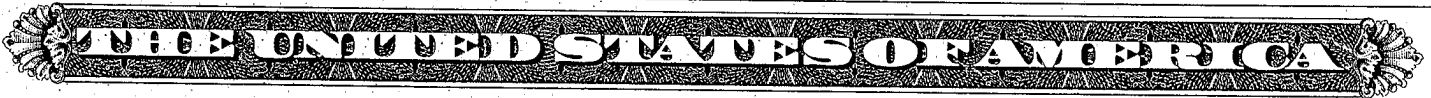
If you have not already done so, provide supporting documents to assist USCIS in processing your petition and to establish eligibility to remove the conditional basis of your permanent residence. PLEASE INCLUDE A COPY OF THIS RECEIPT NOTICE WITH ANY SUPPORTING DOCUMENTS YOU SUBMIT. Such evidence may include, but is not limited to, the following items:

- Lease of joint tenancy or joint ownership of assets
- Joint mortgage agreement and/or property deed
- Tax returns
- Birth certificate(s) of any child(ren) born from the marriage
- Joint policies of life, medical and/or car insurance

Upon receipt of your ASC appointment notice, you can find the status of your case on-line at www.uscis.gov. To view the status of your case, enter the application number found at the top of the ASC appointment notice. NOTE: The I-751 form type will be listed as "CRI89" under the application type in our case status on-line tool.

VERMONT SERV CENTER

75 LOWER WELDEN ST
ST ALBANS , VT 05479-0001
(800) 375-5283



| | | |
|--|---|-----------------------------|
| ASC Appointment Notice | APPLICATION NUMBER EAC12008-██████████ | NOTICE DATE 10/21/2011 |
| CASE TYPE I751 Petition to Remove Conditions on Residence | SOCIAL SECURITY NUMBER | USCIS A# A200-██████████ |
| | TCR | SERVICE CENTER ESC |
| | | PAGE 1 of 1 |

██████████
c/o FRANKLIN S ABRAMS ESQ
ABRAMS & ABRAMS LLP
7 PENN PLAZA STE 1800
NEW YORK, NY 10001-



To process your application, the U. S. Citizenship & Immigration Services (USCIS) must capture your biometrics.
PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED.
IF YOU FAIL TO APPEAR AS SCHEDULED, YOUR APPLICATION WILL BE CONSIDERED ABANDONED.

APPLICATION SUPPORT CENTER

USCIS WOODSIDE
63-05 ROOSEVELT AVE
WOODSIDE, NY 11377

PLEASE READ THIS ENTIRE NOTICE CAREFULLY.

DATE AND TIME OF APPOINTMENT

11/17/2011
3:00 PM

WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR BIOMETRICS TAKEN, YOU MUST BRING:

- 1. THIS APPOINTMENT NOTICE** and
- 2. PHOTO IDENTIFICATION.** Applicants must bring their Permanent Resident Card/Resident Alien Card, or a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, your biometrics may not be taken.

CELL PHONES, CAMERAS, OR OTHER RECORDING DEVICES ARE NOT PERMITTED.

REQUEST FOR RESCHEDULING

Please reschedule my appointment. Upon receipt of your request, you will be provided a new appointment notice. Make a copy of this notice for your records, then mail the original with your request to USCIS WOODSIDE, 63-05 ROOSEVELT AVE, WOODSIDE, NY 11377

Mail a copy of your request to the Service Center where you filed your I-751, Petition to Remove Conditions on Residence.

APPLICATION NUMBER

I751 - EAC12008-██████████



If you have any questions regarding this notice, please call 1-800-375-5283.

WARNING: Due to limited seating availability in our lobby area, only persons who are necessary to assist with transportation or completing the biometrics worksheet should accompany you. If you have open wounds or bandages/casts when you appear, the USCIS may reschedule your appointment if it is determined your injuries will interfere with taking your biometrics.



