U.S. Citizenship and Immigration Services

Policy Manual

Current as of December 22, 2025

The USCIS Policy Manual is the agency's centralized online repository for USCIS' immigration policies. The USCIS Policy Manual will ultimately replace the Adjudicator's Field Manual (AFM), the USCIS Immigration Policy Memoranda site, and other policy repositories.

About the Policy Manual

The USCIS Policy Manual is the agency's centralized online repository for USCIS' immigration policies. The Policy Manual is replacing the Adjudicator's Field Manual (AFM), the USCIS Immigration Policy Memoranda site, and other USCIS policy repositories. The Policy Manual contains separate volumes pertaining to different areas of immigration benefits administered by the agency, such as citizenship and naturalization, adjustment of status, and nonimmigrants. The content is organized into different volumes, parts, and chapters.

The Policy Manual provides transparency of immigration policies and furthers consistency, quality, and efficiency consistent with the USCIS mission. The Policy Manual provides all the latest policy updates; an expanded table of contents; keyword search function; and links to the Immigration and Nationality Act and Code of Federal Regulations, as well as public use forms. The Policy Manual contains tables and charts to facilitate understanding of complex topics. The Policy Manual also contains all historical policy updates.

The Policy Manual contains the official policies of USCIS and assists immigration officers in rendering decisions. The Policy Manual is to be followed by all USCIS officers in the performance of their duties but it does not remove their discretion in making adjudicatory decisions. The Policy Manual does not create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

How to use the USCIS Policy Manual website.

Adjudicator's Field Manual Transition

USCIS is retiring its Adjudicator's Field Manual (AFM), a collection of our immigration policies and procedures. We are working to update and incorporate all AFM content into the USCIS Policy Manual. Until then, we have moved any remaining AFM content in PDF format to its corresponding Policy Manual Part. To the extent that a provision in the Policy Manual conflicts with remaining AFM content or Policy Memoranda, the updated information in the Policy Manual prevails. If you have questions or concerns about any discrepancies among these resources, contact PolicyFeedback@uscis.dhs.gov.

To find remaining AFM content, see the crosswalk (PDF, 304.67 KB) between the AFM and the Policy Manual.

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[^ 6] See 8 CFR 274a.12(c).

[^ 7] See 8 CFR 274a.12(a)(20).

[^ 8] See DOS's Visa Waiver Program webpage.

[^ 9] See 8 CFR 103.3(a)(1).

[^ 10] See 8 CFR 103.3.

Chapter 8 - Post-Adjudicative Matters [Reserved]

Part D - Violence Against Women Act

Chapter 1 - Purpose and Background

A. Purpose

The Violence Against Women Act of 1994 (VAWA) amended the nation's immigration laws and included a broad range of criminal, civil, and health-related provisions.[1] VAWA addressed the unique issues faced by victims of domestic violence and abuse and provided certain alien family members of abusive U.S. citizens and lawful permanent residents (LPRs) the ability to self-petition for immigrant classification without the abuser's knowledge, consent, or participation in the immigration process. This allowed victims to seek both safety and independence from their abuser.

Spouses, children, and parents of U.S. citizens and spouses and children of LPRs may file a self-petition for immigrant classification with USCIS. An alien filing the self-petition is generally known as a VAWA self-petitioner.[2] If USCIS approves the self-petition, VAWA self-petitioners may then seek an immigrant visa from outside the United States or apply for adjustment of status inside the United States.[3]

B. Background

Under the family-based immigration process, U.S. citizens and LPRs may petition for certain categories of relatives to immigrate to the United States. This process generally requires U.S. citizens and LPRs to first file a family-based petition with USCIS on behalf of their alien family member. If USCIS approves the petition, the family member is then eligible to apply for LPR status.

Because the family-based immigration process requires U.S. citizens and LPRs to petition for their alien family member, they have control over the petitioning process. Some U.S. citizens and LPRs may use their control over this process as a tool to further abuse the alien, threatening to withhold or withdraw the petition in order to control, coerce, and intimidate their family members. This allows abusive U.S. citizens and LPRs to potentially perpetuate the abuse, and their family members may be afraid to report them to law enforcement or leave the abusive situation, as they may be dependent on the U.S. citizen or LPR to obtain or maintain their immigration status.

With the passage of VAWA, Congress created a path for victims of domestic violence and abuse to independently petition for themselves, or self-petition, for immigrant classification. The purpose of the immigration amendments in VAWA was to give aliens who claim abuse by their U.S. citizen or LPR relative the opportunity to independently seek immigrant classification without the abuser's participation or knowledge. Allowing victims to self-petition means that they are no longer dependent on the abusive family member to obtain immigration status, thereby removing at least one barrier to ending the abuse.

Legislative History

VAWA was enacted into law as Section IV of the Violent Crime Control and Law Enforcement Act of 1994.[4] Since its passage in 1994, there have been four reauthorizations of the statute (in 2000, 2005, 2013, and 2022), all of which expanded and added new protections for VAWA self-petitioners.[5]

The table below provides a summary of key provisions related to self-petitions in VAWA and its subsequent reauthorizations.

Key Provisions of VAWA and Subsequent Reauthorizations

Laws	Key Provisions for VAWA Self-Petitions
Violent Crime Control and Law Enforcement Act of 1994[6] (The VAWA provisions of this law are known as the "Violence Against Women Act of 1994" or VAWA 1994)	• Created self-petitioning provisions for abused spouses and children of U.S. citizens and LPRs • Required the DHS Secretary to consider any credible evidence relevant to the self-petition and gave DHS sole discretion to determine what evidence is credible and the weight afforded to the evidence
	• Removed the extreme hardship eligibility requirement

Victims of Trafficking and Violence Protection Act of 2000 (VAWA 2000)[7]	• Removed the requirement that self-petitioners be married to the abuser at the time of filing • Allowed continued eligibility in certain circumstances despite the death of the U.S. citizen, termination of the marriage, or loss of the abuser's U.S. citizenship or LPR status • Created a definition for "intended spouse" and added provisions for self-petitioners whose marriage was not legitimate solely due to the abuser's bigamy • Allowed the filing of self-petitions from outside the United States • Specified the authority to consider deferred action and employment authorization for certain self-petitioners • Allowed certain children to remain eligible for benefits despite turning 21 years old • Allowed self-petitioners to adjust status within the United States • Added provisions allowing exemptions and waivers for certain grounds of inadmissibility
Violence Against Women and Department of Justice Reauthorization Act of 2005[8] Violence Against Women and Department of Justice Reauthorization Act of 2005 Technical Amendments (These two laws are collectively referred to as VAWA 2005)[9]	• Created a uniform definition for "VAWA self-petitioner" • Created self-petitioning provisions for abused parents of U.S. citizen sons and daughters 21 years of age or older • Provided work authorization to aliens with approved self-petitions • Allowed abused children to file a self-petition until age 25 in certain circumstances • Extended protections for children to remain eligible for benefits despite turning 21 years old • Removed the 2-year legal custody and joint residency requirement for abused adopted children • Strengthened confidentiality protections for self-petitioners
Violence Against Women Reauthorization Act of 2013	• Allowed continued eligibility for derivative children where the self-petitioner died

(VAWA 2013)[10]	• Exempted self-petitioners from the public charge ground of inadmissibility
Violence Against Women Reauthorization Act of 2022 (VAWA 2022)[11]	• No substantive change to VAWA self-petitioning provisions

C. Legal Authorities

- INA 101(a)(51) – Definition of VAWA self-petitioner
- INA 204 – Procedure for granting immigrant status
- 8 CFR 204.2 – Petitions for relatives, widows and widowers, and abused spouses and children[12]
- 8 U.S.C. 1367 – Penalties for disclosure of information

Footnotes

[^ 1] See Title IV of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. 103-322 (PDF), 108 Stat. 1796, 1902 (September 13, 1994).

[^ 2] See INA 101(a)(51). Although INA 101(a)(51) includes several benefits under the term “VAWA self-petitioner,” this part focuses on self-petitions filed under INA 204(a).

[^ 3] See INA 201(b)(2)(A)(i), INA 203(a)(2)(A), and INA 245(a).

[^ 4] See Title IV of Pub. L. 103-322 (PDF), 108 Stat. 1796, 1902 (September 13, 1994).

[^ 5] See Title V of the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386 (PDF), 114 Stat. 1464, 1518 (October 28, 2000). See Title VIII of the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. 109-162 (PDF), 119 Stat. 2960, 3053 (January 5, 2006). See Section 6 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 Technical Amendments, Pub. L. 109-271 (PDF), 120 Stat. 750, 762 (August 12, 2006). See Title VIII of the Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 (PDF), 127 Stat. 54, 110 (March 7, 2013). See Violence Against Women Reauthorization Act of 2022, Div. W of the Consolidated Appropriations Act of 2022, Pub. L. 117–103 (PDF), 136 Stat. 840 (March 15, 2022).

[^ 6] See Pub. L. 103-322 (PDF), 108 Stat. 1796, 1902 (September 13, 1994).

[^ 7] See Pub. L. 106-386 (PDF), 114 Stat. 1464, 1518 (October 28, 2000).

[^ 8] See Pub. L. 109-162 (PDF), 119 Stat. 2960, 3053 (January 5, 2006).

[^ 9] See Pub. L. 109-271 (PDF), 120 Stat. 750, 762 (August 12, 2006).

[^ 10] See Pub. L. 113-4 (PDF), 127 Stat. 54, 110 (March 7, 2013).

[^ 11] See Section 2(a)(1)(Q) of Pub. L. 117–103 (PDF), 136 Stat. 840, 841 (March 15, 2022).

[^ 12] The VAWA regulations at 8 CFR 204.2 were promulgated in March 1996 and have not been updated to include superseding statutory provisions. Note that some of the regulatory provisions may no longer apply.

Chapter 2 - Eligibility Requirements and Evidence

The Violence Against Women Act of 1994 (VAWA) and its subsequent reauthorizations amended the Immigration and Nationality Act (INA) to allow abused spouses and children of U.S. citizens and lawful permanent residents (LPRs) and abused parents of U.S. citizen sons and daughters 21 years of age or older to file their own self-petition for immigrant classification.[1] Aliens filing self-petitions are referred to as VAWA self-petitioners or self-petitioners in this part.[2]

The VAWA self-petition is filed on the Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360).[3] An approved Form I-360 provides self-petitioners with immigrant classification as either immediate relatives or under a family-based preference category and allows them to apply for LPR status.[4]

A. General Overview of Eligibility Requirements

Self-petitioners must file a Form I-360 and submit evidence to establish, by a preponderance of the evidence, that he or she meets the general eligibility requirements outlined in the table below.[5]

General Eligibility Requirements for VAWA Self-Petitioners
The self-petitioner must have a qualifying relationship to an abusive U.S. citizen or LPR relative as the: • Spouse, intended spouse, or former spouse of a U.S. citizen or LPR; • Child of a U.S. citizen or LPR; or • Parent of a U.S. citizen son or daughter that is 21 years of age or older.

The self-petitioner must have married in good faith (for self-petitioning spouses only).
The self-petitioner is eligible for immigrant classification as an immediate relative or under a family-based preference category.[6]
The self-petitioner was subjected to battery or extreme cruelty perpetrated by the U.S. citizen or LPR during the qualifying relationship (self-petitioning spouses may also be eligible based on the battery or extreme cruelty to their child).
The self-petitioner resides or resided with the abusive U.S. citizen or LPR.
The self-petitioner is a person of good moral character.[7]

General Evidentiary Requirements[8]

The burden of proof to establish eligibility is on the self-petitioner. USCIS considers any credible evidence a self-petitioner submits to establish eligibility. However, the determination of what evidence is credible and the weight to be given that evidence is within the sole discretion of USCIS.[9] The any credible evidence provision applies to the type or form of evidence officers must consider or may require. In general, USCIS affords more weight to evidence that is detailed, specific, and reliable. For each eligibility requirement, self-petitioners must submit sufficient relevant, probative, and credible evidence to establish that the claim is “more likely than not” or “probably” true, unless a higher standard is required by law. USCIS has the discretion to issue Requests for Evidence (RFE) and Notices of Intent to Deny (NOID) and may do so if the evidence submitted lacks detail, probative value, or is insufficient to establish eligibility.[10]

USCIS is not required to make any showing of ineligibility until the alien has first shown that he or she is eligible.[11] USCIS officers use common sense judgment, as well as specialized experience and training, to assess credibility, weigh evidence, evaluate competing evidence, and draw reasonable inferences as appropriate to make eligibility determinations.

USCIS must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether eligibility has been established.[12] This includes evaluating factors such as, but not limited to, whether the evidence is consistent, sufficiently detailed, and corroborated.

Doubt cast on a particular aspect of the evidence may lead to the reevaluation of the reliability and sufficiency of the remaining evidence. Personal statements may be insufficient to resolve discrepancies in the record if those statements are deemed unreliable.

As with all petitions and applications for an immigration benefit, a self-petitioner must remain

eligible to receive a benefit under VAWA at the time of filing through final adjudication.[13] Also, VAWA self-petitioners may generally only submit one VAWA Form I-360 at a time. If USCIS discovers multiple, materially identical pending VAWA Form I-360 submissions from the same self-petitioner, USCIS generally rejects the duplicative filing or filings as a matter of discretion.[14] USCIS will adjudicate the first filed petition.[15]

B. Qualifying Relationship

Self-petitioners must demonstrate a qualifying relationship to an abusive U.S. citizen or LPR to be eligible for VAWA benefits.[16] Self-petitioners who have a qualifying relationship include:

- An abused spouse of a U.S. citizen or LPR or a spouse of a U.S. citizen or LPR whose child was abused by the U.S. citizen or LPR (self-petitioning spouse[17]);
- An abused child of a U.S. citizen or LPR (self-petitioning child); or
- An abused parent of a U.S. citizen son or daughter 21 years of age or older (self-petitioning parent).[18]

To establish a qualifying relationship, the self-petitioner must submit evidence to prove the requisite familial relationship to the abuser as well as evidence of the abuser's U.S. citizenship or LPR status.[19]

1. Abuser's U.S. Citizenship or Lawful Permanent Resident Status

The self-petitioner's abusive qualifying family member must generally be a U.S. citizen or LPR when the self-petition is filed.[20] However, the abusive qualifying family member must be a U.S. citizen or LPR at the time of the abuse.[21]

Primary evidence to demonstrate the abuser's U.S. citizenship includes, but is not limited to:

- A birth certificate (or legible photocopy) issued by a civil authority that establishes the abuser's birth in the United States;
- A copy of an unexpired U.S. passport issued initially for a full 10-year period to the abuser over the age of 18 at the time of issuance;
- A copy of an unexpired U.S. passport issued initially for a full 5-year period to the abuser under the age of 18 at the time of issuance;
- The abuser's Certificate of Naturalization or Certificate of Citizenship or a copy of either document; or
- The abuser's Report of Birth Abroad of a Citizen of the United States (Department of State Form FS-240).[22]

Primary evidence to demonstrate the abuser's LPR status is a copy of the abuser's Permanent Resident Card (Form I-551) or other proof from the DHS reflecting LPR status.[23] Other examples of evidence to establish the abuser's LPR status include but are not limited to:

- A copy of the pages of the abuser's passport with visas and entry stamps showing name and immigration status; or
- The abuser's A-Number with verification of status.

If self-petitioners are unable to provide documentary evidence of the abuser's U.S. citizenship or LPR status, they should provide some identifying information for the abusive U.S. citizen or LPR, such as a name, place of birth, country of birth, date of birth, or Social Security number. USCIS uses this information to conduct a search of DHS records to attempt to verify the abuser's citizenship or immigration status.[24] If USCIS is unable to identify a record as relating to the abuser or the record does not establish the abuser's citizenship or LPR status, the officer determines whether the information submitted is detailed, specific, and reliable, then adjudicates the self-petition based on the information submitted by the self-petitioner.[25]

Officers attempt to verify the abuser's U.S. citizen or LPR status within DHS records; however, the burden of proof to establish eligibility for the benefit sought rests with the self-petitioner. If the self-petitioner does not sufficiently establish the abuser's U.S. citizenship or LPR status, USCIS denies the self-petition.[26]

An abused spouse or child of a U.S. national may also be eligible for VAWA benefits, as a U.S. national is accorded the same rights as an LPR.[27] USCIS treats a self-petitioning spouse or child of a U.S. national as a self-petitioning spouse or child of an LPR when adjudicating the self-petition.

The INA, regulations, and case law are clear that the abuser of a self-petitioning spouse or child must be either a U.S. citizen or LPR for the self-petitioner to qualify for VAWA benefits.[28] The INA is clear that the abusive son or daughter of a self-petitioning parent must be a U.S. citizen.[29]

2. Self-Petitioning Spouse

Generally, an officer will deny a spousal self-petition if the marriage to the abuser legally ended through annulment, death, or divorce before the petition is properly filed. [30] There are certain noted statutory exemptions for this requirement that must have occurred within 2 years of filing.[31] After the self-petition has been properly filed, the legal termination of the marriage will have no effect on the decision made on the self-petition. The self-petitioner's remarriage before issuance of a final agency decision, however, is a basis of ineligibility. If self-petitioning spouses divorce their abusive U.S. citizen or LPR spouses after the self-petition is filed, it does not adversely impact

approving a pending self-petition or the validity of an approved self-petition.[32]

USCIS generally considers a marriage as legally valid according to the laws of the place where the marriage was celebrated.[33] However, if a marriage is valid in the country where celebrated but considered contrary to U.S. public policy, the marriage is not recognized as valid for immigration purposes.[34] For example, incestuous and plural marriages generally are considered contrary to U.S. public policy. A common law marriage may be considered a legally valid marriage for the purpose of establishing VAWA eligibility.

Examples of evidence of a legal marriage include, but are not limited to:

- A marriage certificate issued by authorized civil authorities;[35]
- Detailed, specific, and reliable affidavits and photos of the wedding ceremony; or
- Common law marriage if no certificates or announcements, or other evidence demonstrating a common law marriage, if common law marriage is recognized in that state.[36]

If self-petitioners were previously married, they must submit evidence to establish that all of their prior marriages were legally terminated, and that they were legally free to enter a valid marriage with the abuser.[37] If the U.S. citizen or LPR spouse was previously married, self-petitioners must submit evidence to establish that all of their spouse's prior marriages were legally terminated.[38] If the U.S. citizen or LPR spouse's prior marriages were not legally terminated, however, self-petitioners may continue to be eligible as intended spouses.[39] The termination of common law marriages is governed by the applicable state law. For immigration purposes, where a state has given recognition of a common law marriage, USCIS recognizes the marriage as lawful.[40]

An authorized civil authority must have issued the marriage termination document (such as a divorce decree or an annulment) for it to be considered valid. Officers should refer to the U.S. Department of State's Foreign Affairs Manual and U.S. Visa: Reciprocity and Civil Documents by Country webpage for country-specific information regarding the legal termination of any marriage that occurred or was terminated outside the United States.

