

MY CLIENT'S VAWA SELF-PETITION HAS BEEN APPROVED... NOW WHAT?

Congratulations on the recent approval of your client's VAWA Self-Petition! Now that the application has been approved, you and your client likely have many questions about what the next steps are. The following is a brief overview of issues that may arise.

The first section pertains to clients whose VAWA was based on marriage to a lawful permanent resident. Section two addresses clients whose VAWA was based on marriage to a US citizen, and her adjustment of status was filed concurrently with her VAWA self-petition. The final section pertains to consular processing for clients or derivatives overseas.

(I) IF YOUR CLIENT'S VAWA WAS BASED ON MARRIAGE TO A LAWFUL PERMANENT RESIDENT:

Your client should receive the following documents from the United States Citizenship and Immigration Services (USCIS), once her I-360 VAWA Self-Petition is approved:

- I-360 Approval Notice
- Notice granting Deferred Action
- Notice of Dependent Child (in cases where eligible minor children are listed in the original I-360 Self-Petition as derivative beneficiaries)

DEFERRED ACTION

A grant of Deferred Action allows your client to remain and work in the United States. Although Deferred Action is technically not an immigration status, it is an expression on the part of the USCIS that it will defer any action to remove your client from the United States so that she may apply to become a lawful permanent resident once she becomes eligible to do so.

Your client's approved VAWA Self-Petition gives her a basis of eligibility to apply for lawful permanent residence through an adjustment of status application. However, she may have to wait until an immigrant visa (i.e., Green Card) becomes available to her (see explanation regarding the Visa Bulletin below). If her priority date to apply for an immigrant visa is within one year from the date that her VAWA self-petition was granted, we ask that you please continue your legal representation of the client through the adjustment of status process. However, if her priority date is more than one year away, the Tahirih Justice Center may close her case at this time and provide her with instructions on how to proceed in the future.

APPLYING FOR EMPLOYMENT AUTHORIZATION

Now that her VAWA self-petition has been approved, your client is eligible to apply for an Employment Authorization Document (i.e., work permit) by filing the following with the VAWA Unit of the Vermont Service Center (see the USCIS website, www.uscis.gov, for the latest instructions):

- Form G-28;

Baltimore
201 N. Charles St.
Suite 920
Baltimore, MD 21201
Tel: 410-999-1900
Fax: 410-630-7539
baltimore@tahirih.org

Greater DC | National
6402 Arlington Blvd.
Suite 300
Tel: 571-282-6161
Fax: 571-282-6162
TTY: 711
Falls Church, VA 22042
greaterdc@tahirih.org
justice@tahirih.org

Houston
1717 St. James Place
Suite 450
Houston, TX 77056
Tel: 713-496-0100
Fax: 713-481-1793
houston@tahirih.org

www.tahirih.org

- Required Fee or Form I-912, Request for Fee Waiver
- Form I-765, Application for Employment Authorization;
 - Note that the correct eligibility category under 8 CFR 274a.12, on question 16 of the form, is **(c)(14)**;
- Your client’s currently valid ID document, such as her passport or driver’s license;
- Two updated passport photos; and
- The two notices listed above.

Note: When renewing her employment authorization every year, **your client should also request an extension of her Deferred Action status on the cover letter** submitted to the USCIS with Form I-765.

PUBLIC BENEFITS

Although your client may now be technically eligible to receive certain public benefits, as stated on her USCIS Notice of Grant of Deferred Action, in practice, the availability of benefits depends on the resources and eligibility rules of local agencies. In practice, VAWA grantees with Deferred Action are ineligible to receive most public benefits.

TRAVEL

We strongly discourage approved VAWA self-petitioners with Deferred Action from travel abroad! Because your client does not actually have an immigration status, if she departs from the United States, she will not be able to re-enter as an approved VAWA self-petitioner with Deferred Action. Should she travel outside the United States – including to Puerto Rico, Guam, the United States Virgin Islands, Canada and Mexico – she would need to apply for permanent residence at a United States embassy abroad once she becomes eligible to do so. However, she should know that a three-year or a ten-year inadmissibility bar against re-entry into the United States may apply to her if she has accrued more than six months or a year, respectively, of unlawful presence here. If these inadmissibility bars apply to her, she will most likely not be granted lawful permanent residence by a consular office abroad until the three or ten years have passed. (Note: This may have grave consequences for derivatives who turn 21 years old; please consult with your Tahirih co-counsel).

DERIVATIVES

Upon receipt of your client’s Notice of Approval of her I-360 Petition, make sure that USCIS also issues a “Notice of Dependent Child” for each eligible minor child in order to establish their derivative beneficiary status. If your client has derivative children currently living in the United States who were listed on her Form I-360, their immigration status now depends on whether or not they have reached the age of 21. As long as they are under 21 years old, they will remain “derivatives” under your client’s status, and may apply for adjustment of status along with her as derivative applicants. However, upon turning 21 years old, they in effect become independent VAWA self-petitioners who receive their own grant of Deferred Action and eligibility to apply for employment authorization. In that case, they may apply for adjustment of status as principal applicants on their own application, according to the appropriate eligibility category (which may be different from their mother’s, for example, if they get married).