U.S. Citizenship
and Immigration
Services

OCT - 9 2009

HQ 70/6.1.8
HQ 70/6.1.1
AD09-48

Memorandum

TO: Field Leadership

FROM: Donald Neufeld 
Acting Associate Director, Domestic Operations Directorate

SUBJECT: Adjudication of Form I-751, *Petition to Remove Conditions on Residence* Where the CPR Has a Final Order of Removal, Is in Removal Proceedings, or Has Filed an Unexcused Untimely Petition or Multiple Petitions

Additions to *Adjudicator's Field Manual*, Chapter 25.1(g)(6) and 25.1(h)(4) and Appendix XXXX (AFM Update AD09-48)

1. Purpose

This memorandum provides detailed guidance to USCIS Immigration Services Officers (ISOs) on the adjudication of I-751 petitions filed by a conditional permanent resident (CPR) who is the subject of a final order of removal, is in removal proceedings, has filed untimely, or has filed multiple petitions.

2. Background

A CPR who obtained his or her status through marriage of less than two years to a U.S. citizen or lawful permanent resident must file Form I-751, *Petition to Remove the Conditions on Residence*, in order to remove the conditions on his or her residence. Section 216(c)(1)(B) of the Immigration and Nationality Act (INA) states, in part, that the CPR must appear for an in-person interview and, if the I-751 is jointly filed, must appear with his or her U.S. citizen or lawful permanent resident spouse. However, section 216.4(b)(1) of Title 8, Code of Federal Regulations (8 CFR) permits the Service Center Director to waive the interview if he or she is satisfied that the marriage was not entered for the purpose of evading the immigration laws.

In a memorandum issued on January 30, 2006 entitled, "*Delegation of Authority for I-751, 'Petition to Remove Conditions on Residence,'*" Acting Associate Director of Domestic Operations, Michael Aytes, authorized service centers to deny an I-751 petition if the Service Center Director is satisfied that the marriage was entered for the purpose of evading the immigration laws, without having to relocate the case

Adjudication of Form I-751, *Petition to Remove Conditions on Residence* Where the CPR Has a Final Order of Removal, Is in Removal Proceedings, or Has Filed an Unexcused Untimely Petition or Multiple Petitions

Additions to *Adjudicator's Field Manual*, Chapter 25.1(g)(6) and 25.1(h)(4) and Appendix XXXX (AFM Update AD09-48)

to a field office for an interview. That guidance did not, however, address additional instances warranting possible denial of an I-751 petition. Specifically, the guidance did not address cases in which the CPR has a final order of removal, is in removal proceedings, has filed multiple petitions, or failed to timely file.

Statute and regulations allow for distinctly different treatment of jointly filed and waiver request petitions. Jointly filed petitions must be filed within the 90-day period immediately preceding the second anniversary of the CPR's admission or adjustment to permanent residence. USCIS may excuse an untimely filing of a jointly filed petition only if it is accompanied by a reasonable explanation demonstrating extenuating circumstances. See INA § 216(d)(2)(B). There is no specified filing period for a waiver request petition.

3. Current Process

Currently, if a CPR is the subject of a final order of removal or is in pending removal proceedings, the service center relocates the petition to a field office for an interview and adjudication. This is the case with both jointly filed and waiver request petitions. This occurs even if the CPR appears clearly ineligible based on information available to the service center. Relocating adjudicated I-751 petitions from the service centers to field offices often contributes to delays in removal proceedings, as Immigration Judges (IJs) must wait for USCIS to make a final determination on the I-751 petition before continuing with the removal hearing. Multiple filings of I-751 petitions by individuals in pending removal proceedings also contribute to delays in the proceedings.

The filing period for jointly filed I-751 petitions is within 90 days before the second anniversary of the CPR's admission or adjustment. Any failure to file during this period is evaluated for good cause by an Immigration Services Officer (ISO) at the service center. When a CPR does not submit an explanation for the late filing, the ISO sends the CPR a request for evidence (RFE) requesting a reasonable explanation for the late filing. The CPR's response is reviewed and, if it does not demonstrate good cause for the late filing, the I-751 petition is relocated to a field office.