If a divorce decree requires a waiting or revocable period that has not concluded (for example, a "nisi" period in a domestic decree or an "idda" period in a foreign decree), the decree is not considered final and the marriage has not been legally terminated.[41]

Examples of evidence of a legally terminated marriage may include, but are not limited to:

- A final decree of divorce;
- A decree of annulment; or

- A death certificate.

Intended Spouse

VAWA protects “intended spouses” who believed that they entered into a valid marriage, but the marriage was invalid solely due to the abusive U.S. citizen or LPR’s bigamy.[42] To be eligible as intended spouses, self-petitioners must have believed that they entered into a legally valid marriage with the U.S. citizen or LPR.

To demonstrate a qualifying relationship to the abusive U.S. citizen or LPR as an intended spouse, the self-petitioner must submit evidence to establish the following requirements:

- The self-petitioner believed a legal marriage was created with the U.S. citizen or LPR spouse who was not already married and therefore free to enter into a valid marriage;
- A marriage ceremony was actually performed;
- The requirements for the establishment of a bona fide marriage were otherwise met; and
- The apparent marriage between the self-petitioner and the U.S. citizen or LPR is not legitimate solely because of the U.S. citizen’s or LPR’s other, preexisting marriage.[43]

USCIS considers a marriage certificate issued by authorized civil authorities in the United States or abroad to be evidence of the self-petitioner’s intent. If self-petitioners were previously married, they must submit evidence to demonstrate that all their prior marriages were legally terminated. However, intended spouses are not required to demonstrate that the abuser’s previous marriages were legally terminated.

Intended spouses in common law marriages are eligible as VAWA self-petitioners as long as they can demonstrate the requirements listed above, including that a marriage ceremony was actually performed.

Self-Petitioning Spouse Whose Child was Abused

A spouse of an abusive U.S. citizen or LPR is eligible to self-petition based on abuse committed by the U.S. citizen or LPR against the self-petitioner’s child.[44] This includes, but is not limited to, an abused biological child, stepchild, or adopted child of the abuser. If the self-petition is based on a claim that the self-petitioner’s child was battered or subjected to extreme cruelty committed by the U.S. citizen or LPR, the self-petitioner submits evidence of a relationship to the abused child, such as the child's birth certificate or other evidence demonstrating the relationship (in addition to demonstrating the required marital relationship to the abuser).[45]

3. Self-Petitioning Child

Self-petitioning children may establish a qualifying relationship to their abusive U.S. citizen or LPR parent if they are the biological child, stepchild, or adopted child of the abuser.[46] The child must be unmarried and less than 21 years old when the self-petition is filed in order to be considered a child for immigration purposes.[47] In certain circumstances, children who turn 21 years old prior to filing the self-petition or while the self-petition is pending may remain eligible for VAWA benefits.[48] The self-petitioner must remain unmarried, however, at the time of filing and when the self-petition is approved.[49] To be considered unmarried, the self-petitioner must either never have been married or have legally terminated all prior marriages.

Termination of the abuser's parental rights or a change in legal custody does not alter the child's eligibility to self-petition, provided the petitioner meets the definition of the term "child" under immigration law and meets all other eligibility requirements.[50]

Biological Child

Self-petitioning children may demonstrate a qualifying relationship if they are the biological child of the abusive U.S. citizen or LPR parent.[51] If the child did not acquire U.S. citizenship at birth and the abusive U.S. citizen or LPR parent is the biological mother of the self-petitioning child, the primary evidence to demonstrate a qualifying relationship is the child's birth certificate issued by authorized civil authorities listing the mother's name.[52] Where a self-petitioner seeking to prove a familial relationship submits a birth certificate that was not registered contemporaneously with the birth, an officer must consider the birth certificate, as well as all the other evidence of record and the circumstances of the case, to determine whether the self-petitioner has submitted sufficiently reliable evidence to demonstrate the claimed relationship.[53] If the mother's name on the birth certificate is different from the name listed on the self-petition, the self-petitioning child may submit evidence of the name change.[54]

Other examples of evidence of a biological relationship may include, but are not limited to:

- A court decree of paternity;
- A custody or child support order;
- A baptismal certificate (or other religious document) with the seal of the religious authority showing the date and place of birth and the baptism (or similar religious ceremony) and the name(s) of the parent(s);
- Early school records showing the date of admission to the school, the child's date and place of birth, and the name(s) of the parent(s);
- Medical records, such as a hospital birth record that names the parent(s) of the child; or
- Census record, such as a state or federal census record showing the name, place of birth,

and date of birth or age of each person listed.

Self-petitioning children whose abusive U.S. citizen or LPR parent is their biological father must provide evidence demonstrating that they were either:

- Born in wedlock;
- Legitimated, or were born out of wedlock but later placed in the same legal position as a child born in wedlock; or
- Born out of wedlock but have or have had an ongoing bona fide relationship with the abusive father.[55]

For children born in wedlock, self-petitioners must submit evidence of their biological relationship to their father, the marriage of the child's parents, and evidence of the legal termination of all prior marriages, if applicable.[56]

Examples of evidence may include but are not limited to:

- The child's birth certificate issued by authorized civil authorities to show the biological relationship;
- A civilly-issued marriage certificate of the parents;
- Common law marriage announcements or certificates, or other evidence demonstrating a common law marriage, if common law marriage is recognized in that state; or
- Proof of the legal termination of the parents' prior marriages, if any, issued by authorized civil authorities.

Children who were legitimated must provide evidence of a biological relationship to the father and evidence of the child's legitimation.[57] Generally, legitimation is governed by the law of the place of residence of the parent or child.[58] Self-petitioners may generally establish legitimation by showing that their parents married at any time before they turned 18 years old.[59]

Children who were born out of wedlock and have not been legitimated must provide evidence that a bona fide parent-child relationship with the abusive biological father has been established.[60] Evidence should establish more than merely a biological relationship. A bona fide parent-child relationship includes emotional or financial ties (or both).[61] The evidence submitted should establish that the father and child actually lived together, that the father openly held the child out as being his own, that the father provided for some or all of the child's needs, or that the father's behavior in general evidenced a genuine relationship with the child.[62]

Examples of evidence to establish a bona fide parent-child relationship may include, but are not

limited to:

- Money order receipts or cancelled checks showing the father's financial support of the child;
- The father's income tax returns, medical records, or insurance policies listing the child as a dependent;
- School, social services, or other state or federal government agency records for the child listing the father as a guardian or family contact;
- Correspondence between the parties; or
- Detailed, specific, and reliable statements or affidavits of friends, neighbors, school officials, or other associates with direct personal knowledge of the relationship. [63]

The following table provides a summary of the types of evidence required to demonstrate a qualifying relationship for self-petitioning children who have a biological relationship to their abusive U.S. citizen or LPR parent.

Self-Petitioning Child: Required Evidence for Biological Children

Child	Abusive Parent	Required Evidence[64]
Child	Biological mother	• Evidence of the biological relationship
Child born in wedlock	Biological father	• Evidence of the biological relationship; • Evidence of the marriage of the child's parents; and • Evidence of the legal termination of all prior marriages, if any
Legitimated child	Biological father	• Evidence of the biological relationship; • Evidence of the marriage of the child's parents; and • Evidence of the legal termination of all prior marriages, if any
Child born out of wedlock	Biological father	• Evidence of the biological relationship, and • Evidence that a bona fide parent-child relationship has been established between the child and the abusive parent

Stepchild

Self-petitioning children may demonstrate a qualifying relationship if they have a step relationship

with the abusive U.S. citizen or LPR parent. A step relationship is created when a child's biological or legal parent marries a person who is not the child's other biological or legal parent before the child's 18th birthday.[65] If the marriage that created the step relationship is terminated due to divorce prior to filing, the stepchild remains eligible to self-petition.[66] If the marriage is terminated due to the death of the biological or legal parent prior to filing, the stepchild may remain eligible to self-petition if a family relationship has continued to exist as a matter of fact between the stepparent and stepchild at the time of filing.[67]

To demonstrate a qualifying relationship as a stepchild of an abusive U.S. citizen or LPR stepparent, self-petitioning children must submit evidence of:

- The relationship between themselves and their biological or legal parent;
- The marriage between their biological or legal parent and the abusive stepparent before they turned 18 years old; and
- The termination of all prior marriages for both the biological or legal parent and stepparent, if applicable.[68]

Examples of evidence that demonstrate a qualifying step relationship between a self-petitioning child and an abusive stepparent may include, but are not limited to:

- The child's birth certificate issued by authorized civil authorities;
- A civilly issued marriage certificate of the child's biological or legal parent and stepparent showing marriage before the stepchild turned 18 years old;
- Common law marriage announcements or certificates, or other evidence demonstrating a common law marriage, if common law marriage is recognized in that state; or
- A final decree of divorce or annulment.

Intended Spouse Provision and Self-Petitioning Children

The INA does not extend the intended spouse provision for self-petitioning spouses to self-petitioning children.[69] Therefore, if the marriage that created the step relationship is not legally valid due to bigamy on the part of the stepparent, the child is not eligible to self-petition. However, children can be included as derivatives on their biological or legal parent's self-petition if the biological or legal parent can establish a qualifying relationship with the abusive stepparent under the intended spouse provisions.

Adopted Child

Generally, for an adoption to be the basis for granting immigration benefits, an adoption must comply with certain statutory requirements. In the family-based petition process, the statute

requires that the adoptee beneficiary has been in the legal custody of and jointly resided with the adoptive parent(s) for at least 2 years, among other requirements.[70] Abused adopted children, however, are not required to demonstrate that the U.S. citizen or LPR had 2 years of legal custody and 2 years of joint residence with them in order to be eligible for a VAWA self-petition.[71]

Self-petitioning adopted children demonstrate a qualifying relationship to a U.S. citizen or LPR parent by submitting evidence of an adoption that is valid for immigration purposes.[72] Generally, for an adoptive relationship to be considered valid for the family-based petition process, the U.S. citizen or LPR must have legally adopted the child while the child was under age 16.[73] In certain circumstances, the adoption may take place prior to the child attaining 18 years old if the sibling exception applies.[74] Evidence of an adoption that may demonstrate a qualifying adoptive relationship includes a copy of the legal adoption decree or order issued by the appropriate civil authority or other relevant evidence that an adoptive relationship is valid.[75]

4. Self-Petitioning Parent

Self-petitioning parents must demonstrate a qualifying relationship to their abusive U.S. citizen son or daughter who is 21 years of age or older.[76] The INA defines a “child” as an unmarried person who is under 21 years of age.[77] Therefore, the abusive son or daughter must have qualified as the child of the abused parent before turning 21 years of age but must be 21 years of age or older at the time of filing.[78] Parents of abusive LPR sons and daughters are not eligible for VAWA benefits.

To establish a qualifying relationship, a self-petitioning parent must be a biological parent, stepparent, or adoptive parent of an abusive U.S. citizen son or daughter.[79] The requirements for self-petitioning parents are similar to the requirements for self-petitioning children to demonstrate the required parent-child relationship.

Biological Parent

Self-petitioning parents may demonstrate a qualifying relationship if they are the biological parent of the abusive U.S. citizen son or daughter.[80] If the self-petitioning parent utilized Assisted Reproductive Technology, however, and does not have a genetic relationship to the U.S. citizen or LPR child, the parent may still be able to demonstrate a qualifying parent-child relationship in certain circumstances.[81] If the self-petitioning parent is the biological mother of the abusive U.S. citizen son or daughter, the primary evidence to demonstrate the qualifying relationship is the child’s birth certificate issued by authorized civil authorities listing the mother’s name.[82] If the mother's name on the birth certificate is different from the name as reflected on the self-petition, the

self-petitioner may submit evidence of the name change.[83]

If primary evidence is unavailable, examples of secondary evidence of a biological relationship may include, but are not limited to:

- A court decree of paternity;
- Custody or child support orders;
- A baptismal certificate (or other religious document) with the seal of the religious authority showing the date and place of birth and baptism (or similar religious ceremony) and the names of the parents;
- Early school records showing the date of admission to the school, the child's date and place of birth, and the name(s) of the parent(s);
- Medical records, such as the hospital birth record that names the parent(s) of the child; or
- Census record, such as a state or federal census record showing the name, place of birth, and date of birth or age of each person listed.

If the self-petitioning parent is the biological father of the abusive U.S. citizen son or daughter, then the parent must provide evidence demonstrating that the child was either:

- Born in wedlock;
- Legitimated, or was born out of wedlock but later placed in the same legal position as a child born in wedlock; or
- Born out of wedlock but has or had an ongoing bona fide relationship with the abused parent. [84]

For fathers whose abusive U.S. citizen sons or daughters were born in wedlock, self-petitioners must submit evidence of their biological relationship to their child, the marriage between the parents of the child, and evidence of the legal termination of all prior marriages, if applicable.[85]

Examples of such evidence may include but are not limited to:

- A birth certificate for the child issued by authorized civil authorities to show the biological relationship;
- A civilly-issued marriage certificate of the parents;
- Common law marriage announcements or certificates, or other evidence demonstrating a common law marriage, if common law marriage is recognized in that state; or
- Proof of the legal termination of the parents' prior marriages, if any, issued by authorized civil authorities.

If the child was legitimated, the father must provide evidence of a biological relationship to the child

and evidence of the child's legitimation.[86] Generally, legitimation is governed by the law of the place of residence of the parent or child.[87] Self-petitioners may generally establish legitimation by showing that they married the child's other parent at any time before the child turned 18 years old.[88]

Fathers whose children were born out of wedlock and have not been legitimated must provide evidence that a bona fide parent-child relationship has been established with the child.[89] Evidence establishes more than merely a biological relationship. A bona fide parent-child relationship includes emotional or financial ties (or both) or a genuine concern or interest for the child's support, instruction, and general welfare.[90] Evidence submitted should establish that the father and child actually lived together, that the father openly held the child out as being his own, that the father provided for some or all of the child's needs, or that the father's behavior in general evidenced a genuine concern for the child.[91]

Examples of evidence to establish a bona fide parent-child relationship may include, but are not limited to:

- Money order receipts or cancelled checks showing the father's financial support of the child;
- The father's income tax returns, medical records, or insurance policies listing the child as a dependent;
- School, social services, or other state or federal government agency records for the child listing the father as a guardian or family contact;
- Correspondence between the parties; or
- Detailed, specific, and reliable statements or affidavits of friends, neighbors, school officials, or other associates with direct personal knowledge of the relationship.[92]

The following table provides a summary of the types of evidence sufficient to demonstrate a qualifying relationship for self-petitioning parents who have a biological relationship to their abusive U.S. citizen son or daughter.

Self-Petitioning Parent: Required Evidence for Biological Parents

Abusive Son or Daughter	Parent	Required Evidence[93]
Son or daughter	Biological mother	• Evidence of the biological relationship
		• Evidence of the biological relationship;

Son or daughter was born in wedlock	Biological father	• Evidence of the marriage of the child's parents; and • Evidence of the legal termination of all prior marriages, if any
Legitimated son or daughter	Biological father	• Evidence of the biological relationship, and • Evidence of the child's legitimation
Son or daughter was born out of wedlock	Biological father	• Evidence of the biological relationship • Evidence that a bona fide parent-child relationship has been established between the child and the parent

Stepparent

Self-petitioning parents may demonstrate a qualifying relationship if they have a stepparent relationship with the abusive U.S. citizen son or daughter. A step relationship is created if the abused parent married the son or daughter's other biological or legal parent before the son or daughter's 18th birthday.[94] If the marriage that created the step relationship is terminated due to divorce prior to filing, the stepparent remains eligible to self-petition.[95] If the marriage is terminated due to the death of the biological or legal parent prior to filing, the stepparent may remain eligible to self-petition if a family relationship has continued to exist as a matter of fact between the stepparent and stepson or stepdaughter at the time of filing.[96]

To demonstrate a qualifying stepparent relationship, self-petitioning parents must submit evidence of:

- The relationship between the biological or legal parent and the abusive son or daughter;
- Their marriage with the stepson or stepdaughter's biological or legal parent; and
- The termination all prior marriages for both themselves and their spouse (biological or legal parent), if applicable.[97]

Examples of evidence that demonstrate a qualifying step relationship between a self-petitioning stepparent and an abusive U.S. son or daughter may include, but are not limited to:

- The son or daughter's birth certificate issued by authorized civil authorities;
- A civilly-issued marriage certificate of the stepparent and the son or daughter's biological or legal parent showing marriage before the stepson or stepdaughter turned 18 years old;
- Common law marriage announcements or certificates, or other evidence demonstrating a

common law marriage, if common law marriage is recognized in that state; or
- A final decree of divorce or annulment.

Adoptive Parent

Self-petitioning parents may demonstrate a qualifying relationship if they have an adoptive relationship with their U.S. citizen son or daughter.[98] Generally, for an adoptive relationship to be the basis for granting immigration benefits, the adoption must be valid for immigration purposes[99] and comply with certain statutory requirements.[100]

For the adoptive relationship to be considered valid under INA 101(b)(1)(E), a child generally must be adopted while under age 16.[101] Unlike abused adopted children, abused adoptive parents must demonstrate 2 years of legal custody and 2 years of joint residence with their adopted U.S. citizen son or daughter in order to establish a qualifying adoptive relationship.[102] Self-petitioning parents may demonstrate a qualifying adoptive relationship by submitting evidence of:

- An adoption that is valid for immigration purposes;
- 2 years of legal custody of the adopted son or daughter; and
- 2 years of joint residence with the adopted son or daughter.[103]

Self-petitioning parents may also establish an adoptive parent-child relationship under INA 101(b)(1)(F) or INA 101(b)(1)(G).[104]

C. Good Faith Marriage (Self-Petitioning Spouses Only)

A self-petitioning spouse's eligibility for the self-petition requires more than showing a legal marital relationship to a U.S. citizen or LPR. The self-petitioner must also establish that the marriage was entered into in good faith and was not entered into for the purpose of evading immigration laws.[105]

To demonstrate a good faith marriage, self-petitioning spouses must show that at the time of the marriage, they intended to establish a life together with the U.S. citizen or LPR. USCIS does not deny a self-petition solely because the spouses are not currently living together, and the marriage is no longer viable.[106] Additionally, separation from the U.S. citizen or LPR spouse, even shortly after the marriage took place, does not prove by itself that a marriage was not entered into in good faith.[107] However, when assessing the existence of a good faith marriage, USCIS evaluates all facts in the totality of the circumstances to determine whether at the time of the marriage, they intended to establish a life together.