If your client’s derivative children are living abroad, they will need to wait until your client obtains Lawful Permanent Residence in order to apply for an immigrant visa (permanent resident status) at a United States consular office abroad, through a process called Consular Processing.

ELIGIBILITY FOR ADJUSTMENT OF STATUS – THE VISA BULLETIN

Your client may be eligible to apply for adjustment of status (green card) if her “priority date,” as listed on her I-360 Approval Notice is current.

In order to know whether or not your client’s priority date is current, you must check the Department of State’s current Visa Bulletin by going to <http://travel.state.gov/visa/> and clicking the “Visa Bulletin” tab on the left hand column of the page. The Visa Bulletin will show a chart like the one below, indicating what priority dates are current for the different preference categories of alien applicants.

As the spouse of a Lawful Permanent Resident, your client falls under the second preference category, sub-category A.

Example: If your client’s priority date, as listed on her I-360 Approval Notice, is February 1, 2015, and the current Visa Bulletin shows “08MAY13” as the current priority date for which immigrant visas are immediately available for category 2A (sample Visa Bulletin below), your client must wait almost two years in order to become eligible to apply for adjustment of status (or until her priority date becomes current). If your client’s priority date is any time before May 8, 2013, your client is now eligible to adjust status, or apply for permanent residence. Please continue to check the visa bulletin on a regular basis, as it may actually retrogress or rapidly advance depending on visa availability.

SAMPLE VISA BULLETIN

Family	All Chargeability Areas Except Those Listed	CHINA- Mainland born	INDIA	MEXICO	PHILIPPINES
1st	22JUL07	22JUL07	22JUL07	01OCT94	08JAN05
2A	08MAY13	08MAY13	08MAY13	22APR13	08MAY13
2B	22MAY08	22MAY08	22MAY08	15DEC94	22FEB04
3rd	01JAN04	01JAN04	01JAN04	15JAN94	15JUL93
4th	15APR02	15APR02	15APR02	22APR97	08AUG91

(2) IF YOUR CLIENT’S VAWA WAS BASED ON MARRIAGE TO A UNITED STATES CITIZEN AND HER ADJUSTMENT OF STATUS WAS FILED CONCURRENTLY WITH HER VAWA SELF-PETITION

Your client should receive the following documents from USCIS once her I-360 VAWA Self-Petition is approved:

- I-360 Approval Notice;
- Notice granting Deferred Action;
- Notice of Dependent Child (in cases where eligible minor children are listed in the original I-360 Self-Petition as derivative beneficiaries); and
- A Transfer Notice of the I-485 from the Vermont Service Center to the National Benefits Center in Missouri where USCIS will review the Application to ensure it is complete.

Now that your client’s VAWA Self-Petition has been approved, the USCIS will proceed to adjudicate her Application for Adjustment of Status, Form I-485. In order to do so, the VAWA Unit of the Vermont Service Center will transfer your client’s file to the local field office, where your client will be interviewed regarding the I-485. Once the file is transferred to the appropriate USCIS Field Office, you should receive the following:

- A Notice from the National Benefits Center, confirming that the application is complete or a request for additional documents;
- A Transfer Notice from NBC to the local USCIS office that has geographic jurisdiction based on your client's residence;
- A Biometrics Notice, requesting that your client appear at a local Application Support Center to submit her biometric information if original biometrics were never taken or have expired; and
- An Interview Notice, requesting that your client appear at the local Field Office for an adjustment interview with a USCIS Officer.

Please note that Tahirih has prepared a separate document that explains the adjustment of status interview process. Please consult with your Tahirih mentor attorney if you need assistance locating this document.

DERIVATIVES

If your client's derivative children are in the United States, they should receive their own biometrics and interview notices from the USCIS, even if they are under 21 years old and have applied for adjustment of status as derivative applicants under your client's application (in that case, however, they should be interviewed together with their principal applicant mother). If your client's derivative children are abroad, please see section on consular processing below.

TRAVEL BEFORE THE ADJUSTMENT OF STATUS APPLICATION, FORM I-485, IS APPROVED

Once your client's Adjustment of Status Application, Form I-485, has been filed, she may be eligible to travel abroad after obtaining a travel document called Advance Parole. Once she has obtained Advance Parole, she may re-enter the United States to resume her adjustment of status application. **However, this benefit is only available to applicants who were inspected by an immigration officer on their last entry to the UNITED STATES and who are not otherwise inadmissible to the United States. Please consult your Tahirih mentor if your client is interested in travelling abroad.**

(3) CONSULAR PROCESSING FOR CLIENTS OR DERIVATIVES OVERSEAS

If your client and her derivative children are overseas, they will need to go through a process, called consular processing, through which they will apply for lawful permanent resident status by applying for an "immigrant visa" abroad instead of applying for adjustment of status in the United States.

If your client is in the United States but her derivative children are abroad, the children will need to wait until her adjustment of status application is approved and she obtains her green card in the United States in order to proceed with their consular processing applications.

Both processes described above require filing an additional application with USCIS after the approval of the VAWA Self-Petition. That application, on USCIS Form I-824, requests that USCIS forward your client's file to the Department of State's National Visa Center (NVC), so that NVC may begin the consular processing and eventually send all necessary documents to the appropriate consular office abroad.

This document was produced by the Tahirih Justice Center, and last updated in February 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.