4. Process Changes

The following sections provide guidance on process changes in the adjudication of I-751 petitions where the CPR is the subject of a final order of removal, is in pending removal proceedings, has unexcused untimely filed petition, or is filing multiple petitions.

A. I-751 petition filed by a CPR with a final order of removal

A CPR loses his or her status as a lawful permanent resident if an Immigration Judge issues a final administrative order of removal. See 8 C.F.R. § 1.1(p), and 1001.1(p). If a CPR is the subject of a final order of removal, he or she no longer has a status for which to seek removal of the conditions because that status has been terminated. If an ISO determines that a CPR is the subject of a final order of removal, the ISO will deny any I-751 filed by that CPR, regardless of whether it is a jointly filed or waiver request petition. The denial notice must clearly indicate that the denial is based on a final order of removal (see sample denial attached). The ISO will route the file to the ICE Office of Detention and Removal having jurisdiction over the individual.

Adjudication of Form I-751, *Petition to Remove Conditions on Residence* Where the CPR Has a Final Order of Removal, Is in Removal Proceedings, or Has Filed an Unexcused Untimely Petition or Multiple Petitions

Additions to *Adjudicator's Field Manual*, Chapter 25.1(g)(6) and 25.1(h)(4) and Appendix XXXX (AFM Update AD09-48)

B. I-751 petition filed by a CPR currently in removal proceedings

USCIS has original jurisdiction over all pending I-751 petitions. An IJ cannot review an I-751 petition pertaining to a CPR in proceedings unless USCIS has first adjudicated the petition on its merits. If a CPR is in proceedings and USCIS has not yet adjudicated an I-751 filed by that CPR, USCIS must first adjudicate the petition. An I-751 petition should not be held in abeyance or denied by a service center solely because the CPR is in pending removal proceedings. If the IJ has administratively closed the proceedings to await a decision by USCIS on the I-751 petition, the ISO will expedite adjudication and route the file through appropriate channels to the ICE Office of Chief Counsel having jurisdiction over the proceedings.

An ISO can determine whether a CPR is in removal proceedings by reviewing the file for Form I-862, Notice to Appear (NTA), by checking the Executive Office for Immigration Review (EOIR) screen of the Central Index System (CIS), or by checking the Interagency Boarder Inspection System (IBIS) or Enforce Alien Removal Module (EARM). If the IJ has administratively closed the proceedings so that USCIS can adjudicate an I-751 petition, the EARM notes or the IJ decision should explain the reason and reference an I-751 petition pending with USCIS.

C. Evaluating Good Cause for Untimely Jointly Filed I-751 Petitions

A jointly filed I-751 petition must be filed within the 90-day period immediately preceding the second anniversary of the CPR's admission or adjustment. A jointly filed I-751 petition filed after the second anniversary of the CPR's admission or adjustment may be considered only if the CPR is able to demonstrate good cause and extenuating circumstances for the failure to timely file.

If a jointly filed I-751 petition is not filed within the required period, the ISO must determine whether the failure to file the petition was based on good cause and extenuating circumstances. The instructions to the Form I-751 clearly state that a CPR may file a petition untimely only if he or she includes a written explanation for his or her failure to timely file and a request that USCIS excuse the late filing. When an ISO encounters an untimely jointly filed I-751 petition, the ISO will check for a written explanation of the late filing. If the CPR did not submit a written explanation with the untimely filed petition, the ISO cannot evaluate good cause and is to deny the petition without first sending an RFE. The denial notice must clearly indicate that the case is denied based on an unexcused untimely filing (sample denial attached). The ISO will route the file to the appropriate unit for issuance of an NTA.