Examples of evidence to demonstrate good faith entry into the marriage may include, but are not limited to:

- Documentation that one spouse has been listed as the other spouse's beneficiary on insurance policies;
- Joint property leases, income tax forms, or accounts (for example, bank accounts, utility statements or accounts, and credit cards accounts);
- Evidence of courtship, a wedding ceremony, a shared residence, or shared experiences;
- Birth certificates of children born to the self-petitioner and abusive spouse;
- Police, medical, or court documents providing information about the relationship; or
- Detailed, specific, and reliable statements or affidavits of persons with personal knowledge of the relationship.[108]

D. Eligible for Immigrant Classification

A VAWA self-petitioner must establish eligibility for a family-based immigrant classification as either an immediate relative or under a family-based preference category.[109] VAWA eligibility generally extends to children, spouses, and parents of abusive U.S. citizens, who are considered immediate relatives, and spouses and children of abusive LPRs, who are included in family-based preference categories.

Because VAWA self-petitions provide for family-based immigrant classification, self-petitioners are subject to the restrictions applicable to family-based petitions, including INA 204(c), INA 204(g), and INA 204(a)(2), which address issues involving current and prior marriages and marriage fraud.[110]

INA 204(c) states that no petition shall be approved where the alien previously obtained or sought immediate relative or preference status based on a marriage that DHS or DOJ found to have been entered into for the purpose of evading the immigration laws, or where the alien was found to have attempted or conspired to enter into a marriage for the purpose of evading the immigration laws.

INA 204(g) restricts approval of petitions based on marriages entered into while in removal proceedings. If an alien entered a marriage while in removal proceedings, an immigrant petition based on that marriage cannot be approved unless:

- The alien beneficiary has resided outside the United States for a 2-year period beginning after the date of the marriage; or
- The alien beneficiary can establish, by clear and convincing evidence, he or she entered into a valid marriage in good faith and not for the purpose of evading the immigration laws.

INA 204(a)(2) generally bars the approval of a second spousal preference petition for the classification of the spouse of the self-petitioner if the alleged abusive spouse, by virtue of a prior marriage, has been accorded the status of an alien lawfully admitted for permanent residence as the spouse of a citizen of the United States or as the spouse of an alien lawfully admitted for permanent residence. This bar would apply unless a period of 5 years has elapsed after the date on which the alleged abusive spouse became a lawful permanent resident, or unless the self-petitioner establishes by clear and convincing evidence that the alleged abuser's prior marriage was not entered into for the purpose of evading the immigration laws.

E. Subjected to Battery or Extreme Cruelty

Self-petitioners must demonstrate that their U.S. citizen or LPR relative battered or subjected them to battery or extreme cruelty during the qualifying relationship.[111] Note that for abused adopted children, the battery or extreme cruelty may be committed by an adoptive parent or a family member of an adoptive parent residing in the same household.[112] For all other self-petitioners, battery or extreme cruelty committed by a third party can only constitute abuse where the U.S. citizen or LPR willfully condoned or participated in the abusive act(s).[113]

The battery or extreme cruelty must have been committed against the self-petitioner, or for self-petitioning spouses, against their child(ren), and must have taken place during the qualifying relationship. For self-petitioning children, there is also a requirement that the child was residing with the abuser when the abuse occurred.[114] However, residence for a child may also include any period of visitation.[115]

Note that if the self-petitioner is a stepchild or stepparent, the abuse must have occurred during the step-relationship. Evidence, however, of any abuse occurring at any time may be used to establish a pattern of abuse to support the claim.

Period of Battery or Extreme Cruelty

Self-Petitioner	When the battery or extreme cruelty must have taken place
Spouse	During the qualifying marriage
Child	During the claimed relationship while the child was under 21 years old and while the child was residing with or visiting the parent[116]
	During the claimed relationship and while the son or daughter was 21 years old or

Parent	older

1. Battery and Extreme Cruelty

Congress did not define “battery or extreme cruelty” for purposes of the VAWA provisions of the INA.[117] DHS provides examples of battery and extreme cruelty in the regulations to include any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence.[118]

Without a statutory definition of “extreme cruelty,” common definitions provide valuable context. The Oxford English Dictionary defines “extreme” as “…a quality, condition, or feeling: Existing in the utmost possible degree, or in an exceedingly high degree; exceedingly great or intense.”[119] Merriam-Webster's Dictionary defines “extreme” as “going to great or exaggerated lengths; exceeding the ordinary, usual , or expected.”[120] Hurtful conduct alone, or adverse interactions of limited severity, are not sufficient to establish “extreme” cruelty. The actions must reflect an intention to gain or maintain power and control over the self-petitioner.

“Cruelty” is commonly defined as “the quality or state of being cruel,” which means “disposed to inflict pain . . . ”[121] A definition of cruelty specifically applicable to domestic relationships is defined as “conduct of either party in a divorce action that endangers the life or health of the other.”[122] The above-referenced definitions are the commonly recognized meanings for these VAWA-specific terms and should provide valuable context for officers adjudicating VAWA self-petitions.

In the context of VAWA-based cancellation of removal under INA 240A(b)(2), multiple courts have emphasized that the “extreme cruelty” determination is not made based on an algorithm and requires adjudicative judgment as to whether the conduct at issue is sufficiently serious to fulfill the statutory language.[123] The Eleventh Circuit has found that “determining whether a given course of conduct is ‘extremely cruel’ involves more than simply plugging facts into a formula. The agency is required to make a judgment whether the cruel conduct alleged is sufficiently extreme to implicate the purposes of the statute.”[124] And given the agency’s authority under INA 204(a)(1)(J), the Tenth Circuit held that the court did not have subject matter jurisdiction over the agency's “[d]iscretionary determination of what evidence was credible and weight given to evidence.”[125]

Consistent with this authority from a related context, USCIS weighs and evaluates the credibility of the evidence submitted in its sole discretion to determine whether the cruel conduct alleged is sufficiently “extreme” to establish eligibility.

The majority of circuit courts concluded that DHS’s regulation at 8 CFR 204.2(c)(1)(vi) did not establish an objective legal standard for the battered-spouse determination.[126] The Ninth Circuit reached a contrary conclusion and held that the phrase “battered or subjected to extreme cruelty” establishes an objective legal standard to determine if an alien is a victim of domestic violence.[127] USCIS agrees with the majority circuits courts’ interpretations, as the determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of USCIS. Even though Congress did not define the phrase “battery or extreme cruelty” given VAWA’s well-documented legislative history and intent, there is certainly a commonsense element for officers to consider in evaluating the existence of battery or extreme cruelty.

USCIS determines whether a self-petitioner has demonstrated that extreme cruelty occurred on a case-by-case basis; there is no formula, and generally no single factor is conclusive. Officers rely on adjudicative experience, specialized training, standard operating procedures, and commonsense when determining whether the alleged cruel conduct is sufficiently extreme to qualify under the purposes of the statute. Officers consider all circumstances related to the alleged conduct.

“Batter” is commonly defined as “to strike with repeated blows of an instrument or weapon, or with frequent missiles; to beat continuously and violently so as to bruise or shatter.”[128] Battery generally includes any offensive touching or use of force on a person without the person’s consent.[129] Some examples include, but are not limited to, punching, slapping, spitting, biting, kicking, choking, kidnapping, rape, molestation, forced prostitution, sexual abuse, and sexual exploitation.

Some examples of battery or extreme cruelty include, but are not limited to:

- Any act or threatened act of violence, including forced detention, which results or threatens to result in physical or mental injury;
- Sexual abuse or exploitation, including rape, molestation, incest, or forced prostitution;
- Actions that are a part of an overall pattern of violence;
- Forced confinement or physical isolation;
- Exerting physical control over self-petitioners; or
- Denying access to food, family, or medical treatment.

Officers should understand that the above-listed factors are not exhaustive, and that battery or extreme cruelty can take many forms. Officers also retain discretion when determining if the actions

described should be considered battery or extreme cruelty and whether the self-petitioner submitted detailed, specific, and reliable evidence to establish eligibility. In making these determinations they must assess the evidence in the totality of the circumstances. However, officers use commonly recognized definitions and their own adjudicative experience, specialized training, and standard operating procedures when evaluating the existence of battery or extreme cruelty. **[130]**

2. Evidence

Examples of evidence to demonstrate battery or extreme cruelty occurred include, but are not limited to:

- Incident or arrest reports or other official law enforcement or court documentation;
- Official court records;
- Medical records and reports;
- School records and reports;
- Contemporaneous documentation showing the self-petitioner sought safe-haven or services from a domestic violence shelter or other service provider;
- Photographs of injuries (when the self-petitioner clearly identifies who took the photographs, as well as when and where they were taken and when the photographs are fair and accurate representations of what they claim to depict); or
- Psychological evaluations (when prepared by a qualified medical or mental health professional, who treated or thoroughly and adequately evaluated the self-petitioner using well-established assessments or tools, and where the self-petitioner provided USCIS with the medical or mental health professional's curriculum vitae or professional certification(s) to establish the professional's level of expertise).

Self-petitioners who obtained an order of protection against the abuser or have taken other legal steps to end the abuse should submit copies of the related legal documents.**[131]**

Moreover, evidence that the abuse victim sought safe-haven in a domestic violence shelter or similar refuge may also be relevant, as may a combination of documents such as hospital or medical records which detail the self-petitioner's injuries based on abuse, medical attention received, and the date and location of medical facility.**[132]** Evidence of non-qualifying abuse may only be used to establish a pattern of abuse and violence and to support a claim that qualifying abuse also occurred.[133]

F. Residence with the Abusive Relative

The self-petitioner must reside or have resided with the abuser during the qualifying relationship to be eligible for the self-petition.[134] Residence is defined as the person's general place of abode or the principal, actual dwelling place of the self-petitioner without regard to intent.[135] A self-petitioner cannot meet the residency requirement by merely visiting the abuser's home while maintaining a general place of abode or a principal dwelling place elsewhere.[136]

Self-petitioners must have resided with the abuser at some point prior to filing the self-petition or reside with the abuser when filing the self-petition and must have resided with the abuser during the qualifying relationship. The self-petitioner is not required, however, to have resided with the abuser for any specific length of time or to have resided with the abuser in the United States.[137] There is also no requirement for self-petitioners to be living with the abuser at the time they file the self-petition or, for self-petitioning spouses and parents, when the abuse occurred.[138]

Self-petitioning children are required to have resided with the abuser when the abuse occurred.[139] However, residence for a child may also include any period of visitation.[140]

If self-petitioners are in the United States at the time they file the self-petition, the shared residence can have occurred either in or outside the United States.[141]

Examples of evidence demonstrating shared residence with the abusive U.S. citizen or LPR may include, but are not limited to:

- Birth certificates for children born during the marriage;
- Leases, deeds, mortgages, or rental agreements listing the self-petitioner and the U.S. citizen or LPR as occupants or owners;
- Insurance policies listing a common address for the self-petitioner and U.S. citizen or LPR;
- Bank statements or financial documents listing a common address for the self-petitioner and U.S. citizen or LPR;
- Photocopies of income tax filings listing the self-petitioner and the U.S. citizen or LPR;
- School records listing the parent and address of record;
- Medical records or a statement from the self-petitioner's physician; or
- Detailed, specific, and reliable statements or affidavits of friends and family who can verify that the self-petitioner and the U.S. citizen or LPR resided together during the marriage.[142]

G. Good Moral Character

1. General Requirements

Self-petitioners must demonstrate that they are persons of good moral character in order to be

eligible for a VAWA self-petition.[143] USCIS generally, but not exclusively, looks at the 3-year period immediately preceding the date the self-petition is filed, and the self-petitioner's conduct is evaluated on a case-by-case basis taking into account the provisions regarding good moral character in INA 101(f) and the standards of the average citizen in the community.[144]

2. Special Considerations for Children Under 14 Years of Age

A self-petitioning child who is under 14 years old is presumed to be a person of good moral character and is not required to submit evidence of good moral character with the self-petition.[145]

The presumption, however, does not preclude USCIS from requesting evidence of good moral character if there is reason to believe that the self-petitioning child may lack good moral character.[146] USCIS has discretion to request evidence of good moral character for a self-petitioning child under 14 years of age and could find that a person under the age of 14 lacks good moral character.[147]

3. Evaluating Good Moral Character

USCIS evaluates a self-petitioner's claim of good moral character on a case-by-case basis, considering the provisions of INA 101(f) and the standards of the average citizen in the community, and may consider any conduct, behavior, acts, or convictions.[148]

Although the evidentiary requirements for good moral character focus on the 3-year period preceding the filing of the self-petition, the eligibility requirements do not specify a time period during which self-petitioners must demonstrate their good moral character.[149] USCIS may review and request any evidence of good moral character or a lack of good moral character for any time period before or after the filing of the self-petition if USCIS has reason to believe the self-petitioner lacks good moral character.[150] For example, if a VAWA self-petitioner's criminal history record includes a 2.5-year old conviction for a violation of probation then, logically, USCIS is able to consider the previous conviction (which may be more than 3 years old) that gave rise to the sentence of probation that was violated during the self-petitioner's 3-year good moral character period.

A self-petitioner is required to maintain good moral character through the time of final adjudication of both the self-petition and the adjustment of status application.[151]

As with any benefit request, USCIS retains discretion to request a biometrics submission from the self-petitioner.[152] Where the results of criminal history records checks conducted prior to the approval of the self-petition or adjustment of status application disclose that the self-petitioner is no

longer a person of good moral character or that the self-petitioner has not been a person of good moral character in the past, USCIS denies the self-petition if it is pending or revokes the self-petition if it was previously approved.[153]

USCIS considers derogatory information provided as a result of biometric-based criminal history checks when assessing good moral character, even where the self-petitioner neglected to provide that information with their VAWA Form I-360. In cases where a self-petitioner fails to provide relevant criminal history information, USCIS may consider the self-petitioner's lack of candor in the good moral character assessment and when determining the credibility to be assigned evidence submitted by the self-petitioner.[154]

Permanent and Conditional Bars to Good Moral Character Under INA 101(f)

INA 101(f) lists the classes of aliens who are statutorily barred from being considered a person of good moral character. Self-petitioners who fall under certain categories under INA 101(f) are permanently barred from establishing good moral character.[155]

Permanent bars apply to a self-petitioner:

- Who has at any time on or after November 29, 1990, been convicted of an aggravated felony; or
- Who at any time has engaged in conduct described in INA 212(a)(3)(E) (relating to assistance in Nazi persecution, participation in genocide, or commission of acts of torture or extrajudicial killings) or INA 212(a)(2)(G) (relating to severe violations of religious freedom).[156]

Other bars, however, are not permanent in nature and are considered "conditional bars." Conditional bars are triggered by specific acts, offenses, activities, circumstances, or convictions under INA 101(f) that occurred in the 3-year period immediately preceding the filing of the self-petition.[157] When a conditional bar is triggered, USCIS must affirmatively exercise its discretion to make a finding of good moral character despite an act or conviction falling under the conditional bar.

These self-petitioners may still be considered persons of good moral character if:

- The act or conviction is waivable for purposes of determining inadmissibility or deportability; and
- The act or conviction was connected to the self-petitioner's battery or extreme cruelty.[158]

Conditional bars apply to a self-petitioner who, during the 3-year period for which good moral character is required to be established:

- Is or was a habitual drunkard;
- Is or was engaged in prostitution during the past 10 years as described in INA 212(a)(2)(D);
- Is or was involved in the smuggling of a person or persons into the United States as described in INA 212(a)(6)(E);
- Is or was a practicing polygamist;
- Has been convicted or admits committing acts that constitute a crime involving moral turpitude other than a purely political offense, except for certain petty offenses or offenses committed while the person was less than 18 years old as described in INA 212(a)(2)(A)(ii);
- Has committed two or more offenses for which the self-petitioner was convicted, and the aggregate sentence actually imposed was 5 years or more, provided that, if an offense was committed outside the United States, it was not purely a political offense;
- Has violated laws relating to a controlled substance, except for simple possession of 30 grams or less of marijuana;
- Earns income principally from illegal gambling activities or has been convicted of two or more gambling offenses;
- Has given false testimony for the purpose of obtaining immigration benefits; or
- Has been confined as a result of a conviction to a penal institution for an aggregate period of 180 days or more.[159]

USCIS only looks to judicial records to determine whether the alien has been convicted of a crime and may not look behind the conviction to reach an independent determination concerning guilt or innocence.[160]

Unlawful Acts

Self-petitioners who willfully failed or refused to support dependents, committed unlawful acts that adversely reflect on their moral character, or were convicted or imprisoned for such acts but the acts do not fall under INA 101(f) will be considered as lacking good moral character unless they establish extenuating circumstances.[161]

Aliens who were subjected to abuse in the form of forced prostitution or who can establish that they were forced to engage in other behavior that could render them inadmissible may still be considered a person of good moral character if they have not been convicted for the commission of the offense.[162]

Any acts or conduct committed by an alien that resulted in mandatory detention may be considered as a negative factor in the overall good moral character determination.[163]

All Other Conduct and Acts

If there is evidence that a self-petitioner's conduct or acts do not fall under INA 101(f) but are contrary to the standards of the average citizen in the community, the officer must consider all of the evidence in the record and make a case-by-case determination as to whether the self-petitioner has established good moral character under the standards of the average citizen in the community. **[164]** Some relevant considerations may include but are not limited to the severity of the conduct or act and whether the self-petitioner has demonstrated rehabilitation of character.**[165]**

When USCIS is aware of any conduct, behavior, acts, or convictions relevant to a self-petitioner's present good moral character, USCIS may consider that information even if it occurred prior to the 3-year period. The passage of time alone may not be sufficient to demonstrate a self-petitioner's present good moral character when there is evidence that he or she lacked good moral character in the past. Some relevant considerations may include but are not limited to the severity of the conduct or act and whether the self-petitioner has demonstrated rehabilitation of character.

Evidence

Primary evidence of good moral character is the self-petitioner's affidavit, which includes detailed statements regarding the self-petitioner's conduct and behavior establishing good moral character. **[166]** USCIS affords more evidentiary weight to affidavits that are detailed, specific, and reliable. In addition to the affidavit, the self-petitioner also submits a local police clearance or a state-issued criminal background check from each locality or state in the United States in which the self-petitioner has resided for 6 or more months during the 3-year period immediately preceding the filing of the self-petition.**[167]** In cases where USCIS has requested biometrics from a self-petitioner, the biometric-based background check results from the Federal Bureau of Investigation are also evidence of good moral character.

