

PREPARING YOUR CLIENT FOR AN ADJUSTMENT OF STATUS INTERVIEW WITH USCIS

At the interview, the USCIS officer will ask your client to verify all the information provided on her I-485 application. We recommend that you schedule a meeting with your client about a week before her adjustment of status interview to prepare. During the preparatory meeting, you should review your client's I-485 Application to Adjust Status filed with the USCIS, including all attached documents; verify that she has all the original documents she will need for her interview; and address any questions or concerns she may have. Review the information together with your client beforehand to make sure that it is correct and that your client is comfortable with providing the information/details contained in the form to the adjudicator. Also, ensure your that client understands the inadmissibility questions on page three of the form, so that she does not become confused or startled at the interview. Should the answer to any of those questions be "yes," you should help your client prepare to provide an explanation, including any corresponding documentation.

Note regarding your client's legal name: your client should make sure that the name listed on the I-485 is her current legal name. If her marital status has changed and she has thus obtained an official name change in the United States, she should bring the corresponding documents to ask the USCIS officer to change her name on the I-485.

ADDITIONAL TIPS FOR INTERVIEW PREPARATION:

- Encourage the client to prepare a brief sound bite ahead of time about the marriage and the abuse. While this issue has already been adjudicated by USCIS, it is useful for the client to have a concise response prepared in case this subject comes up during the interview. Having a prepared response should help her to remain calm during the interview and prevent her from speaking with unnecessary detail about the abuse.
- Bring information about the status of the divorce case, where applicable. If the client has or had an active divorce case pending, obtain copies of the relevant documents prior to the interview.
- Remind the client to only answer the question she is asked. When you conduct a practice interview with the client, encourage her to focus on the question at hand so that she does not stray off- topic. The interviewing official will appreciate succinct, responsive answers.
- Work with the client to develop a plan for employment. If the client is not working or is under-employed, she should be prepared to respond to questions about how she plans to support herself in the future. She should be sure to mention any classes that she is

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currently enrolled in or plans to take and how those classes will further her goals to find stable employment.

REQUIRED DOCUMENTATION

On the day of her interview, your client will need to bring the documents listed below. If there are derivative children applying with her, they will also need to bring the applicable documents:

- 1) Appointment notice;
- 2) A Report of Medical Examination and Vaccination Record on Form I-693, completed by a USCIS designated civil surgeon and placed in a sealed envelope, unless previously submitted within the past 15 months;
- 3) Signed Affidavit of Support Exemption, Form I-864W;
- 4) Original and valid passport;
- 5) Original birth certificate, or a certified copy, if available;
- 6) Proof of termination of any previous marriage (original or copy), if applicable;
- 7) Original Employment Authorization Document (EAD card);
- 8) Certified documentation regarding the outcome of any past criminal charges, arrests or convictions;
- 9) Copy of her tax return for the past year (if one was filed);
- 10) Proof of employment, such as a letter from her employer or copy of a paystub (if employed); and
- 11) Other proof of income.

AT THE INTERVIEW

We ask that you please attend the interview with your client or let the Tahirih Justice Center know in advance if you are unable to do so. When it is time for your client's interview, the USCIS officer conducting the interview will come to the waiting area and call out her name. Your role during the interview will primarily involve accompanying your client for support and to protect her interests should any problems arise. It is very likely that you will not say anything during the entire interview. The officer will mainly be speaking directly to your client and asking her questions. S/he will swear in your client, review the I-485 Application with her, and ask for any documents s/he may want to review, etc. You should only speak up if the officer asks you a direct question or if inappropriate questions are asked (see "Scope of the Interview" section below) or if there is confusion about a particular question/answer that you can easily clear up. You should note the name of the interviewing officer in case s/he does not approve the case that day and you have to follow-up with USCIS in the future for any reason.

SCOPE OF THE INTERVIEW

The scope of the interview should be limited to the information contained in the Application to Adjust Status, I-485, including the underlying basis for the application, which is a bona fide marriage to a United States citizen or lawful permanent resident. Therefore, the USCIS officer conducting the interview should not ask questions regarding the abuse your client suffered (that abuse was an element only for the VAWA self-petition, which has already been approved). Should such questions come up, especially if you notice your client hesitating to answer, you should remind the officer that the VAWA self-petition was already approved, that the abuse is not an element of the adjustment of status application, and that the field office, therefore, has no jurisdiction to re-adjudicate the VAWA self-petition.

Additionally, it is also possible for the USCIS officer to ask questions that are not relevant to an application for permanent residence based on an approved VAWA self-petition, but that pertain to other types of applications, such as asylum (i.e. questions inquiring about your client's desire or intent to return to her home country). If you find a question like this unnecessarily confusing your client or causing her distress, you should also feel free to clarify that her application is based on a VAWA self-petition. Should problems like these arise, you should ask to speak to a supervisor.

ENTRY WITHOUT INSPECTION (EWI)

Should USCIS inquire about your client's inadmissibility to the United States because she Entered Without Inspection (EWI) – or should s/he require that your client submit an I-601 Application for Waiver of Ground of Inadmissibility – you should remind the officer that this inadmissibility ground does not apply to her per INA § 245(a), and provide the officer with the USCIS Guidance Memo, *Adjustment of Status for VAWA self-petitioner Who is Present Without Inspection*. (Please contact your Tahirih co-counsel to obtain a copy).

IF AN I-601 APPLICATION FOR WAIVER OF GROUND OF INADMISSIBILITY IS REQUIRED...

If your client answered “yes” to any of the questions on page 3 of Form I-485, she may be inadmissible to the United States and may, therefore, require an I-601 Application for Waiver of Ground of Inadmissibility, which should be prepared in advance of the interview. If this is the case, please contact your Tahirih co-counsel as soon as possible to discuss the possible need for a waiver. The most common grounds for inadmissibility are criminal matters, per INA § 212(a)(2); immigration fraud and/or misrepresentation, per INA § 212(a)(6); and health-related inadmissibility, per INA § 212(a)(1).

CONCLUSION OF THE INTERVIEW

After the adjudicator has completed the interview, s/he may immediately inform you that your client's Green Card application has been approved. If this is the case, you should receive an Approval Notice and a Green Card in the mail within 2-4 weeks.

If the adjudicator does not indicate an approval on-the-spot, this should not be cause for concern. Adjudicators often want to spend some time after the interview to review the file to make sure everything

is in order and therefore will not announce their decision at the interview itself. In this case, you should receive a decision in the mail within 1-3 months. If more than three months have elapsed since your interview and you have not received a decision, you should schedule an INFOPASS appointment by visiting the USCIS website at: <http://infopass.uscis.gov/> to inquire about the status of the application.

If an issue arises at the hearing that requires additional documentation to be submitted or if the adjudicator needs time to review to review an I-601 waiver, you will also not receive a decision on the day of the interview. In this case, please contact your Tahirih co-counsel as soon as possible to discuss what occurred at the interview and what additional steps should be taken to ensure that the application can ultimately be approved.

This document was produced by Tahirih Justice Center and last updated in March 2015. All rights reserved. This document is intended to provide practical information to attorneys working with Tahirih's client population. The contents of this document are by no means exhaustive and are subject to change at any time without notice. This document is not to serve as a substitute for obtaining particularized legal advice on an individual case.