If the untimely jointly filed I-751 petition is accompanied by a request to excuse the late filing, the ISO will evaluate the explanation for good cause and extenuating circumstances. The law provides for broad discretion as to what constitutes good cause and extenuating circumstances. Some examples of what constitutes good cause and extenuating circumstances may include but are not limited to: hospitalization, long term illness, death of a family member, the recent birth of a child (particularly if there were complications), and a family member on active duty with the U.S. military.

D. Multiple Filings

There are no regulatory limitations on how many times a CPR may file an I-751 petition. For example, a CPR who initially files a jointly filed I-751 petition may subsequently file an I-751 waiver request

Adjudication of Form I-751, *Petition to Remove Conditions on Residence* Where the CPR Has a Final Order of Removal, Is in Removal Proceedings, or Has Filed an Unexcused Untimely Petition or Multiple Petitions

Additions to *Adjudicator's Field Manual*, Chapter 25.1(g)(6) and 25.1(h)(4) and Appendix XXXX (AFM Update AD09-48)

petition. However, if an ISO encounters a subsequent I-751 petition that appears identical to a previously denied petition, the ISO will defer to the previous decision and will review the new petition for additional evidence that may overcome the previous basis for denial.*

a. Jointly filed I-751 Petitions

If an ISO encounters a jointly filed I-751 petition subsequent to the denial for cause of a previous jointly filed I-751 petition, the ISO will first determine if the filing is timely. * If the subsequent filing is untimely, which in most cases a jointly filed petition would be untimely, the ISO will review for good cause and extenuating circumstances. If the ISO does not find good cause and extenuating circumstances, the ISO will deny the I-751 as untimely. If the subsequent filing is timely, and if the ISO finds good cause and extenuating circumstances, the ISO will review the petition to determine if the applicant has presented additional evidence different from the first petition. If there is no different or additional evidence the ISO will issue a denial notice incorporating by reference the grounds of previous denial (sample denial attached). If the subsequent filing contains additional or different evidence from the first petition, and the ISO finds that the additional or different evidence does not establish the bona fides of the marriage, the ISO will issue a denial notice stating why the evidence fails to establish the bona fides of the marriage. If the I-751 is denied, the ISO will route the file to the appropriate unit for issuance of an NTA (if the CPR is not currently in removal proceedings).

b. Waiver Request I-751 Petitions

If an ISO encounters a waiver request petition subsequent to the denial of a previous waiver request petition based on the same ground (termination of a marriage entered in good faith, extreme hardship, or battery or extreme cruelty), the ISO will review the new petition to determine if the applicant has presented additional evidence different from the first petition.* If there is no additional evidence, the ISO will issue a denial notice incorporating by reference the failure to establish eligibility for the requested waiver in the first petition (sample denial attached). If the subsequent filing contains additional evidence from the first petition, and the ISO finds that the additional or different evidence fails to establish the bona fides of the marriage and/or eligibility for the requested waiver, the ISO will issue a denial notice stating why the evidence fails to establish the bona fides of the eligibility for the waiver. If the I-751 is denied, the ISO will route the file to the appropriate unit for issuance of an NTA (if the CPR is not currently in removal proceedings).

If a waiver request I-751 petition filed subsequently to a previously denied waiver request petition is based on a different ground than the previous petition, the ISO will evaluate the new petition separately from the previous denial. Similarly, if a waiver request petition follows the denial of a jointly filed petition, or a jointly filed petition follows the denial of a waiver request petition, the ISO will evaluate the new petition separately from the previous denial.*

NOTE:

The ISO should request all prior related filings pertaining to the case before making a final decision.