If self-petitioners reside or have resided outside the United States, they submit a police clearance, criminal background check, or similar report issued by the appropriate authority in the foreign country in which they resided for 6 or more months during the 3-year period immediately preceding the filing of the self-petition.**[168]**

Self-petitioners submit clearances or background checks based on their name and date of birth or based on their fingerprints. If the search conducted is based on a name and date of birth, self-petitioners provide clearances under all their aliases, including any maiden names, if applicable. Failure to provide such information based on fingerprints or failure to include all aliases in the police clearances may result in a delay with the adjudication.

If police clearances, criminal background checks, or similar reports are not available for some or all locations, self-petitioners submit a detailed statement and other credible evidence explaining the

reasons they could not obtain the clearances and why the lack of a police clearance does not adversely reflect upon the self-petitioner's good moral character.

In addition to the self-petitioner's detailed, specific, and reliable affidavit and police clearances or criminal background checks, USCIS considers any other credible evidence of good moral character, such as affidavits from responsible persons who have knowledge and can attest to the self-petitioner's good moral character.[169]

Detailed, specific, and reliable affidavits attesting to good moral character should contain the affiant's full name, address, telephone number, date and place of birth, relationship to the parties, if any, and details concerning how the affiant acquired knowledge of the self-petitioner's good moral character. The determination of what evidence is credible, and the weight afforded to that evidence is within the sole discretion of USCIS.[170] USCIS affords less evidentiary weight to affidavits that are missing this detailed and specific information.

Self-petitioners who have been arrested, charged, or otherwise have a criminal record provide the following additional evidence:

- Copies of arrest report(s);
- Certified copies of court documents showing final disposition of any charge(s); and
- Relevant excerpts of law for the jurisdiction where the act took place listing the maximum possible penalty for each charge.

Failure to provide this information may result in a delay with the adjudication.

4. Evaluating Acts or Convictions Falling Under the Conditional Bars Listed in INA 101(f)

If a self-petitioner has committed an act or has a conviction that falls under a conditional bar under INA 101(f), then the officer must consider the following:

- Whether a waiver for the act or conviction would be available;
- Whether the act or conviction is connected to battery or extreme cruelty experienced by the self-petitioner; and
- Whether the self-petitioner warrants a finding of good moral character in the exercise of discretion.[171]

Step 1: Determine Whether a Waiver Would be Available

If the self-petitioner has committed an act or has a conviction that falls under a conditional bar, the officer first determines whether a waiver would be available. The self-petitioner must submit

evidence addressing whether a waiver would be available for the act or conviction at issue.[172]

The officer does not need to consider whether a waiver would be granted, only that a waiver would be available at the time the adjustment of status or immigrant visa application is filed.[173] If officers are uncertain whether a waiver is available, they should seek guidance from the local Office of the Chief Counsel before making a final determination.

Step 2: Determine Whether the Act or Conviction is "Connected" to the Battery or Extreme Cruelty

If a waiver is available for the act or conviction, officers must consider whether the act or conviction is "connected" to the battery or extreme cruelty experienced by the self-petitioner. For an act or conviction to be considered connected to the battery or extreme cruelty, the evidence must establish that the act or conviction has a causal or logical relationship to the battery or extreme cruelty.[174] The connection does not require compulsion or coercion on the part of the self-petitioner. To meet this evidentiary standard, the evidence submitted must demonstrate the following:

- The circumstances surrounding the act or conviction committed by the self-petitioner; and
- The connection between the act or conviction and the battery or extreme cruelty.

When determining whether a connection exists between the self-petitioner's disqualifying act or conviction and the battery or extreme cruelty suffered by the self-petitioner, USCIS considers the full history of abuse in the case. The self-petitioner's qualifying U.S. citizen or LPR relative must have perpetrated the battery or extreme cruelty during the qualifying relationship, but the self-petitioner is not required to establish that the act or conviction occurred during the qualifying relationship.

If the self-petitioner establishes that the battery or extreme cruelty occurred prior to and during the qualifying relationship, the officer may find that the self-petitioner has established the required "connection" between the act or conviction and the battery or extreme cruelty, even if the act or conviction occurred prior to the qualifying relationship.

Step 3: Determine Whether the Self-Petitioner Warrants a Finding of Good Moral Character in the Exercise of Discretion

Whether a self-petitioner is a person of good moral character under the exception at INA 204(a)(1)(C) is a discretionary determination made by USCIS. For example, even if the evidence establishes both that a waiver for the self-petitioner's disqualifying act or conviction is available and that the requisite connection exists between the disqualifying act or conviction and the battery or extreme cruelty, USCIS may nevertheless conclude that the severity or gravity of the self-petitioner's act or

conviction warrants a finding of a lack of good moral character.

As with any discretionary waiver or discretionary determination, the officer reviews the entire record and gives the appropriate weight to the positive and negative factors. No one factor, including any humanitarian considerations, will be dispositive. Once the officer has weighed each factor, the officer considers all the factors cumulatively to determine whether the positive factors outweigh the negative factors and adjudicates the waiver to conditional bars accordingly.

H. Self-Petitioners Filing from Outside the United States

If self-petitioners are outside the United States when filing the self-petition, they must demonstrate one of the following in addition to the eligibility requirements listed in this chapter:

- The abusive U.S. citizen or LPR is employed abroad by the U.S. government;
- The abusive U.S. citizen or LPR is a member of the U.S. uniformed services stationed outside the United States; or
- The claimed battery or extreme cruelty occurred in the United States.[175]

If USCIS approves the self-petition and a visa is available, the self-petitioner may apply for an immigrant visa to enter the United States as an LPR.[176]

I. Derivative Beneficiaries

Self-petitioning spouses and children may include their child(ren) as derivative beneficiaries on the self-petition.[177] Self-petitioning parents, however, are not eligible to confer derivative benefits to their family members. If self-petitioning parents include a derivative on their self-petition, the self-petition will not be denied. Any listed derivatives, however, are not eligible to derive status and do not receive any benefit under the approved self-petition.

Derivative children must be unmarried and less than 21 years old at the time of filing and otherwise qualify as the self-petitioner's child under immigration law.[178] The statutory definition of "child" includes certain children born in or out of wedlock and certain legitimated children, adopted children, and stepchildren.[179]

Self-petitioners may add an eligible child, including a child born after the self-petition was approved, when the self-petitioner applies for an immigrant visa outside the United States or adjustment of status in the United States.[180] A new petition is not required.

Self-petitioners should submit evidence that the derivative beneficiary is under 21 years old and unmarried at the time of filing as well as evidence of the relationship between the self-petitioner and

the child.[181] Derivative beneficiaries are granted the same immigrant classification and priority date as the self-petitioner.[182]

If a child turns 21 years old and is unable to benefit from the Child Status Protection Act (CSPA), as long as the self-petition was filed before the child turned 21 years old, the child is automatically considered a principal self-petitioner if the child turns 21 years old before adjusting status.[183] In such a case, the child receives the priority date of the parent's self-petition.[184] Derivatives do not need to file a separate self-petition; they are placed in the preference category appropriate to their situation.[185]

Footnotes

[^ 1] See Title IV of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. 103-322 (PDF), 108 Stat. 1796, 1902 (September 13, 1994). See Title V of the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386 (PDF), 114 Stat. 1464, 1518 (October 28, 2000). See Title VIII of the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. 109-162 (PDF), 119 Stat. 2960, 3053 (January 5, 2006). See Section 6 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 Technical Amendments, Pub. L. 109-271 (PDF), 120 Stat. 750, 762 (August 12, 2006). See Title VIII of the Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 (PDF), 127 Stat. 54, 110 (March 7, 2013).

[^ 2] See INA 101(a)(51). Although INA 101(a)(51) includes several benefits under the term "VAWA self-petitioner," this part focuses on self-petitions filed under INA 204(a).

[^ 3] See INA 101(a)(51). Although INA 101(a)(51) includes several benefits under the term "VAWA self-petitioner," this part focuses on self-petitions filed under INA 204(a).

[^ 4] See INA 204(a) and INA 245(a). See 8 CFR 204.2(c)(1)(i) and 8 CFR 204.2(e)(1)(i).

[^ 5] See INA 204(a). See 8 CFR 204.1(a)(3), 8 CFR 204.2(c)(1), and 8 CFR 204.2(e)(1). Although 8 CFR 204.2(c)(1) and 8 CFR 204.2(e)(1) require self-petitioners to demonstrate extreme hardship to themselves or their children if deported; that they reside in the United States at the time of filing; and that their shared residence with the abuser takes place in the United States, the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386 (PDF), 114 Stat. 1464 (October 28, 2000) removed these as eligibility requirements and supersedes this part of the regulation.

[^ 6] See INA 201(b)(2)(A)(i) and INA 203(a)(2)(A).

[^ 7] See INA 204(a)(1). See 8 CFR 204.2(c)(1) and 8 CFR 204.2(e)(1).

[^ 8] For more information on evidentiary requirements, see Chapter 5, Adjudication, Section B, Review of Evidence, Subsection 2, Any Credible Evidence Provision [3 USCIS-PM D.5(B)(2)].

[^ 9] See INA 204(a)(1)(J). See 8 CFR 204.2(c)(2)(i) and 8 CFR 204.2(e)(2)(i).

[^ 10] See 8 CFR 103.2(b)(8)(iii).

[^ 11] This means that if an alien seeking a benefit has not shown eligibility, the officer should deny the application. The government is not called upon to make any showing of ineligibility until the alien has first shown that he or she is eligible. See *Matter of Brantigan* (PDF), 11 I&N Dec. 493 (BIA 1966). In *Matter of Cheung* (PDF), 12 I&N Dec. 715 (BIA 1968), the Board specified that the burden remains with the petitioner in revocation proceedings to establish that the beneficiary qualifies for the benefit sought under the immigration laws, a principle which was reaffirmed in *Matter of Estime* (PDF), 19 I&N Dec. 450 (BIA 1987) and *Matter of Ho* (PDF), 19 I&N Dec. 582 (BIA 1988).

[^ 12] See *Matter of Chawathe* (PDF), 25 I&N Dec. 369, 376 (AAO 2010).

[^ 13] See 8 CFR 103.2(b)(1).

[^ 14] See 8 CFR 103.2(a)(7)(iv).

[^ 15] A self-petitioner may withdraw an earlier filed petition at any time until a decision is issued by USCIS or, in the case of an approved petition, until the person is admitted or granted adjustment or change of status, based on the petition. See 8 CFR 103.2(a)(7).

[^ 16] See INA 204(a)(1). See 8 CFR 204.2(c)(2)(ii) and 8 CFR 204.2(e)(2)(ii).

[^ 17] Self-petitioning spouses may also include certain intended spouses and former spouses. For more information, see Subsection 2, Self-Petitioning Spouse [3 USCIS-PM D.2(B)(2)]; Chapter 3, Effect of Certain Life Events, Section A, Divorce Prior to Filing the Self-Petition, Subsection 1, Self-Petitioning Spouse’s Divorce [3 USCIS-PM D.3(A)(1)]; and Chapter 3, Effect of Certain Life Events, Section D, Death of the U.S. Citizen, Lawful Permanent Resident, or Self-Petitioner [3 USCIS-PM D.3(D)].

[^ 18] See INA 204(a). See 8 CFR 204.2(c)(1)(i)-(iii) and 8 CFR 204.2(e)(1)(i)-(iii).

[^ 19] See 8 CFR 204.2(c)(2)(ii) and 8 CFR 204.2(e)(2)(ii).

[^ 20] See INA 204(a)(1). See 8 CFR 103.2(b)(1). There are certain exceptions, however, where self-petitioners may preserve their eligibility in cases where abusers have lost or renounced their

U.S. citizenship or LPR status for a reason that was related to an incident of abuse. See INA 204(a)(1)(A)(iii)(II)(aa)(CC)(bbb), INA 204(a)(1)(A)(iv), INA 204(a)(1)(A)(vii), INA 204(a)(1)(B)(ii)(II)(aa)(CC)(aaa) and INA 204(a)(1)(B)(iii). For more information, see Chapter 3, Effect of Certain Life Events, Section E, Loss or Renunciation of U.S. Citizenship or Loss of Lawful Permanent Resident Status [3 USCIS-PM D.3(E)]. Changes to the abuser's U.S. citizenship or LPR status after the self-petitioner files the self-petition do not adversely impact approving a pending self-petition or the validity of an approved self-petition. See INA 204(a)(1)(A)(vi) and INA 204(a)(1)(B)(v).

[^ 21] See *Matter of L-L-P-* (PDF), 28 I&N Dec. 241 (BIA 2021).

[^ 22] See 8 CFR 204.1(g)(1).

[^ 23] See 8 CFR 204.1(g)(1). Note that self-petitioners may submit any credible evidence relevant to the abuser’s U.S. citizenship or LPR status.

[^ 24] See 8 CFR 103.2(b)(17)(ii) and 8 CFR 204.1(g)(3).

[^ 25] See 8 CFR 103.2(b)(17)(ii) and 8 CFR 204.1(g)(3).

[^ 26] See 8 CFR 204.1(g). Note that self-petitioners may submit any credible evidence relevant to the abuser’s U.S. citizenship or LPR status.

[^ 27] See INA 204(a)(1)(A)(iii)(II)(aa) and INA 204(a)(1)(B)(ii)(II)(aa). See 8 CFR 204.2(c)(1)(i)-(iii).

[^ 28] See INA 204(a)(1). See 8 CFR 204.2(c)(2)(ii) (“A self-petition filed by a spouse must be accompanied by evidence of citizenship of the United States citizen or proof of the immigration status of the lawful permanent resident abuser.”).

[^ 29] See INA 204(a)(1)(A)(vii)(I).

[^ 30] While regulations generally provide for automatic revocation of the approval of a visa petition upon the petitioner’s death, 8 CFR 205.1(a)(3)(i)(C)(2) provides discretion for humanitarian reasons to reinstate approval of the visa petition. See the Family Sponsor Immigration Act of 2002, Pub. L. 107-150 (PDF) (March 13, 2022), as it amended Section 213A(f)(5) of the INA.

[^ 31] In certain circumstances self-petitioning spouses may continue to be eligible for VAWA benefits if the marriage was terminated due to divorce or death prior to filing the self-petition. See INA 204(a)(1)(A)(iii)(II)(aa)(CC). For more information, see Chapter 3, Effect of Certain Life Events, Section A, Divorce Prior to Filing the Self-Petition [3 USCIS-PM D.3(A)] and Section D, Death of the U.S. Citizen, Lawful Permanent Resident, or Self-Petitioner [3 USCIS-PM D.3(D)]. Although 8 CFR 204.2(c)(1)(i)(A) requires that the self-petitioner demonstrate an existing marriage

to the abuser at the time of filing, the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), Pub. L. 106-386 (PDF), 114 Stat. 1464 (October 28, 2000) amended this requirement to allow abused spouses to remain eligible for VAWA benefits if the marriage was terminated due to divorce or death in certain circumstances. VTVPA supersedes this part of the regulation.

[^ 32] See INA 204(a)(1)(A)(vi) and INA 204(a)(1)(B)(v).

[^ 33] See *Matter of Lovo-Lara*, 23 I&N Dec. 746 (BIA 2005) and *Matter of Da Silva*, 15 I&N Dec. 778 (BIA 1976). To determine the validity of a marriage, USCIS considers the same evidence submitted for a spousal-based Petition for Alien Relative (Form I-130). For more information on Form I-130 and what constitutes a legally valid marriage, see Volume 6, Immigrants, Part B, Family-Based Immigrants [6 USCIS-PM B].

[^ 34] See *Matter of H--* (PDF), 9 I&N Dec. 640 (BIA 1962). A polygamous marriage, even if valid where contracted, is not recognized for immigration purposes.

[^ 35] See 8 CFR 204.2(c)(2)(ii).

[^ 36] For immigration purposes, where a state has given recognition of a common law marriage, USCIS recognizes the marriage as lawful. See *U.S. v. Gomez-Orozco*, 28 F.Supp.2d 1092 (7th Cir. 1999).

[^ 37] See 8 CFR 204.2(c)(2)(ii).

[^ 38] See 8 CFR 204.2(c)(2)(ii). For more information, see italicized subheading, "Intended Spouse."

[^ 39] See INA 204(a)(1)(A)(iii)(II)(aa)(BB) and INA 204(a)(1)(B)(ii)(II)(aa)(BB).

[^ 40] See *U.S. v. Gomez-Orozco*, 28 F. Supp.2d 1092 (7th Cir. 1999).

[^ 41] For more information on marriages terminated outside the United States, see Volume 6, Immigrants, Part B, Family-Based Immigrants [6 USCIS-PM B].

[^ 42] See INA 204(a)(1)(A)(iii)(II)(aa)(BB) and INA 204(a)(1)(B)(ii)(II)(aa)(BB).

[^ 43] See INA 204(a)(1)(A)(iii)(II)(aa)(BB) and INA 204(a)(1)(B)(ii)(II)(aa)(BB).

[^ 44] See INA 204(a)(iii)(I)(bb), INA 204(a)(1)(B)(ii)(I)(bb), and INA 101(b)(1).

[^ 45] See 8 CFR 204.2(c)(2)(ii).

[^ 46] See INA 204(a)(1)(A)(iv), INA 204(a)(1)(B)(iii), and INA 101(b)(1). See 8 CFR 204.2(e)(1)(ii).

[^ 47] See INA 101(b)(1). See 8 CFR 204.2(e)(1)(ii).

[^ 48] See INA 204(a)(1)(D)(i), INA 204(a)(1)(D)(v), INA 201(f), and INA 203(h). For more information, see Chapter 3, Effect of Certain Life Events, Section G, Child Turning 21 Years Old [3 USCIS-PM D.3(G)].

[^ 49] See 8 CFR 204.2(e)(1)(ii). For more information, see Chapter 3, Effect of Certain Life Events, Section B, Self-Petitioner's Marriage or Remarriage [3 USCIS-PM D.3(B)].

[^ 50] See INA 101(b)(1). See 8 CFR 204.2(e)(1)(ii).

[^ 51] For more information, see Volume 6, Immigrants, Part B, Family-Based Immigrants, Chapter 7, Children, Sons, and Daughters [6 USCIS-PM B.7] and Volume 12, Citizenship and Naturalization, Part H, Children of U.S. Citizens, Chapter 3, U.S. Citizens at Birth (INA 301 and 309), Section B, Child Born in Wedlock [12 USCIS-PM H.3(B)].

