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How do I sponsor my family member to come to the United States? Part 3

Applying for the Waiver of Inadmissibility (I601 Waiver)

In previous articles, we described the procedure for filing a petition for your relative and adjusting their status to permanent resident in the U.S., if they are eligible to do so. In this article, we will briefly describe the process for obtaining a waiver of inadmissibility known as the I601. This is usually necessary whenever the immigrant applicant came into the U.S. without a visa.

In March, the Obama Administration implemented a major immigration policy change that allows eligible spouses of US citizens to apply for their permanent residence and waivers of the 10-year penalty for unlawful presence inside the US. For those who are not eligible, they still have to apply outside the U.S.

This article will provide helpful tips on how best to improve your case for the waiver and avoid being denied permanent residence.

To obtain the waiver, one needs to prove “extraordinary hardship” would occur to the spouse or parents if the immigrant is not allowed to come back to the US. As of now, about 30% of these waiver applications are denied. Those denied are required to spend at least 10 years outside the US before getting their green card.

Therefore, it is very important that these waiver applications are properly prepared.

The basis of the argument for the person applying for the waiver is that their close relative will suffer "extreme hardship" if they are denied the waiver and required to leave the US. The only relatives who count for this purpose are spouses or parents of the immigrant who are US citizens or lawful permanent residents. US citizen or resident children *cannot* form the basis for the waiver.

Some of the factors considered in assessing the relative extreme hardship for the waiver:

- Health Conditions of the spouse or parents. What medical care they need or receive, which may be difficult to obtain in their country of origin;
- Physical, speech or learning disabilities of the relative, and the treatment the relative receives here for such disabilities;
- The financial and career impact upon the relative of return to their country;
- Psychological impact on family members if the immigrant returns;
- Well-founded fear of harm if returned to home country;
- Political and economic conditions in their country of origin
- Family in the US or lack of family in the country of origin
 - Contributions of the immigrant to the community here

Anyone applying for the waiver should submit as much documentation as possible to support these arguments of hardship. It is helpful to have the spouse meet with a counselor or psychologist to document any anxiety, depression, or trauma the family member would suffer if the immigrant is required to return to their home country.

We also recommend that the US citizen or resident spouse or parent write a statement explaining the importance of the immigrant in their lives and the hardship which would result from their departure. The statement should review the history of their relationship with particular emphasis on any hardship that would result from their leaving. We also recommend submitting other statements from relatives, friends, employers, co-workers, clergy and others in support focusing on the good moral character of the immigrant and their importance to their family members.

Since a denial of the waiver will prevent the person from obtaining a green card, it is extremely important that these waiver petitions are properly prepared.