Adjudication of Form I-751, *Petition to Remove Conditions on Residence* Where the CPR Has a Final Order of Removal, Is in Removal Proceedings, or Has Filed an Unexcused Untimely Petition or Multiple Petitions

Additions to *Adjudicator's Field Manual*, Chapter 25.1(g)(6) and 25.1(h)(4) and Appendix XXXX (AFM Update AD09-48)

E. Possible Fraud Vetting

ISOs should be aware that cases in the categories identified above (cases involving final orders, pending removal proceedings, unexcused untimely filings, or successive or multiple filings) may be more likely to exhibit fraud indicators. Such cases should be thoroughly checked against all relevant systems and vetted for possible fraud in accordance with established procedures.

If petitions cannot be adjudicated at the service center level, and it involves fraud, the ISO will relocate the petition to a field office for interview and final adjudication. The ISO should complete any other adjudicative actions, such as an RFE, prior to referring the petition to the field office.

5. Adjudicator's Field Manual Update:

The AFM is revised to add Chapter 25.1(g)(6) and 25.1(h)(4) and Appendix XXXX

25.1 Immigration Marriage Fraud Amendments of 1986.

* * *

(g) Adjudication of the Joint Petition

* * *

(6) Adjudication of Form I-751, *Petition to Remove Conditions on Residence Conditions, Where the CPR Has a Final Order of Removal, Is in Removal Proceedings, or Has Filed an Unexcused Untimely Petition or Multiple Petitions.*
[Chapter added on (date memo signed)]

When adjudicating a Form I-751 filed by a conditional permanent resident (CPR), who is the subject of a final order of removal, is in removal proceedings, has filed untimely, or has filed multiple petitions, the ISO must follow the steps below:

A. I-751 petitions filed by CPR with a Final Order of Removal

| If the ISO | Then the ISO |
|---|---|
| confirms a final order of removal in the file | will deny any I-751 petition, jointly filed or hardship waiver filed, clearly indicating why, and route the file through the chain of command to ICE Office of Detention and Removal having jurisdiction over the CPR (see denial sample attached to this memo) |

Adjudication of Form I-751, *Petition to Remove Conditions on Residence* Where the CPR Has a Final Order of Removal, Is in Removal Proceedings, or Has Filed an Unexcused Untimely Petition or Multiple Petitions

Additions to *Adjudicator's Field Manual*, Chapter 25.1(g)(6) and 25.1(h)(4) and Appendix XXXX (AFM Update AD09-48)

B. I-751 petitions filed by CPR currently in Removal Proceedings

| If the ISO | Then the ISO |
|---|--|
| confirms a Form I-862, Notice to Appear (NTA) in the file through EOIR, CIS, IBIS, and EARM | Will adjudicate the I-751 petition first based on the merits, and route the file through the chain of command to the ICE Office of Chief Counsel having jurisdiction over the proceedings. |

C. Evaluating Good Cause for Unexcused Untimely Jointly Filed I-751 Petitions

| If the ISO | Then the ISO |
|--|--|
| confirms that the jointly filed I-751 petition is not filed within 90 day period before the second anniversary of the CPR's lawful admission or adjustment for permanent resident. | <p>will review the late filing for a written explanation for good cause and extenuating circumstance.</p> <p>If the CPR does not submit a written explanation and a request to excuse the late filing, the ISO will deny the case, clearly indicating untimely filing (see denial sample attached to this memo), The ISO will route the file to the appropriate unit for issuance of a NTA.</p> <p>If the CPR does submit a written explanation and a request to excuse the late filing, the ISO will evaluate the explanation for good cause and extenuating circumstances and make a final determination on accepting the untimely jointly filed petition.</p> |

Note

In evaluating good cause and extenuating circumstances, the ISO will refer to memo entitled *Adjudication of Form I-751, Petition to Remove Conditions on Residence, Where the CPR Has a Final Order of Removal, Is in Removal Proceedings or Has Filed an Unexcused Untimely Petition or Multiple Petitions*. See Appendix XXXX;

Adjudication of Form I-751, *Petition to Remove Conditions on Residence* Where the CPR Has a Final Order of Removal, Is in Removal Proceedings, or Has Filed an Unexcused Untimely Petition or Multiple Petitions