[^ 52] See 8 CFR 204.2(e)(2)(ii)(A).

[^ 53] See Volume 5, Adoptions, Part D, Child Eligibility Determinations (Hague), Chapter 8, Documentation and Evidence [5 USCIS-PM D.8] for more information on delayed birth certificates. Further, the BIA states that they "have been reluctant to accord delayed birth certificates the same weight [BIA] would give birth certificates issued at the time of birth." and the BIA "reasoned that birth certificates with delayed registration dates are less reliable because 'the opportunity for fraud is much greater with a delayed birth certificate.'". However, the BIA has "noted the difficulty in balancing situations in which a delayed birth certificate may be the only type of birth certificate available" and that "to penalize these persons because they were not born in hospitals or other facilities where births are registered would be unjust [and] to balance the competing concerns of fraud and fairness, [the BIA] has held that a delayed birth certificate is not generally conclusive evidence and must instead "be evaluated in light of the other evidence of record and the circumstances of the case." See *Matter of Rehman*, 27 I&N Dec. 124 (BIA 2017), *Matter of Bueno* (PDF), 21 I&N Dec. 1029, 1033 (BIA 1997), and *Matter of Serna* (PDF), 16 I&N Dec. 643, 644–45 (BIA 1978).

[^ 54] See 8 CFR 204.2(d)(2)(i).

[^ 55] See INA 101(b)(1)(A), INA 101(b)(1)(C), and INA 101(b)(1)(D). See 8 CFR 204.2(e)(2)(ii)(B)-(D).

[^ 56] See 8 CFR 204.2(e)(2)(ii)(B).

[^ 57] See INA 101(b)(1)(C). See 8 CFR 204.2(e)(2)(ii)(C).

[^ 58] See INA 101(b)(1)(C). See 8 CFR 204.2(d)(2)(ii).

[^ 59] See INA 101(b)(1)(C). See 8 CFR 204.2(d)(2)(ii). For more information on legitimation, see Volume 6, Immigrants, Part B, Family-Based Immigrants [6 USCIS-PM B].

[^ 60] See INA 101(b)(1)(C).

[^ 61] See 8 CFR 204.2(d)(2)(iii).

[^ 62] See 8 CFR 204.2(d)(2)(iii).

[^ 63] The determination of what evidence is credible and the weight given is within the sole discretion of USCIS. Officers may consider factors including, but not limited to, whether the evidence is signed, notarized, or corroborated by a neutral third-party.

[^ 64] See INA 204(a)(1)(J). See 8 CFR 204.2(d)(2), 8 CFR 204.2(e)(2)(ii), and 8 CFR 204.2(e)(2)(i). For more information on the consideration of evidence, see Chapter 5, Adjudication, Section B, Review of Evidence [3 USCIS-PM D.5(B)].

[^ 65] See INA 101(b)(1)(B).

[^ 66] See *Arguijo v. USCIS*, 991 F.3d 736 (7th Cir. 2021), holding that divorce does not terminate a stepchild relationship for the purposes of eligibility for a VAWA self-petition. For more information, see Chapter 3, Effect of Certain Life Events, Section A, Divorce Prior to Filing the Self-Petition, Subsection 2, Termination of a Step-Relationship Due to Divorce or Death [3 USCIS-PM D.3(A)(2)].

[^ 67] See *Matter of Pagnerre* (PDF), 13 I&N Dec. 688 (BIA 1971).

[^ 68] See 8 CFR 204.2(e)(2)(ii)(E).

[^ 69] See INA 204(a)(1). For more information, see Section B, Qualifying Relationship, Subsection 2, Self-Petitioning Spouse [3 USCIS-PM D.2(B)(2)].

[^ 70] See INA 101(b)(1)(E).

[^ 71] See INA 101(b)(1)(E)(i).

[^ 72] See INA 101(b)(1)(E)(i), INA 204(a)(1)(A)(iv), and INA 204(a)(1)(B)(iii). There are three different ways for a child to immigrate to the United States based on adoption. See INA 101(b)(1)(E), INA 101(b)(1)(F), and INA 101(b)(1)(G). See 8 CFR 204.2(d)(2)(vii) and 8 CFR 204.301-204.314. The requirements to self-petition as an abused adopted child apply to the family-based process under INA 101(b)(1)(E), INA 204(a)(1)(A)(iv), and INA 204(a)(1)(B)(iii). See Volume 5,

Adoptions, Part A, Adoptions Overview, Chapter 4, Adoption Definition and Order Validity [5 USCIS-PM A.4].

[^ 73] See INA 101(b)(1)(E)(i) and INA 101(b)(1)(F). See Volume 5, Adoptions, Part E, Family-Based Adoption Petitions [5 USCIS-PM E].

[^ 74] See INA 101(b)(1)(E)(ii) See Volume 5, Adoptions, Part E, Family-Based Adoption Petitions [5 USCIS-PM E].

[^ 75] See 8 CFR 204.2(e)(2)(ii)(F).

[^ 76] See INA 204(a)(1)(A)(vii). See INA 101(b)(2). USCIS considers the same evidence submitted to establish eligibility for an abused spouse or child under 8 CFR 204.2(c)(2) and 8 CFR 204.2(e)(2) as for an abused parent.

[^ 77] See INA 101(b)(1).

[^ 78] See *Matter of Hassan* (PDF), 16 I&N Dec. 16 (BIA 1976).

[^ 79] See INA 101(b)(1) and INA 101(b)(2). A child is defined as “an unmarried person under 21 years of age” in INA 101(b)(1). INA 101(b)(1)(B) and INA 101(b)(1)(E), INA 101(b)(1)(F), and INA 101(b)(1)(G) further define a child to include a stepchild and an adopted child, respectively. Similarly, “parent,” “father,” and “mother” are defined in INA 101(b)(2) to include stepparents and certain adoptive parents. An abused parent, stepparent, or adoptive parent of a U.S. citizen is therefore eligible to apply for VAWA relief under INA 204(a)(1)(A)(vii) provided that the self-petitioner is a “parent” as defined in INA 101(b)(2) and has or had a qualifying relationship to the U.S. citizen son or daughter. USCIS considers the same evidence submitted for a Petition for Alien Relative (Form I-130) for a child or parent as for a self-petitioning parent to establish a qualifying relationship to a U.S. citizen son or daughter. For more information on Form I-130s, see Volume 6, Immigrants, Part B, Family-Based Immigrants [6 USCIS-PM B].

[^ 80] For more information, see Volume 6, Immigrants, Part B, Family-Based Immigrants, Chapter 7, Children, Sons, and Daughters [6 USCIS-PM B.7] and Volume 12, Citizenship and Naturalization, Part H, Children of U.S. Citizens, Chapter 3, U.S. Citizens at Birth (INA 301 and 309), Section B, Child Born in Wedlock [12 USCIS-PM H.3(B)].

[^ 81] For more information, see Volume 6, Immigrants, Part B, Family-Based Immigrants, Chapter 7, Children, Sons, and Daughters [6 USCIS-PM B.7] and Volume 12, Citizenship and Naturalization, Part H, Children of U.S. Citizens, Chapter 3, U.S. Citizens at Birth (INA 301 and 309), Section B, Child Born in Wedlock [12 USCIS-PM H.3(B)].

[^ 82] See 8 CFR 204.2(e)(2)(ii)(A) and 8 CFR 204.2(f)(2). USCIS considers the same evidence submitted to demonstrate a parent-child relationship as described in 8 CFR 204.2(e) and 8 CFR 204.2(f)(2) as for a parental relationship for parents filing a self-petition under INA 204(a)(1)(A)(vii). Note that officers should always consider any credible evidence submitted by the self-petitioner in accordance with INA 204(a)(1)(J).

[^ 83] See 8 CFR 204.2(f)(2)(i).

[^ 84] See INA 101(b)(1)(A), INA 101(b)(1)(C), INA 101(b)(1)(D), and INA 101(b)(2). See 8 CFR 204.2(e)(2)(ii) and 8 CFR 204.2(f)(2).

[^ 85] See 8 CFR 204.2(e)(2)(ii)(B).

[^ 86] See INA 101(b)(1)(C). See 8 CFR 204.2(e)(2)(ii)(C).

[^ 87] See INA 101(b)(1)(C). See 8 CFR 204.2(f)(2)(ii).

[^ 88] See INA 101(b)(1)(C). See 8 CFR 204.2(f)(2)(ii). For more information on legitimation, see Volume 6, Immigrants, Part B, Family-Based Immigrants [6 USCIS-PM B].

[^ 89] See 8 CFR 204.2(f)(2)(iii).

[^ 90] See 8 CFR 204.2(f)(2)(iii).

[^ 91] See 8 CFR 204.2(f)(2)(iii).

[^ 92] The determination of what evidence is credible and the weight given is within the sole discretion of USCIS. Officers may consider factors including, but not limited to, whether the evidence is signed, notarized, or corroborated by a neutral third-party.

[^ 93] See INA 204(a)(1)(J). See 8 CFR 204.2(e)(2)(ii), 8 CFR 204.2(f)(2), and 8 CFR 204.2(e)(2)(i). For more information on the consideration of evidence, see Chapter 5, Adjudication, Section B, Review of Evidence [3 USCIS-PM D.5(B)].

[^ 94] See INA 101(b)(1)(B).

[^ 95] See *Arguijo v. USCIS*, 991 F.3d 736 (7th Cir. 2021), holding that divorce does not terminate a stepchild relationship for the purposes of eligibility for a VAWA self-petition. For more information, see Chapter 3, Effect of Certain Life Events, Section A, Divorce Prior to Filing the Self-Petition, Subsection 2, Termination of a Step-Relationship Due to Divorce or Death [3 USCIS-PM D.3(A)(2)].

[^ 96] See *Matter of Pagnerre* (PDF), 13 I&N Dec. 688 (BIA 1971). This case involves whether a

stepdaughter qualifies as a family-based preference category relative of a U.S. citizen under INA 203(a)(3) when the marriage that created the step relationship terminated due to the death of the beneficiary's biological parent. The court found that there was a continuing step relationship in fact between the petitioner and beneficiary after the death of the beneficiary's father and approved the petition for preference classification. For more information, see Chapter 3, Effect of Certain life Events, Section A, Divorce Prior to Filing the Self-Petition, Subsection 2, Termination of a Step-Relationship Due to Divorce or Death [3 USCIS-PM D.3(A)(2)].

[^ 97] See 8 CFR 204.2(e)(2)(ii)(E).

[^ 98] To meet the definition of a parent under INA 101(b)(2), the parent's child must meet one of the definitions of child under INA 101(b)(1). There are three different ways to meet the definition of child based on adoption. See INA 101(b)(1)(E). See INA 101(b)(1)(F). See INA 101(b)(1)(G). See INA 204(a)(1)(A)(vii). See Volume 5, Adoptions, Part A, Adoption Overview [5 USCIS-PM A].

[^ 99] See Volume 5, Adoptions, Part A, Adoptions Overview, Chapter 4, Adoption Definition and Order Validity [5 USCIS-PM A.4].

[^ 100] See INA 101(b)(1)(E), INA 101(b)(1)(F) and INA 101(b)(1)(G).

[^ 101] See INA 101(b)(1)(E)(i). In certain circumstances the adoption may take place prior to the child attaining 18 years old if a sibling exception applies. See Volume 5, Adoptions, Part E, Family-Based Adoption Petitions [5 USCIS-PM E].

[^ 102] See INA 101(b)(1)(E).

[^ 103] See INA 101(b)(1)(E). See 8 CFR 204.2(f)(2)(iv). See Volume 5, Adoptions, Part A, Overview, Chapter 4, Adoption Definition and Order Validity [5 USCIS-PM A.4]. USCIS considers the same evidence submitted to demonstrate a parent-child relationship under 8 CFR 204.2(f)(2) as for a parent filing a self-petition.

[^ 104] To establish an adoptive relationship if the child was adopted through the orphan process under INA 101(b)(1)(F), see Volume 5, Part C, Child Eligibility Determinations (Orphan) [5 USCIS-PM C]. To establish an adoptive relationship if the child was adopted through the Hague process under INA 101(b)(1)(G), see Volume 5, Part D, Child Eligibility Determinations (Hague) [5 USCIS-PM D].

[^ 105] See INA 204(a)(1)(A)(iii)(I) and INA 204(a)(1)(B)(ii)(I). See 8 CFR 204.2(c)(1)(i)(H) and 8 CFR 204.2(c)(1)(ix).

[^ 106] See 8 CFR 204.2(c)(1)(ix).

[^ 107] See 61 FR 13061, 13068 (PDF) (Mar. 26, 1996). See *Bark v. INS*, 511 F.2d 1200 (9th Cir. 1975). The court stated that evidence of separation, standing alone, cannot support a finding that a marriage was not bona fide when it was entered. The duration of a separation is relevant to, but not dispositive of, an intent to enter a marriage.

[^ 108] The determination of what evidence is credible and the weight given is within the sole discretion of USCIS. Officers may consider factors including, but not limited to, whether the evidence is signed, notarized, or corroborated by a neutral third-party.

[^ 109] See INA 204(a)(1)(A)(iii)(II)(cc), INA 204(a)(1)(A)(iv), INA 204(a)(1)(A)(vii), INA 204(a)(1)(B)(ii)(II)(cc), INA 204(a)(1)(B)(iii), INA 201(b)(2)(A)(i), and INA 203(a)(2)(A). See 8 CFR 204.2(c)(1)(i)(B) and 8 CFR 204.2(e)(1)(i)(B).

[^ 110] See 8 CFR 204.2(c)(1)(iv) and 8 CFR 204.2(e)(1)(iv). For more information, see Chapter 3, Effect of Certain Life Events, Section C, Marriage-Related Prohibitions on Self-Petition Approval [3 USCIS-PM D.3(C)].

[^ 111] See INA 204(a)(1)(A)(iii)(I)(bb), INA 204(a)(1)(A)(iv), INA 204(a)(1)(A)(v)(I)(cc), INA 204(a)(1)(A)(vii)(V), INA 204(a)(1)(B)(ii)(I)(bb), INA 204(a)(1)(B)(iii) and INA 204(a)(1)(B)(iv)(I)(cc). See 8 CFR 204.2(c)(1)(i)(E) and 8 CFR 204.2(e)(1)(i)(E).

[^ 112] See INA 101(b)(1)(E).

[^ 113] See 61 FR 13061, 13065 (PDF) (Mar. 26, 1996).

[^ 114] See 8 CFR 204.2(e)(1)(i)(E).

[^ 115] See INA 204(a)(1)(A)(iv).

[^ 116] See 8 CFR 204.2(e)(1)(i)(E).

[^ 117] See INA 204(a)(1)(A)(iv) and INA 101(a) for definitions.

[^ 118] See 8 CFR 204.2(c)(1)(vi) and 8 CFR 204.2(e)(1)(vi).

[^ 119] See Oxford English Dictionary’s definition of “extreme.”

[^ 120] See Merriam-Webster Dictionary’s definition of “extreme.”

[^ 121] See Webster's Third New International Dictionary 546 (2002).

[^ 122] See Webster's Third New International Dictionary 546 (2002).

[^ 123] See, for example, *Perales-Cumpean v. Gonzales*, 429 F.3d 977, 982-83 (10th Cir. 2005) ("Determining whether a given course of conduct is 'extremely cruel' involves more than simply plugging facts into a formula. The agency is required to make a judgment whether the cruel conduct alleged is sufficiently extreme to implicate the purposes of the statute."); *Stepanovic v. Filip*, 554 F.3d 673, 680 (7th Cir. 2009)("[T]he IJ must determine the facts of a particular case, make a judgment call as to whether those facts constitute cruelty, and, if so, whether the cruelty rises to such a level that it can rightly be described as extreme."); and *Hernandez v. Ashcroft*, 345 F.3d 824, 840 (9th Cir. 2003)("Congress required a showing of extreme cruelty in order to ensure that section [the statute] protected against the extreme concept of domestic violence, rather than mere unkindness.").

[^ 124] See *Patel v. United States Attorney General*, 971 F.3d 1258 (11th Cir. 2020).

[^ 125] See *Perales-Cumpean v. Gonzales*, 429 F.3d 977 (10th Cir. 2005).

[^ 126] See *Rosario v. Holder*, 627 F.3d 58 (2nd Cir. 2010); *Johnson v. U.S. Att'y Gen.*, 602 F.3d 508 (3rd Cir. 2010); *Stepanovic v. Filip*, 554 F.3d 673 (7th Cir. 2009); *Wilmore v. Gonzales*, 455 F.3d 524 (5th Cir. 2006); *Perales–Cumpean v. Gonzales*, 429 F.3d 977 (10th Cir. 2005); *Hernandez v. Ashcroft*, 345 F.3d 824 (9th Cir. 2003); and *Bedoya-Melendez v. U.S. Atty. Gen.*, 680 F.3d 1321 (11th Cir. 2012).

[^ 127] See *Hernandez v. Ashcroft*, 345 F.3d 824 (9th Cir. 2003).

[^ 128] See Oxford English Dictionary 1005 (2nd ed., 1989).

[^ 129] See Merriam-Webster Dictionary's law definition of "battery."

[^ 130] Four circuit courts that have considered the eligibility requirement that an alien be "battered or subject to extreme cruelty" and held that it requires adjudicative judgment to weigh the case-specific facts and circumstances. See, for example, *Stepanovic v. Filip*, 554 F.3d 673, 680 (7th Cir. 2009) (extreme cruelty is not determined "by simply plugging facts into a formula or applying an algorithm. . . . Rather, the [adjudicator] must determine the facts of a particular case, make a judgment call as to whether those facts constitute cruelty, and, if so, whether the cruelty rises to such a level that it can rightly be described as extreme.); *Perales-Cumpean v. Gonzales*, 429 F.3d 977, 982 (10th Cir. 2005) ("Determining whether a given course of conduct is "extremely cruel" involves more than simply plugging facts into a formula."); *Rosario v. Holder,* 627 F.3d 58, 64 (2nd Cir. 2010) (determining whether a self-petitioner was battered or subjected to extreme cruelty "entails a weighing of facts and circumstances, the sort of value judgment that lies at the core of the [agency's] exercise of discretion."); *Johnson v. U.S. Att'y Gen.,* 602 F.3d 508 (3rd Cir. 2010). The Ninth Circuit reached a contrary conclusion than the other seven circuits in *Hernandez v.*

Ashcroft, holding that the phrase “battered or subjected to extreme cruelty” establishes an objective legal standard to determine if an alien is a victim of domestic violence. See *Hernandez v. Ashcroft*, 345 F.3d 824, 834 (9th Cir. 2003). As a matter of policy, USCIS follows the majority of federal circuit courts of appeal that have ruled on this issue.

[^ 131] See 8 CFR 204.2(c)(2)(iv) and 8 CFR 204.2(e)(2)(iv).

[^ 132] See 8 CFR 204.2(c)(2)(iv) and 8 CFR 204.2(e)(2)(iv).

[^ 133] See 8 CFR 204.2(c)(2)(iv) and 8 CFR 204.2(e)(2)(iv).

[^ 134] See INA 204(a)(1)(A)(iii)(II)(dd), INA 204(a)(1)(A)(iv), INA 204(a)(1)(A)(vii)(IV), INA 204(a)(1)(B)(ii)(II)(dd), and INA 204(a)(1)(B)(iii). See 8 CFR 204.2(c)(1)(i)(D) and 8 CFR 204.2(e)(1)(i)(D). As of December 22, 2025, USCIS is reverting to the pre-2022 interpretation of VAWA.

[^ 135] See INA 101(a)(33).

[^ 136] See 61 FR 13061, 13065 (PDF) (Mar. 26, 1996).

[^ 137] Although 8 CFR 204.2(c)(1)(v) states that “[a] self-petition will not be approved if the self-petitioner is not residing in the United States,” this portion of the regulation has been superseded by the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386 (PDF), 114 Stat. 1464 (October 28, 2000), which removed the requirement for the self-petitioner to reside in the United States.

[^ 138] See 8 CFR 204.2(c)(1)(v) and 8 CFR 204.2(e)(1)(v).

[^ 139] See 8 CFR 204.2(e)(1)(i)(E).

[^ 140] See INA 204(a)(1)(A)(iv).

[^ 141] For more information on filing a VAWA self-petition from outside the United States, see Section H, Self-Petitioners Filing from Outside the United States [3 USCIS-PM D.2(H)].

[^ 142] The determination of what evidence is credible and the weight given is within the sole discretion of USCIS. Officers may consider factors including, but not limited to, whether the evidence is signed, notarized, or corroborated by a neutral third-party.

[^ 143] See INA 204(a)(1)(A)(iii)(II)(bb), INA 204(a)(1)(A)(iv), INA 204(a)(1)(A)(vii)(II), INA 204(a)(1)(B)(ii)(II)(bb), and INA 204(a)(1)(B)(iii). See 8 CFR 204.2(c)(1)(i)(F) and 8 CFR 204.2(e)(1)(i)(F).

[^ 144] See 8 CFR 204.2(c)(1)(vii), 8 CFR 204.2(e)(1)(vii), and 8 CFR 316.10(a)(2).

[^ 145] See 8 CFR 204.2(e)(2)(v). Affirmative evidence of good moral character is required for all self-petitioning children age 14 or older.

[^ 146] See 61 FR 13061, 13066 (PDF) (Mar. 26, 1996).

[^ 147] See 61 FR 13061, 13066 (PDF) (Mar. 26, 1996). The regulation provides that a self-petition filed by a person of any age may be denied or revoked if the evidence establishes that the person lacks good moral character.

[^ 148] See 8 CFR 204.2(c)(1)(vii), 8 CFR 204.2(e)(1)(vii), and 8 CFR 316.10(a)(2).

[^ 149] See 61 FR 13061, 13066 (PDF) (Mar. 26, 1996).

[^ 150] See 61 FR 13061, 13066 (PDF) (Mar. 26, 1996).

[^ 151] See 8 CFR 204.2(c)(1)(vii) and 8 CFR 204.2(e)(1)(vii).

[^ 152] See 8 CFR 103.2(b)(9).

[^ 153] See 8 CFR 204.2(c)(1)(vii) and 8 CFR 204.2(e)(1)(vii). The self-petitioner may appeal the decision to revoke the approval within 15 days after service of notice of the revocation. See 8 CFR 205.2(d). For more information, see Chapter 6, Post-Adjudicative Matters, Section A, Revocations [3 USCIS-PM D.6(A)].

[^ 154] See *Matter of Ho* (PDF), 19 I&N Dec. 582. (BIA 1988) (“Doubt cast on any aspect of the petitioner's proof may lead to a re-evaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition.”).

[^ 155] See INA 101(f)(8)-(9).

[^ 156] See INA 101(f)(8)-(9).

[^ 157] See INA 101(f)(1)-(7). See 61 FR 13061, 13066 (PDF) (Mar. 26, 1996).

[^ 158] See INA 204(a)(1)(C). Note that USCIS applies INA 204(a)(1)(C) to all self-petitioners, including those filing under INA 204(a)(1)(A)(v), INA 204(a)(1)(A)(vii), and INA 204(a)(1)(B)(iv), despite the fact that these self-petitioners are not specifically referenced in INA 204(a)(1)(C).

[^ 159] See INA 101(f).

[^ 160] See 61 FR 13061, 13066 (PDF) (Mar. 26, 1996) (*citing to Pablo v. INS*, 72 F.3d 110, 113 (9th Cir. 1995) and *Gouveia v. INS*, 980 F.2d 814, 817 (1st Cir. 1992)).

[^ 161] See 8 CFR 204.2(c)(1)(vii) and 8 CFR 204.2(e)(1)(vii).

[^ 162] For example, persons who admitted to having engaged in prostitution under duress but had no prostitution convictions were not excludable as prostitutes under INA 212(a)(2)(D), because they were involuntarily reduced to such a state of mind that they were actually prevented from exercising free will through the use of wrongful, oppressive threats or unlawful means. See *Matter of M-*, 7 I&N Dec. 251 (BIA 1956). See 61 FR 13061, 13066 (PDF) (Mar. 26, 1996).

[^ 163] USCIS officers adhere to current agency guidance and procedures regarding the identification of public safety or national security cases. USCIS refers any such cases to U.S. Immigration and Customs Enforcement (ICE) according to the existing USCIS-ICE Memorandum of Agreement.

[^ 164] See INA 101(f). “The fact that any person is not within the foregoing classes shall not preclude a finding that for other reasons such person is or was not of good moral character.” See 8 CFR 204.2(c)(1)(vii). See 8 CFR 204.2(e)(1)(vii).

[^ 165] See INA 101(f). “The fact that any person is not within the foregoing classes shall not preclude a finding that for other reasons such person is or was not of good moral character.” See 8 CFR 204.2(c)(1)(vii) and 8 CFR 204.2(e)(1)(vii).

[^ 166] See 8 CFR 204.2(c)(2)(v) and 8 CFR 204.2(e)(2)(v).

[^ 167] See 8 CFR 204.2(c)(2)(v) and 8 CFR 204.2(e)(2)(v).

[^ 168] See 8 CFR 204.2(c)(2)(v) and 8 CFR 204.2(e)(2)(v). For more information, see the U.S. Department of State’s Foreign Affairs Manual for information on the availability of foreign clearances by country.

[^ 169] See 8 CFR 204.2(c)(2)(v) and 8 CFR 204.2(e)(2)(v).

[^ 170] See 8 CFR 103.2(b)(2)(iii).

[^ 171] See INA 204(a)(1)(C).

[^ 172] Relevant waivers include those under INA 212(h)(1), INA 212(i)(1), INA 237(a)(7), and INA 237(a)(1)(H)(ii).

[^ 173] See Appendix: Statutory Bars to Establishing Good Moral Character – Waivable Conduct [3 USCIS-PM D.2, Appendices Tab], which includes a quick-reference chart indicating which disqualifying acts and convictions under INA 101(f) have a waiver available.

[^ 174] See *Da Silva v. Attorney General* (PDF), 948 F.3d 629 (3rd Cir. 2020). The court held that "connected to" as it is used in INA 204(a)(1)(C) means "having a causal or logical relationship."

[^ 175] See INA 204(a)(1)(A)(v) and INA 204(a)(1)(B)(iv). There is no statutory requirement that a self-petitioning parent be living in the United States at the time the self-petition is filed. The filing requirements at INA 204(a)(1)(A)(v) relating to a self-petitioning spouse, intended spouse, or child living abroad of a U.S. citizen are applicable to self-petitions filed by an abused parent of a U.S. citizen son or daughter.

[^ 176] See 8 CFR 204.2(c)(3)(i) and 8 CFR 204.2(e)(3)(i).

[^ 177] See INA 204(a)(1)(A)(iii)(I), INA 204(a)(1)(A)(iv), INA 204(a)(1)(B)(ii)(I), and INA 204(a)(1)(B)(iii). See 8 CFR 204.2(c)(4). 8 CFR 204.2(e)(4) has been superseded by the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386 (PDF), 114 Stat. 1464 (October 28, 2000), which amended the INA to allow children of child self-petitioners to be classified as derivative beneficiaries under INA 204(a)(1)(A)(iv) and INA 204(a)(1)(B)(iii).

[^ 178] See INA 204(a)(1)(A)(iii)(I), INA 204(a)(1)(A)(iv), INA 204(a)(1)(B)(ii)(I), and INA 204(a)(1)(B)(iii). See 8 CFR 204.2(c)(4).

[^ 179] See INA 101(b)(1).

[^ 180] See 61 FR 13061, 13068 (PDF) (Mar. 26, 1996).

[^ 181] See 8 CFR 204.2(c)(4).

[^ 182] See INA 203(d). See 8 CFR 204.2(c)(4).

[^ 183] See INA 204(a)(1)(D)(i)(III). For more information, see Chapter 3, Effect of Certain life Events, Section G, Child Turning 21 Years Old, Subsection 2, Self-Petitioning Child or Derivative Turns 21 Years Old After the Self-Petition is Filed [3 USCIS-PM D.3(G)(2)].

[^ 184] See INA 204(a)(1)(D)(i)(III).

[^ 185] See INA 204(a)(1)(D)(i)(III).

Chapter 3 - Effect of Certain Life Events

A. Divorce Prior to Filing the Self-Petition

1. Self-Petitioning Spouse's Divorce

Self-petitioning spouses must have a legally valid marriage to their abusive U.S. citizen or lawful permanent resident (LPR) spouse at the time the self-petition is filed.[1] In certain circumstances, however, self-petitioning spouses may continue to be eligible for Violence Against Women Act (VAWA) benefits if the marriage was terminated due to divorce or death prior to filing the self-petition.[2] If the qualifying marriage was legally terminated[3] prior to filing the self-petition, however, self-petitioning spouses may continue to be eligible if they are otherwise eligible for a self-petition and:

- File a Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360) within the 2-year period immediately following the termination of the marriage; and
- Can sufficiently demonstrate that the legal termination of the marriage was connected to the battery or extreme cruelty perpetrated by the U.S. citizen or LPR spouse.[4]

The requirement that a self-petitioner file within 2 years following the termination of the marriage is a condition of eligibility for which there is no waiver or equitable tolling available. The 2-year period cannot be equitably tolled because the statute allows for self-petitioning during the marriage and creates a cut-off date for filing when the marriage has terminated.

Evidence

Self-petitions filed within 2 years of the legal termination of the marriage must include evidence that the marriage was legally terminated, such as a final divorce decree or annulment, and that the termination was connected to the battery or extreme cruelty.[5] The specific legal ground for a divorce or annulment does not need to be abuse.

Examples of evidence demonstrating the connection between the legal termination of the marriage and the battery or extreme cruelty may include, but are not limited to, the following:

- A detailed, specific, and reliable affidavit from the self-petitioner;
- Detailed, specific, and reliable affidavits from third parties with direct knowledge of the events sworn to; or
- Final divorce decrees or annulments.

2. Termination of a Step-Relationship Due to Divorce or Death

Divorce

If the marriage between a parent and a stepparent terminates due to divorce, a self-petitioning stepchild and a self-petitioning stepparent continue to be eligible for the self-petition.[6] A stepchild of an abusive U.S. citizen or LPR parent and a stepparent of an abusive U.S. citizen son or

daughter may continue to be eligible to self-petition despite the divorce provided that:

- The stepchild had not reached 18 years of age at the time the marriage creating the step relationship occurred;[7] and
- The step relationship existed, by law, at the time of the abuse.

Death

If the marriage between a parent and stepparent terminates due to the death of the biological or legal parent, a self-petitioning stepchild and a self-petitioning stepparent may continue to establish eligibility for the self-petition if they can provide evidence of an ongoing family relationship with the abusive U.S. citizen or LPR stepparent or stepchild, respectively, at the time of filing.[8]

As a matter of policy, USCIS requires evidence demonstrating that the step relationship continued after filing.[9] Additionally, the stepchild or stepparent may continue to be eligible to self-petition despite the termination of the marriage due to the death of the biological or legal parent provided that:

- The stepchild had not reached 18 years of age at the time the marriage creating the step relationship occurred;[10]
- The step relationship existed, by law, at the time of the abuse; and
- The step relationship existed as a matter of fact at the time the self-petition is filed.

Evidence of an ongoing family relationship may include financial and emotional support and any type of communication between the stepchild and stepparent, such as an email, social media post, or any other evidence of contact between them.

B. Self-Petitioner's Marriage or Remarriage

1. Self-Petitioning Child's Marriage

Self-petitioning children must be unmarried when the self-petition is filed and when the self-petition is approved.[11] A self-petitioning child who marries after filing the self-petition and remains married while the self-petition is pending is no longer eligible for immigrant classification as a child, as there are no VAWA provisions for married sons and daughters.[12] However, a self-petitioning child who marries after filing the self-petition but whose marriage terminates prior to a final decision on the self-petition may remain eligible under VAWA.[13] USCIS notes that due to processing times and backlogs, a self-petitioner does not know when a Form I-360 will be adjudicated, as such, a self-petitioning child who is married after filing a self-petition may be denied for lack of eligibility prior to

obtaining a divorce or providing evidence of the divorce to USCIS.[14]

2. Self-Petitioning Spouse's Remarriage

The officer must deny the self-petition when a self-petitioner remarries before issuance of a final agency decision.[15] Self-petitioning spouses may remarry after the self-petition is approved without impacting the approved self-petition or their eligibility for an immigrant visa or adjustment of status.

Remarriage of Self-Petitioning Spouse

When the Remarriage Occurs	Impact on Self-Petition
Before issuance of a final decision	USCIS denies the pending self-petition because of the remarriage.[16] If the remarriage is not discovered until after USCIS approves the self-petition, USCIS revokes the approval.[17]
After approval of the self-petition	Remarriage does not affect eligibility.[18]

C. Marriage-Related Prohibitions on Self-Petition Approval

1. Self-Petitioning Spouses: Marriage While in Removal Proceedings

When USCIS adjudicates a spousal self-petition, certain statutory bars may apply. There is, for example, a prohibition on approving a self-petition if the marriage creating the qualifying relationship occurred while the self-petitioner was in removal proceedings.[19]

The self-petitioner may overcome the general prohibition by requesting an exemption in writing with Form I-360 and submitting evidence demonstrating the following:[20]

- The self-petitioner has resided outside the United States for a 2-year period beginning after the date of the marriage;[21] or
- The self-petitioner provides clear and convincing evidence that the marriage was entered into in good faith and in accordance with the laws of the place where the marriage took place, the marriage was not entered into to circumvent immigration laws, and no fee or other consideration was given for the filing of the self-petition.[22]

If USCIS denied a prior filing because the marriage took place during removal proceedings, and the

self-petitioner then resided outside the United States for a period of 2 years following the marriage, the self-petitioner may file a new petition after the 2-year period. In addition, a denial does not prevent USCIS from considering a new petition or a motion to reopen if removal proceedings are terminated after the denial for any reason except the self-petitioner's departure from the United States.[23]

Although self-petitioners may submit similar evidence to establish a good faith marriage or to qualify for the good faith marriage exemption while in removal proceedings, they must meet a heightened standard of proof when seeking a good faith marriage exemption. Generally, self-petitioners must establish that they entered into the marriage in good faith by a preponderance of the evidence.[24] To be eligible for a good faith marriage exemption while in removal proceedings, however, a self-petitioner who married a U.S. citizen or LPR while in removal proceedings must establish good faith entry into the marriage by the more stringent clear and convincing evidence standard.[25] The heightened standard applies only to the good faith marriage exemption determination; all other eligibility requirements are reviewed under the preponderance of the evidence standard.

The requirement that no fee or other consideration was given for the filing of the petition does not refer to fees paid to attorneys, notarios, or other persons who assisted with filing the self-petition.[26] Rather, this refers to instances where a fee or other consideration was paid in connection with a fraudulent marriage. If a fee or other consideration was paid in order to enter into a fraudulent marriage or to obtain an immigration benefit through a fraudulent marriage, the self-petitioner is ineligible for the good faith marriage exemption.

If the self-petitioner seeks a good faith marriage exemption by showing that the marriage was entered into in good faith and not for the purpose of circumventing immigration laws, examples of the types of evidence the self-petitioner may submit include, but are not limited to:

- Documentation showing joint ownership of property;
- A lease showing joint tenancy of a common residence;
- Documentation showing commingling of financial resources;
- Birth certificate of any children born to the self-petitioner and abusive spouse; or
- Detailed, specific, and reliable affidavits from third parties who know about the bona fides of the marital relationship.[27]

2. Prior Marriage Fraud Bar

Self-petitioning spouses are required to demonstrate a qualifying spousal relationship and that their marriage was entered into in good faith.[28] Even if the self-petitioner meets these two eligibility

requirements, USCIS cannot approve any future petition, including the self-petitioner's Form I-360, where USCIS determines there is substantial and probative evidence that the self-petitioner previously:

- Had been granted or has sought to be accorded an immediate relative or family-based preference status as the spouse of a U.S. citizen or LPR based on a marriage that USCIS has determined the self-petitioner entered into for the purpose of evading immigration laws; or
- Attempted or conspired to enter into a marriage for the purpose of evading immigration laws. **[29]**

Where USCIS determines there is substantial and probative evidence that the self-petitioner previously engaged in marriage fraud, the burden shifts to the self-petitioner to overcome the finding.**[30]** Officers adjudicating the self-petition may not rely solely on a prior finding of marriage fraud but must review the prior finding of fraud and make a separate and independent determination that the self-petitioner previously engaged in marriage fraud.**[31]**

USCIS provides self-petitioners with an opportunity to rebut the evidence that they entered into or conspired to enter into a prior marriage for the purpose of evading immigration laws by issuing a Notice of Intent to Deny (NOID), which gives the self-petitioner sufficient notice and an opportunity to rebut the derogatory information.**[32]**

D. Death of the U.S. Citizen, Lawful Permanent Resident, or Self-Petitioner

Self-petitioners must demonstrate a qualifying relationship with the abusive U.S. citizen or LPR relative to be eligible for the self-petition.**[33]** Historically, if a petitioner for a family-based immigrant visa petition died while the petition was pending or after it was approved and the beneficiary had not yet become an LPR, USCIS denied the petition if it was pending or revoked the petition if it was approved.**[34]**

Over time, however, Congress recognized the inequities this created for some aliens in these situations and created provisions to allow surviving beneficiaries to continue the immigration process despite the death of certain petitioning relatives and principal beneficiaries.**[35]**

Currently, for self-petitioners and their derivatives, the impact of the U.S. citizen, LPR, or self-petitioner's death on the validity of the self-petition depends on who died, who the surviving relative is, and whether the self-petition was filed at the time of the death.