Additions to *Adjudicator's Field Manual*, Chapter 25.1(g)(6) and 25.1(h)(4) and Appendix XXXX (AFM Update AD09-48)

D. Multiple Filings

Jointly Filed I-751 petitions

| If the ISO | Then the ISO |
|--|---|
| <p>encounters a jointly filed petition submitted subsequent to the denial for cause.</p> | <p>will review the petition to determine if the petition was filed timely.</p> <p>If the subsequent filing is timely, the ISO will review the petition to determine if the additional evidence is sufficient to overcome the reasons for the prior denial</p> <p>If the CPR does not submit any additional evidence , the ISO will deny the second petition incorporating by reference the reasons for the denial of the first petition (see denial sample attached) and will route the file to the appropriate unit for issuance of an NTA addressing both decisions and place the CPR in removal proceedings (if the CPR is not currently in removal proceedings)</p> <p>If the CPR does submit additional evidence and the adjudicator finds the evidence sufficient to establish eligibility for removal of conditions, the ISO will approve the petition.</p> <p>If the subsequent filing is untimely, which in most case it would be, the ISO will review for good cause and extenuating circumstances.</p> <p>If the CPR does not submit a written explanation for good cause and extenuating circumstances, the ISO will deny the petition as untimely.</p> <p>If the CPR does submit a written explanation for good cause and extenuating</p> |

Adjudication of Form I-751, *Petition to Remove Conditions on Residence* Where the CPR Has a Final Order of Removal, Is in Removal Proceedings, or Has Filed an Unexcused Untimely Petition or Multiple Petitions

Additions to *Adjudicator's Field Manual*, Chapter 25.1(g)(6) and 25.1(h)(4) and Appendix XXXX (AFM Update AD09-48)

| | |
|--|--|
| | circumstances and submits additional evidence sufficient to establish eligibility for removal of conditions , the ISO will approve the petition. |
|--|--|

Appendix 22-xx Form-751 Adjudication Steps for USCIS Immigration Services Officers (ISOs) Appendix added [date memo signed; AD09-48]

I-751 Hardship waiver request petition

| If the SC ISO | Then the SC ISO |
|--|--|
| encounters a hardship waiver petition submitted subsequent to the denial of the previous hardship waiver based on the same ground. | <p>will review the new petition to determine if the applicant has presented additional evidence sufficient to overcome the prior denial.</p> <p>If the CPR does submit additional evidence sufficient to establish eligibility for removal of conditions, the ISO will approve the petition.</p> <p>If the CPR does not submit additional evidence, the ISO will deny the second petition incorporating by reference the reasoning for the denial of the first petition (see denial sample attached) and will route the file to the appropriate unit for issuance of an NTA addressing both decisions and place the CPR in removal proceedings (if the CPR is not already in removal proceedings)</p> |

AFM Transmittal Memoranda Revisions. The *AFM* Transmittal Memoranda button is revised by adding new entries, in numerical order, to read:

| | | |
|--|---|--|
| AD09-48 [dated memo signed] | <p>Chapters:</p> <ul style="list-style-type: none"> • 25.1(h)(4) • 25.1(g)(6) <p>Appendix 22-XX</p> | This memorandum revises AFM 25.1 to add Chapter 25.1 (g)(6) and 25.1(h)(4) and provide guidance on “Adjudication of Form I-751, Petition to Remove Conditions on |
|--|---|--|

Adjudication of Form I-751, *Petition to Remove Conditions on Residence* Where the CPR Has a Final Order of Removal, Is in Removal Proceedings, or Has Filed an Unexcused Untimely Petition or Multiple Petitions

Additions to *Adjudicator's Field Manual*, Chapter 25.1(g)(6) and 25.1(h)(4) and Appendix XXXX (AFM Update AD09-48)

| | | |
|--|--|--|
| | | Residence, Where the CPR has a Final Order of Removal, Is in Removal Proceedings or Has Filed an Unexcused Untimely Petition or Multiple Petitions”. |
|--|--|--|

6. Use

This memorandum is intended solely for the training and guidance of USCIS personnel in performing their duties relative to the adjudication of applications. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

7. Contact

Any questions regarding the memorandum should be directed through appropriate supervisory channels to Felicia Cameron, Program Manager, Office of Service Center Operations or to the Office of Field Operations' mailbox "OFO AOS & Legalization."

Distribution List:

Service Center Directors
Regional Directors
District Directors
Field Office Directors
National Benefits Center Director

Office of Adjudications

U.S. Department of Homeland Security
Office address:

Date:

Name of applicant/ petitioner
Address:
City, State, zip code

File No.: A

Dear Ms/ Mr.:

The record shows that you were granted the status of a conditional permanent resident on _____, as the spouse of _____, a citizen of the United States. Your record also shows that your status was terminated upon entry of a final administrative order of exclusion, deportation, or removal pursuant to 8 CFR, Section 1.1 (p), which states in part:

The term lawfully admitted for permanent residence means the status having been lawfully accorded to the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed. Such status terminated upon entry of a final administrative order of exclusion, deportation, or removal.

A final order of removal was issued to you on _____. As of that date, your conditional permanent residence was terminated and thus you do not have a basis from which to seek removal of the conditions on your permanent residence. Accordingly, your petition is hereby denied.

Sincerely,

Name of District Director/ FOD

cc: name of atty

Prepared by: name of ISO

Office of Adjudications

U.S. Department of Homeland Security
Office address:

Date:

Name of applicant/ petitioner
Address:
City, State, zip code

File No.: A

Dear Ms/ Mr.:

The record shows that you were granted conditional permanent resident (CPR) status on _____, as the spouse of _____, a citizen of the United States or a lawful permanent resident. On _____, you filed a hardship waiver request Form I-751, Petition to Remove the Conditions on Residence, required by Section 216(c)(4) of the Immigration and Nationality Act (the Act). That petition was denied based on (failure to establish good faith, failure to establish that you were a battered spouse, failure to establish extreme hardship, or failure to establish that you were divorced).

Section 216(c)(4) of the Act states in part as follows:

Hardship Waiver. – “The Attorney General, in the Attorney General’s discretion, may remove the conditional basis of the permanent resident status for an alien who fails to meet the requirements of paragraph (1) if the alien demonstrates that-

- (A) extreme hardship will result if such alien is removed,
- (B) the qualifying marriage was entered into in good faith by the alien spouse, but the qualifying marriage has been terminated (other than through the death of the spouse) and the alien was not at fault in failing to meet the requirements of paragraph (1), or
- (C) the qualifying marriage was entered into good faith by the alien spouse and during the marriage the alien spouse or child was battered by his or her spouse or citizen or permanent resident parent and the alien was not at fault in failing to meet the requirements in paragraph (1)

On _____, you filed another waiver petition, Form I-751 on the same ground as your first waiver petition. United States Citizenship and Immigration Services (USCIS) has reviewed the newly filed waiver petition and the supporting evidence submitted with the new petition. You failed to submit additional evidence different from your first filing. Therefore, incorporating by reference the reasoning contained in the denial decision dated _____ your waiver petition is hereby denied.

In accordance with section 216(b)(2) of the Act, your status as a lawful permanent resident was terminated as of (date of first decision).

You were placed in removal proceedings in accordance with 8 C.F.R. 216.4(d)(2) where you may continue to request review of the USCIS decision denying your petition.

Sincerely,

Name of Director/ FOD

cc: name of atty

Prepared by: name of ISO

Office of Adjudications

U.S. Department of Homeland Security
Office address:

Date:

Name of applicant/ petitioner
Address:
City, State, zip code

File No.: A

Dear Ms/ Mr.:

The record shows that you were granted conditional permanent resident (CPR) status on _____, as the spouse of _____, a citizen of the United States or a lawful permanent resident. On _____, you and your spouse/ stepparent _____ jointly filed Form I-751, Petition to Remove the Conditions on Residence, required by Section 216(b) of the Immigration and Nationality Act (the Act). That petition was denied on _____ based on failure to establish the bona fides of marriage.