Self-petitioners and derivative beneficiaries must notify USCIS of the death of the qualifying relative or the self-petitioner and submit evidence of the death, such as a death certificate.

1. Abusive U.S. Citizen's Death

Abusive U.S. Citizen Dies Prior to the Filing of the Self-Petition

Self-petitioning spouses or parents whose abusive U.S. citizen relative died before they filed a self-petition continue to remain eligible to file a self-petition for 2 years after the death.[36] The requirement that a self-petitioner file within 2 years following the death of the U.S. citizen relative is a condition of eligibility for which there is no waiver or equitable tolling available. The 2-year period cannot be equitably tolled because the statute allows for self-petitioning while the qualifying relative is living and creates a cut-off date for filing when the relative has died.

Note that for abused parents to be eligible to self-petition, the U.S. citizen son or daughter must have been at least 21 years old when the son or daughter died. If a self-petitioning child's U.S. citizen parent dies before the child files a self-petition, however, the child is ineligible for VAWA benefits.[37]

Abusive U.S. Citizen Relative Dies While the Self-Petition is Pending or Approved

If a self-petitioning spouse, child, or parent had a pending or approved self-petition at the time of the U.S. citizen's death, the death does not impact their eligibility for the pending self-petition or require revocation of an approved self-petition.[38] The self-petitioner remains eligible to apply for an immigrant visa or adjustment of status after the self-petition is approved.[39]

The table below provides a summary of the impact that the death of the abusive U.S. citizen relative has on a self-petition based on the type of self-petition that is filed and if the self-petition was filed at the time of the U.S. citizen's death.

Impact of the U.S. Citizen Relative's Death on the Self-Petition

Self-Petitioner	Petition Not Filed	Petition Pending	Petition Approved
Spouse	Remains eligible to file self-petition up to 2 years after U.S. citizen spouse's death	Remains eligible for self-petition	Self-petition remains approved and self-petitioner remains eligible for immigrant visa or adjustment of status
Child	Not eligible for self-petition	Remains eligible for self-petition	Self-petition remains approved and self-petitioner remains eligible for immigrant visa or adjustment of status

Parent	Remains eligible to file self-petition up to 2 years following U.S. citizen son or daughter's death	Remains eligible for self-petition	Self-petition remains approved and self-petitioner remains eligible for immigrant visa or adjustment of status

2. Abusive Lawful Permanent Resident's Death

If the LPR relative dies before an abused spouse or child files a self-petition, the self-petitioning spouse or child is ineligible for VAWA benefits. If the abusive LPR relative dies while a self-petition is pending or was previously approved, USCIS may, in its discretion, approve the self-petition or continue adjudication for an adjustment of status application based on an approved self-petition in certain circumstances under INA 204(l).[40] In any such case, USCIS determines, in the unreviewable discretion of the Secretary, whether the approval would not be in the public interest.[41] In order to remain eligible for the self-petition under INA 204(l), self-petitioners must demonstrate:

- He or she resided in the United States when the LPR relative died; and
- He or she continue to reside in the United States on the date the pending self-petition or adjustment of status application is approved.[42]

After the self-petitioner establishes these two requirements, USCIS determines, in the unreviewable discretion of the Secretary, whether the approval would not be in the public interest.[43] When there are derivative children beneficiaries, if the self-petitioner or any one derivative beneficiary meets the residence requirement, then, as a matter of discretion, USCIS may approve the self-petition or application for adjustment of status. The self-petitioner and all beneficiaries may be eligible to immigrate to the same extent that would have been permitted if the LPR relative had not died. It is not necessary for the self-petitioner and each derivative child to meet the residence requirements.

3. Self-Petitioner's Death

If a self-petitioning spouse or self-petitioning child dies while the self-petition is pending or after it is approved, USCIS may approve the self-petition or continue adjudication for an adjustment of status application based on an approved self-petition for any derivative children of the self-petitioner as a matter of discretion under INA 204(l). Derivative beneficiaries do not have to be included on the self-petition to be considered for relief under INA 204(l) as long as they are eligible as derivative beneficiaries.

E. Loss or Renunciation of U.S. Citizenship or Loss of Lawful Permanent

Resident Status

A self-petitioner must demonstrate a qualifying relationship to a U.S. citizen or LPR at the time of filing to be eligible for a self-petition.[44] Therefore, historically, if abusive U.S. citizen or LPR relatives had lost or renounced their U.S. citizenship or LPR status, self-petitioners were no longer eligible for the self-petition.

Congress recognized, however, that an abuser's loss of U.S. citizenship or LPR status may have been related to an incident of domestic violence, and that the loss would impact a self-petitioner's eligibility for VAWA benefits. So when Congress passed the Battered Immigrant Women Protection Act (BIWPA) in 2000, it amended the immigration laws to preserve self-petitioning eligibility in certain cases where abusers lost their U.S. citizenship or LPR status for a reason related to an incident of domestic violence, as long as the self-petition is filed within 2 years of the loss or renunciation.[45]

BIWPA also provided that if abusive U.S. citizens or LPRs lost their status after the self-petition was filed, then self-petitioners would retain their eligibility despite the loss of status without having to show a connection between the loss of U.S. citizenship or LPR status and an incident of domestic violence.[46]

Self-petitioners must notify USCIS if their qualifying relative lost or renounced U.S. citizenship or LPR status. Officers may check USCIS electronic systems to confirm the loss or renunciation of citizenship or LPR status.

1. Loss or Renunciation of U.S. Citizenship or Loss of Lawful Permanent Resident Status Prior to Filing

If abusive U.S. citizen or LPR relatives lost or renounced their U.S. citizenship or LPR status before the self-petition was filed, the self-petitioner may remain eligible only if the loss or renunciation of status was related or due to an incident of domestic violence. The loss or renunciation must also have occurred within the 2-year period immediately preceding the filing of the self-petition.[47]

The requirement that a self-petitioner file within 2 years following the qualifying relative's loss or renunciation of U.S. citizenship or LPR status is a condition of eligibility for which there is no waiver or equitable tolling available. The 2-year period cannot be equitably tolled because the statute allows for self-petitioning while the qualifying relative maintains U.S. citizenship or LPR status and creates a cut-off date for filing when the qualifying relative has lost U.S. citizenship or LPR status.

Note that for self-petitioning parents, the abusive son or daughter must have been 21 years of age or older when the son or daughter's citizenship was lost or renounced.

USCIS considers the full history of domestic violence when determining whether the abuser's loss or renunciation of status is related to an incident of domestic violence. When considering whether the loss or renunciation of status was related to an incident of domestic violence, USCIS determines whether the evidence submitted establishes:

The circumstances surrounding the loss or renunciation of status;

- Whether the loss or renunciation of status is related to the incident of domestic violence; and
- The loss or renunciation of status occurred within the 2-year period immediately preceding the filing of the self-petition.

Examples of evidence demonstrating the above requirements may include, but are not limited to:

- A detailed, specific, and reliable statement or affidavit from the self-petitioner;
- Police, child protective services, and other related reports;
- Court records; and
- Immigration records.

2. Loss or Renunciation of U.S. Citizenship or Loss of Lawful Permanent Resident Status After Filing

The loss or renunciation of the qualifying relative's U.S. citizenship or LPR status after the self-petition is filed does not impact a self-petitioning spouse or child's eligibility or adversely affect an approved self-petition. There is no requirement to show a relation between the loss or renunciation of U.S. citizenship or LPR status and an incident of battery or extreme cruelty. The self-petitioner remains eligible for VAWA benefits.[48] In addition, loss or renunciation of the qualifying relative's U.S. citizenship or LPR status does not adversely affect an approved VAWA self-petitioner's ability to adjust status.[49]

Self-petitioning parents, however, whose U.S. citizen sons or daughters have denaturalized or lost or renounced their U.S. citizenship after the self-petition is filed are no longer eligible for the self-petition.[50] If a self-petitioning parent's self-petition was previously approved, it may be revoked in such circumstances.

F. Lawful Permanent Resident's Naturalization

If abusive LPRs naturalize after their spouse or child files a self-petition, the self-petitioning spouse or child is automatically reclassified as the spouse or child of a U.S. citizen.[51] The self-petitioner does not need to file a new self-petition; the reclassification occurs regardless of whether the self-petition remains pending or is approved at the time of the naturalization.[52] The self-petitioner is

reclassified even if the abusive spouse or parent acquires citizenship after a divorce or termination of parental rights.[53]

G. Child Turning 21 Years Old

Self-petitioning and derivative children must be under 21 years old and unmarried in order to be eligible as self-petitioners or be included as derivative beneficiaries on the self-petition at the time of filing.[54] However, if abused children turn 21 years old before they are able to file a self-petition they may continue to remain eligible to file the self-petition as a child in certain circumstances as long as they remain unmarried.[55]

1. Self-Petitioning Child Turning 21 Years Old Before Filing the Self-Petition

In the past, otherwise eligible sons and daughters of U.S. citizens and LPRs were precluded from filing a self-petition if they reached age 21 before the self-petition could be filed. The inability to file a self-petition before turning 21 years old may have been due to a number of reasons, including the nature of the abuse or the time period that the abuse took place.

The Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), however, amended the Immigration and Nationality Act (INA) by adding a new provision that permitted the late filing of a self-petition in certain circumstances to expand protections for abused children who were unable to file a self-petition before turning 21 years old.[56]

Self-petitioning children may remain eligible to file a self-petition as a child even after turning 21 years old but before turning 25 years old if they are unmarried and can demonstrate the following:

- They were eligible to file the self-petition on the day before they turned 21; and
- The abuse was one central reason for the delay in filing.[57]

Self-petitioners must have been qualified to file the self-petition on the day before they turned 21 years old. This means that they must have met all eligibility requirements on that date. For example, if the abuse took place only after they turned 21, then they were not eligible to file the self-petition on the day before they turned 21 years old. In addition to meeting all of the eligibility requirements as of the day before the self-petitioner turned 21 years old, the abuse must have been “one central reason” for the self-petitioner’s delay in filing.[58] The battery or extreme cruelty is not required to be the sole reason for the delay in filing, but the connection between the battery or extreme cruelty and the delay in filing must be central and more than tangential.

If self-petitioners are eligible to file after turning 21 years old, USCIS treats them as if the self-petition had been filed on the day before they turned 21 years old. If USCIS approves the self-

petition, however, the self-petitioner's continued eligibility and subsequent classification for visa issuance or adjustment of status is governed by the Child Status Protection Act (CSPA) or the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), whichever is appropriate.[59]

Evidence

Self-petitioners must submit evidence that they were eligible to file the self-petition before they turned 21 years old and that the abuse was one central reason for the delay. USCIS considers the totality of the circumstances in making these determinations.

Examples of evidence that may demonstrate that the self-petitioner's abuse was one central reason for the delay may include, but are not limited to:

- Reports detailing incidents of abuse that occurred prior to the self-petitioner turning 21 years old from police, judges, court officials, medical personnel, counselors, social workers or other social service agency personnel, or school officials;
- Evidence that the self-petitioner sought refuge at a shelter because of the abuse that occurred prior to the self-petitioner turning 21 years old;
- A detailed, specific, and reliable affidavit or personal statement from the self-petitioner describing the battery or extreme cruelty that occurred prior to the self-petitioner turning 21 years old; or
- An explanation for how the abuse was one central reason for the delay in filing the self-petition.

2. Self-Petitioning Child or Derivative Turns 21 Years Old After the Self-Petition is Filed

Under CSPA, if a child turns 21 years old after the self-petition is filed but before it is adjudicated, the INA includes protections for self-petitioning and derivative children to retain eligibility after turning 21 years old as long as they remain unmarried.[60] Self-petitioning and derivative children may continue to be classified as children for immigration purposes under the CSPA in certain circumstances.[61]

If children are not eligible under CSPA, they may be eligible under VTVPA, which provides that self-petitioning children who turn 21 years old after the self-petition is filed will automatically be considered self-petitioners for preference status under INA 203 as long as they remain unmarried.[62]

Derivative children who turn 21 years old after the self-petition is filed will automatically be considered a self-petitioner with the same priority date as the self-petitioner who originally filed the self-petition, as long as the child remains unmarried.[63]

No new petition is required for either a self-petitioning or derivative child.[64] Self-petitioning or derivative children may marry after the self-petition is approved and remain eligible for an immigrant visa or adjustment of status in the appropriate preference category to their situation.[65] They do not need to file a new self-petition and will retain the priority date from the approved self-petition.

Footnotes

[^ 1] See INA 204(a)(1)(A)(iii)(II)(aa) and INA 204(a)(1)(B)(ii)(II)(aa). See 8 CFR 204.2(c)(1)(i)-(iii).

[^ 2] See INA 204(a)(1)(A)(iii)(II)(aa)(CC) and INA 204(a)(1)(B)(ii)(II)(aa)(CC). For more information on marriage termination due to death, see Section D, Death of the U.S. Citizen, Lawful Permanent Resident, or Self-Petitioner [3 USCIS-PM D.3(D)]. Although 8 CFR 204.2(c)(1)(i)(A) requires that the self-petitioner demonstrate an existing marriage to the abuser at the time of filing, the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), Pub. L. 106-386 (PDF), 114 Stat. 1464 (October 28, 2000) amended this requirement to allow abused spouses to remain eligible for VAWA benefits if the marriage was terminated due to divorce or death in certain circumstances. VTVPA supersedes this part of the regulation.

[^ 3] USCIS generally recognizes the legal termination of a marriage in cases where the termination is valid under the laws of the jurisdiction where the marriage is terminated, or the jurisdiction of a subsequent marriage recognizes the validity of the termination.

[^ 4] See INA 204(a)(1)(A)(iii)(ii)(aa)(CC)(ccc) and INA 204(a)(1)(B)(ii)(II)(aa)(CC)(bbb).

[^ 5] See INA 204(a)(1)(A)(iii)(ii)(aa)(CC)(ccc) and INA 204(a)(1)(B)(ii)(II)(aa)(CC)(bbb).

[^ 6] See *Arguijo v. USCIS*, 991 F.3d 736 (7th Cir. 2021), holding that divorce does not terminate a stepchild relationship for the purposes of eligibility for a VAWA self-petition.

[^ 7] See INA 101(b)(1)(B).

[^ 8] See *Matter of Pagnerre* (PDF), 17 I&N Dec. 688 (BIA 1971).

[^ 9] See INA 204(a)(1)(A)(vi) and INA 204(a)(1)(B)(v).

[^ 10] See INA 101(b)(1)(B).

[^ 11] See INA 101(b)(1). See 8 CFR 204.2(e)(1)(ii).

[^ 12] See INA 204(a)(1)(A)(iv). See INA 204(a)(1)(B)(iii) requiring eligibility for immigrant

classification under INA 201(b)(2)(A)(i) and INA 203(a)(2)(A).

[^ 13] See INA 201(f). See 8 CFR 204.2(e)(1)(ii).

[^ 14] See 8 CFR 103.2(b)(1) (“An applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the benefit request and must continue to be eligible through adjudication.”).

[^ 15] See INA 204(a)(1)(A)(II)(aa) and INA 204(a)(1)(B)(II)(aa). See 8 CFR 204.2(c)(1)(ii). See *Delmas v. Gonzalez*, 422 F.Supp.2d 1299 (S.D. Fla. 2005) (self-petitioner’s remarriage prior to filing self-petition was disqualifying). Note that 8 CFR 204.2(c)(1)(ii) states: “The self-petitioning spouse must be legally married to the abuser when the petition is properly filed with the Service. A spousal self-petition must be denied if the marriage to the abuser legally ended through annulment, death, or divorce before that time.” This portion of the regulation has been superseded by the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386 (PDF) (October 28, 2000), which removed the requirement for the self-petitioner to remain married to the abuser at the time the self-petition is filed. The remainder of 8 CFR 204.2(c)(1)(ii) remains valid: “After the self-petition has been properly filed, the legal termination of the marriage will have no effect on the decision made on the self-petition. The self-petitioner’s remarriage, however, will be a basis for denial of a pending self-petition.”

[^ 16] See 8 CFR 204.2(c)(1)(ii).

[^ 17] See 8 CFR 205.1(a)(3)(i)(E) and 8 CFR 205.2.

[^ 18] See INA 204(h).

[^ 19] See INA 204(g) and INA 245(e)(3). See 8 CFR 204.2(c)(1)(iv).

[^ 20] See 8 CFR 204.2(a)(1)(iii). USCIS considers the same evidence submitted for a spousal-based Petition for Alien Relative (Form I-130) under 8 CFR 204.2(a)(1)(iii) for self-petitioning spouses.

[^ 21] See INA 204(g). See 8 CFR 204.2(a)(1)(iii).

[^ 22] See INA 245(e)(3). See 8 CFR 204.2(a)(1)(iii).

[^ 23] See 8 CFR 204.2(a)(1)(iii)(D).

[^ 24] To meet this standard, the alien must prove a claimed fact is more likely than not to be true. See *Matter of Chawathe* (PDF), 25 I&N Dec. 369 (AAO 2010). For more information about the good faith marriage requirement for self-petitioning spouses, see Chapter 2, Eligibility

Requirements and Evidence, Section C, Good Faith Marriage (Self-Petitioning Spouses Only) [3 USCIS-PM D.2(C)].

[^ 25] See INA 245(e)(3) See *Matter of Arthur* (PDF), 20 I&N Dec. 475, 478 (BIA 1992) and *Pritchett v. I.N.S.*, 993 F.2d 80, 85 (5th Cir. 1993) (acknowledging clear and convincing evidence as an exacting standard).

[^ 26] See INA 245(e)(3).