Section 216(b)(1) of the Act states in part as follows:

Termination of status if finding that qualifying marriage improper. -

(1) In General. - In the case of an alien with permanent resident status on a conditional basis under subsection (a), if the Attorney General determines, before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence-

(A) the qualifying marriage-

(i) was entered into for the purpose of procuring an alien's admission as an immigrant, or
(ii) has been judicially annulled or terminated, other than through the death of a spouse; or

(B) a fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a)...

the Attorney General shall notify the parties involved and, subject to paragraph (2), shall terminate the permanent resident status of the alien (or aliens) involved as of the date of the determination.

On _____, you and your petitioning spouse/ stepparent jointly filed a second Form I-751. United States Citizenship and Immigration Services (USCIS) has reviewed the newly filed petition and the evidence submitted therewith. In this second I-751 filing you have failed to submit any additional evidence different from your first filing. Therefore, incorporating by reference the reasoning contained in the denial of your first Form I-751, this second filing is hereby denied.

In accordance with section 216(b)(2) of the Act, your status as a lawful permanent resident was terminated as of (date of first decision).

In accordance with section 216(b)(2) of the Act, you were placed in removal proceedings where you may continue to request review of the USCIS decision denying your petition.

Sincerely,

Name of Director/ FOD

cc: name of atty

Prepared by: name of ISO

Office of Adjudications

U.S. Department of Homeland Security
Office address:

Date:

Name of applicant/ petitioner
Address:
City, State, zip code

File No.: A

Dear Ms/ Mr.:

The record shows that you were granted conditional permanent resident (CPR) status on _____, as the spouse/ stepchild of _____, a citizen of the United States or a Lawful Permanent Resident (LPR). You were required to file Form I-751, Petition to Remove the Conditions on Residence no later than _____. You filed your Form I-751 on _____. You failed to timely file Form I-751 as was required by Section 216(d)(2) of the Immigration and Nationality Act (the Act), which states in part:

(2) Period of filing petition.

(A) 90-day period before the second anniversary. The petition must be filed during the 90-day period before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence.

And

(B) [Date] petitions for good cause. Such a petition may be considered if filed after such date, but only if the alien establishes to the satisfaction of the Attorney General good cause and extenuating circumstances for failure to file the petition during the period described in subparagraph (A).

Section 216(c) of the Immigration and Nationality Act (the Act) states in part as follows:

(2) Termination of permanent resident status for failure to file petition or have personal interview. -

(A) In General. - In the case of an alien with permanent resident status on a conditional basis under subsection (a), if -

(i) no petition is filed with respect to the alien in accordance with the provisions of paragraph (1)(A)...

the Attorney General shall terminate the permanent resident status of the alien as of the second anniversary of the alien's lawful admission for permanent residence.

You have failed to comply with your obligation to file Form I-751 pursuant to section 216(d)(2) of the Act. Furthermore, you have failed to establish good cause or extenuating circumstances to excuse the late filing of your petition. Therefore, in accordance with section 216(c)(2) of the Act, your status as a lawful permanent resident is terminated as of (the second anniversary of alien's lawful admission or adjustment for permanent resident).

In accordance with section 216(c)(2)(B) of the Act, you may request a review of this determination while in removal proceedings. If you choose so, you may be represented in such proceeding, at no expense to the government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office of Immigration Review (EOIR). Your attorney or authorized and qualified person may assist you in the preparation of your request for review and hearing, and may examine the evidence you wish to consider during the hearing.

Sincerely,

Name of District Director/ FOD

cc: name of atty

Prepared by: name of ISO