[^ 27] See 8 CFR 204.2(a)(1)(iii)(B)(5). Third parties submitting affidavits may be required to testify before a USCIS officer as to the information contained in the affidavit. Affidavits should be sworn to or affirmed by persons not parties to the petition who have personal knowledge of the marital relationship. Each affidavit contains the full names, addresses, and dates and places of birth of the persons providing the affidavit and their relationship to the spouses, if any. The affidavit contains complete information and details explaining how the affiant's acquired knowledge of the marriage. Self-petitioners are not required to demonstrate the unavailability of primary or secondary evidence, but affidavits should be supported, if possible, by one or more types of documentary evidence listed in this section. All credible evidence submitted is considered as described in Chapter 5, Adjudication, Section B, Review of Evidence, Subsection 2, Any Credible Evidence Provision [3 USCIS-PM D.5(B)(2)]. See INA 204(a)(1)(J). See 8 CFR 103.2(b)(2)(iii), 8 CFR 204.2(c)(2)(i), and 8 CFR 204.2(e)(2)(i). However, USCIS determines the credibility and weight to be given to evidence.

[^ 28] See INA 204(a)(1)(A)(iii) and INA 204(a)(1)(B)(ii). See 8 CFR 204.2(c)(1)(i).

[^ 29] See INA 204(c). See 8 CFR 204.2(a)(1)(ii). See *Matter of Singh*, 27 I&N Dec. 598 (BIA 2019), *Matter of Pak*, 28 I&N Dec. 113 (BIA 2020), *Matter of Tawfik* (PDF), 20 I&N Dec. 166 (BIA 1990) and *Matter of R.I. Ortega*, 28 I&N Dec. 9 (BIA 2020). USCIS considers the same evidence submitted for a spousal-based Petition for Alien Relative (Form I-130) under 8 CFR 204.2(a)(1)(ii) for self-petitioning spouses.

[^ 30] Substantial and probative evidence is more than a preponderance of the evidence, but less than clear and convincing evidence; that is, the evidence has to be more than probably true that the marriage is fraudulent. See *Matter of Singh*, 27 I&N Dec. 598 (BIA 2019) and *Matter of Pak*, 28 I&N Dec. 113 (BIA 2020). The substantial and probative evidence standard requires the examination of all relevant evidence and a determination as to whether such evidence, when viewed in its totality, establishes, with sufficient probability, that the marriage is fraudulent. Both direct and circumstantial evidence may be considered in determining whether there is substantial and probative evidence of marriage fraud under INA 204(c), and circumstantial evidence alone may be sufficient to constitute substantial and probative evidence. See *Matter of Pak*, 28 I&N Dec. 113 (BIA 2020). For more information, see Volume 6, Immigrants, Part B, Family-Based Immigrants [6 USCIS-PM B].

[^ 31] See *Matter of Tawfik* (PDF), 20 I&N Dec. 166 (BIA 1990).

[^ 32] See 8 CFR 103.2(b)(16)(i).

[^ 33] Self-petitioners must demonstrate a qualifying relationship with the abusive U.S. citizen or LPR relative to be eligible for the self-petition. Historically, if a petitioner for a family-based immigrant visa petition died while the petition was pending or after it was approved and the beneficiary had not yet become an LPR, USCIS denied the petition if it was pending or revoked the petition if it was approved.

Over time, however, Congress recognized the inequities this created for some aliens in these situations and created provisions to allow surviving beneficiaries to continue the immigration process despite the death of certain petitioning relatives and principal beneficiaries.

[^ 34] See 8 CFR 205.1(a)(3)(i). See *Matter of Sano* (PDF), 19 I&N Dec. 299 (BIA 1985) and *Matter of Varela* (PDF), 13 I&N Dec. 453 (BIA 1970).

[^ 35] See INA 201(b)(2)(A)(i), INA 204(l), INA 204(a)(1)(A)(iii)(II)(aa)(CC)(aaa), INA 204(a)(1)(A)(vii), and INA 204(a)(1)(A)(vi).

[^ 36] See INA 204(1)(A)(iii)(II)(aa)(CC)(aaa) and INA 204(a)(1)(A)(vii). Note that spouses of U.S. citizens who have not legally separated or divorced at the time of the U.S. citizen's death may also be eligible as widow(er)s under INA 201(b)(2)(A)(i) if they file a petition within 2 years of the death.

[^ 37] See INA 204(a)(1)(A)(iv).

[^ 38] See INA 204(a)(1)(A)(vi).

[^ 39] See INA 204(a)(1)(A)(vi).

[^ 40] See INA 204(l)(2)(B).

[^ 41] See INA 204(l)(1).

[^ 42] See INA 204(l). For more information, see Volume 7, Adjustment of Status, Part A, Adjustment of Status Policies and Procedures, Chapter 9, Death of Petitioner or Principal Beneficiary [7 USCIS-PM A.9].

[^ 43] See INA 204(l)(1).

[^ 44] See INA 204(a)(1). See 8 CFR 204.2(c)(2)(ii) and 8 CFR 204.2(e)(2)(ii).

[^ 45] See Title V of Pub. L. 106-386 (PDF), 114 Stat. 1464 (October 28, 2000). See INA 204(a)(1)

(A)(iii)(II)(aa)(CC)(bbb), INA 204(a)(1)(A)(iv), INA 204(a)(1)(A)(vii), and INA 204(a)(1)(B)(ii)(II)(aa)(CC)(aaa)(iii).

[^ 46] See INA 204(a)(1)(A)(vi).

[^ 47] See INA 204(a)(1)(A)(iii)(II)(aa)(CC)(bbb), INA 204(a)(1)(A)(iv), INA 204(a)(1)(A)(vii), and INA 204(a)(1)(B)(ii)(II)(aa)(CC)(aaa)(iii).

[^ 48] See INA 204(a)(1)(A)(vi) and INA 204(a)(1)(B)(v)(1).

[^ 49] See INA 204(a)(1)(A)(vi) and INA 204(a)(1)(B)(v)(1).

[^ 50] See INA 204(a)(1)(A)(vi)-(vii). There are no statutory provisions that allow for continued eligibility for self-petitioning parents whose U.S. citizen sons or daughters have denaturalized or lost or renounced their U.S. citizenship after the self-petition is filed.

[^ 51] See INA 204(a)(1)(B)(v)(II).

[^ 52] See INA 204(a)(1)(B)(v)(II).

[^ 53] See INA 204(a)(1)(B)(v)(II).

[^ 54] See INA 101(b)(1). See 8 CFR 204.2(c)(4) and 8 CFR 204.2(e)(1)(ii). 8 CFR 204.2(e)(4) has been superseded by the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386 (PDF) (October 28, 2000), which allows children of child self-petitioners to be classified as derivative beneficiaries under INA 204(a)(1)(A)(iv) and INA 204(a)(1)(B)(iii).

[^ 55] See INA 204(a)(1)(D)(v).

[^ 56] See Section 805(c) of VAWA 2005, Pub. L. 109-162 (PDF), 119 Stat. 2960 (January 5, 2006) and Section 6(a) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 Technical Amendments, Pub. L. 109-271 (PDF), 120 Stat. 750 (August 12, 2006). See INA 204(a)(1)(D)(v).

[^ 57] See INA 204(a)(1)(D)(v).

[^ 58] See INA 204(a)(1)(D)(v).

[^ 59] See Pub. L. 107-208 (PDF), 116 Stat. 927 (August 6, 2002).

[^ 60] See Pub. L. 107-208 (PDF), 116 Stat. 927 (August 6, 2002) adding INA 201(f) and INA 203(h).

[^ 61] See INA 201(f) and INA 203(h). For more information on CSPA, see Volume 7, Adjustment of Status, Part A, Adjustment of Status Policies and Procedures, Chapter 7, Child Status Protection Act [7 USCIS-PM A.7].

[^ 62] See Title V of Pub. L. 106-386, 114 Stat. 1464 (October 28, 2000) adding INA 204(a)(1)(D)(i)(I) and INA 203(a)(1)-(3).

[^ 63] See INA 204(a)(1)(D)(i)(III).

[^ 64] See INA 204(a)(1)(D)(i)(I) and INA 204(a)(1)(D)(i)(III).

[^ 65] See INA 204(a)(1)(D)(i) and INA 204(h).

Chapter 4 - Filing Requirements

A. Filing Requirements and Initial Review

An alien seeking to self-petition under the Violence Against Women Act (VAWA) must properly file a Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360) with supporting evidence in accordance with the Form I-360 instructions.[1] USCIS considers Form I-360 as properly filed if it:

- Is submitted on the current edition of the form;
- Is filed at the correct filing location; and
- Has a valid signature.[2]

When initially reviewing the Form I-360, USCIS first determines whether the Form I-360 has been properly filed according to the above criteria. If the self-petition is not properly filed, USCIS rejects the filing and returns it to the self-petitioner.[3] If the self-petition is properly filed, USCIS sends the self-petitioner a receipt notice with a receipt, or filing, date. There is no fee when Form I-360 is filed as a VAWA self-petition.[4] USCIS officers adhere to current agency guidance and procedures regarding signature requirements.[5]

Self-petitioning spouses, children, and parents of U.S. citizens may seek to adjust status as immediate relatives by filing an Application to Register Permanent Residence or Adjust Status (Form I-485) at any time, because visas are immediately available for immediate relatives.[6]

1. Priority Dates

If self-petitioners were beneficiaries of a previously filed Petition for Alien Relative (Form I-130) filed

by the abusive qualifying relative, they may retain the priority date from the Form I-130. The earlier priority date may be assigned without regard to the current validity of the visa petition. Officers may verify a claimed filing by searching USCIS electronic systems or other records.

Derivative beneficiaries must be under 21 years old and unmarried at the time Form I-360 is filed to be included as derivative beneficiaries, even if they are the beneficiary of a previously filed Form I-130.[7] If derivative beneficiaries are eligible to be included on the Form I-360 at the time of filing, then they may retain the self-petitioner's priority date from a previously filed Form I-130.[8]

B. Documentation Requirements

While self-petitioners submit primary evidence, where available, USCIS considers any credible evidence relevant to the self-petition.[9] The determination of what evidence is credible and the weight to be given that evidence is within the sole discretion of USCIS.[10]

Self-petitioners must submit evidence for each of the eligibility requirements.[11] Documentation includes:

- Evidence of the abusive relative's U.S. citizenship or lawful permanent resident (LPR) status;
- Evidence of a qualifying relationship;
- Evidence of having entered the marriage in good faith;
- Evidence of battery or extreme cruelty perpetrated by the U.S. citizen or LPR during the qualifying relationship (self-petitioning spouses may submit evidence of their child being subjected to battery or extreme cruelty), such as police or law enforcement reports, reports or records from medical personnel, school officials, clergy, social workers, and other social service personnel; court or medical records; or protection orders;[12]
- Evidence of shared residence; and
- Evidence of good moral character if the self-petitioner is 14 years old or older, such as statements, affidavits, or local police clearance letters or state-issued criminal background check from each locality or state in or outside the United States where the self-petitioner has resided for 6 months or more during the 3-year period immediately preceding the filing of the self-petition.[13]

The burden is on the alien to establish that he or she is eligible for the benefit sought.[14] If the record establishes ineligibility, the benefit request is denied.[15] However, as with any benefit request, USCIS has the authority to issue a Request for Evidence (RFE) or Notice of Intent to Deny (NOID) where the evidence submitted does not establish eligibility.[16] This includes all relevant eligibility requirements, including evidence related to the claimed battery or extreme cruelty.

Specifically, USCIS may issue an RFE or NOID for documents referenced in the evidence submitted. USCIS may also issue RFEs or NOIDs when the evidence submitted is vague or lacks sufficient detail to establish eligibility.

Generally, USCIS issues written notice in the form of an RFE or NOID to request additional evidence from aliens requesting benefits.[17] However, USCIS has the discretion to deny a benefit request without issuing an RFE or NOID.[18]

Regulations require that an RFE or NOID:

- Be sent by regular or electronic mail;
- Specify the type of evidence required;
- Identify whether initial evidence or additional evidence is required; and
- In the case of a NOID, identify the bases for the proposed denial sufficient to give the self-petitioner adequate notice and sufficient information to respond.[19]

The RFE or NOID indicates the deadline for response. For an RFE, the maximum response period provided does not exceed twelve weeks.[20] For a NOID, the maximum response time provided does not exceed thirty days.[21] Further, additional time to an RFE or NOID will not be granted.[22]

Footnotes

[^ 1] See 8 CFR 103.2(a)(1), 8 CFR 106.2(a)(16)(ii), 8 CFR 204.1(b), and 8 CFR 204.1(a)(3).

[^ 2] See 8 CFR 103.2(a)(2). See Volume 1, General Policies and Procedures, Part B, Submission of Benefit Requests, Chapter 2, Signatures [1 USCIS-PM B.2].

[^ 3] See 8 CFR 103.2(a)(7)(ii).

[^ 4] See Fee Schedule (Form G-1055).

[^ 5] For signature requirements, see Volume 1, General Policies and Procedures, Part B, Submission of Benefit Requests, Chapter 2, Signatures [1 USCIS-PM B.2].

[^ 6] See INA 201(b) and INA 245(a). See 8 CFR 245.2(a)(2)(i).

[^ 7] See 8 CFR 204.2(c)(4).

[^ 8] See 8 CFR 204.2(c)(4).

[^ 9] See INA 204(a)(1)(J). See 8 CFR 103.2(b)(2)(iii), 8 CFR 204.1(f)(1), 8 CFR 204.2(c)(2)(i),

and 8 CFR 204.2(e)(2)(i). INA 204(a)(1)(J) was not specifically amended to encompass the consideration of secondary evidence submitted by self-petitioning parents. The discussion of evidence found at 8 CFR 103.2(b)(2)(iii) and 8 CFR 204.1(f)(1) regarding self-petitions filed under INA 204(a)(1)(A)(iii) and (iv) and INA 204(a)(1)(B)(ii) and (iii) are applicable to self-petitions filed by abused parents of U.S. citizen sons or daughters under INA 204(a)(1)(A)(vii). For more information about the any credible evidence provision, see Chapter 5, Adjudication, Section B, Review of Evidence, Subsection 2, Any Credible Evidence Provision [3 USCIS-PM D.5(B)(2)].

[^ 10] See INA 204(a)(1)(J). See 8 CFR 204.2(c)(2)(i) and 8 CFR 204.2(e)(2)(i).

[^ 11] See INA 204(a)(1). See 8 CFR 204.2(c)(1) and 8 CFR 204.2(e)(1). For more detailed information on the evidence required for each eligibility requirement, see Chapter 2, Eligibility Requirements and Evidence [3 USCIS-PM D.2].

[^ 12] For more detailed information on the evidence required for this eligibility requirement, see Chapter 2, Eligibility Requirements and Evidence, Section E, Subjected to Battery or Extreme Cruelty [3 USCIS-PM D.2(E)].

[^ 13] For more detailed information on the evidence required for this eligibility requirement, see Chapter 2, Eligibility Requirements and Evidence, Section G, Good Moral Character [3 USCIS-PM D.2(G)].

[^ 14] See *Matter of Brantigan* (PDF), 11 I&N Dec. 493 (BIA 1966).

[^ 15] See 8 CFR 103.2(b)(8).

[^ 16] See 8 CFR 103.2(b)(8). See Volume 1, General Policies and Procedures, Part E, Adjudications, Chapter 6, Evidence, Section F, Requests for Evidence and Notices of Intent to Deny [1 USCIS-PM E.6(F)].

[^ 17] See 8 CFR 103.2(b)(1). Each benefit request must be properly completed and filed with all initial evidence required by applicable regulations and other USCIS instructions.

[^ 18] See Volume 1, General Policies and Procedures, Part E, Adjudications, Chapter 6, Evidence, Section F, Requests for Evidence and Notices of Intent to Deny [1 USCIS-PM E.6(F)].

[^ 19] See 8 CFR 103.2(b)(8)(iv).

[^ 20] See 8 CFR 103.2(b)(8)(iv).

[^ 21] See 8 CFR 103.2(b)(8)(iv).

[^ 22] See 8 CFR 103.2(b)(8)(iv).

Chapter 5 - Adjudication

A. Prima Facie Review

After receipting a self-petition, USCIS first determines whether the evidence submitted establishes a prima facie ("at first look") case.[1] Self-petitioning spouses and children and any listed derivative beneficiaries may be considered "qualified aliens" eligible for certain public benefits if they can establish a prima facie case for immigrant classification or have an approved self-petition.[2]

USCIS does not make a prima facie determination for self-petitions filed from outside the United States. Self-petitioners who are outside the United States are not eligible for U.S. public benefits. Although USCIS issues prima facie determinations for self-petitioning parents of U.S. citizens, they are not included in the definition of "qualified aliens" in statute and are, therefore, ineligible for public benefits as "qualified aliens."[3]

1. Establishing a Prima Facie Case

To establish a prima facie case, the self-petitioner must submit a completed Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360) and evidence to support each of the eligibility requirements for the self-petition.[4] The self-petitioner must address each of the eligibility requirements, but need not prove eligibility by a preponderance of the evidence in order to establish a prima facie case unless a higher standard is specified by law.[5]

If USCIS determines that a self-petitioner has demonstrated prima facie eligibility, USCIS issues a Notice of Prima Facie Case (NPFC) to the self-petitioner.[6] The decision to issue an NPFC rests solely with USCIS.[7]

The NPFC does not confer immigration status or a benefit, and a self-petitioner may not apply solely for an NPFC. A PFC determination is a "first look" determination that the self-petitioner seems to have addressed each of the eligibility requirements. This is not a determination that the self-petitioner established eligibility or that the self-petitioner has met his or her burden of proof. USCIS' decision to issue or not issue an NPFC is not a consideration in the adjudication of the underlying self-petition, and a prima facie determination, whether favorable or adverse, is not a final adjudication of the self-petition.

A favorable NPFC does not mean the self-petitioner has established eligibility for the underlying

self-petition, and additional evidence may be required to establish such eligibility after a favorable NPFC has been issued.[8]

2. Validity Period and Renewals

Self-petitioners may use the NPFC as evidence to establish their eligibility for certain public benefits and are eligible to renew their NPFC, as needed, until USCIS completes a full adjudication of the self-petition.[9] NPFCs are initially valid for 1 year. If USCIS has not made a decision on the self-petition by the time the NPFC expires, USCIS automatically sends a renewed NPFC within 60 days of the expiration date.

The NPFC is renewed for 180 days and continues to be renewed for 180-day periods until USCIS fully adjudicates the self-petition. If the Form I-360 is denied, USCIS does not re-issue or extend the NPFC. Filing an appeal of Form I-360 does not extend the validity of an existing NPFC.

B. Review of Evidence

1. Standard of Proof

The standard of proof is the amount of evidence needed to establish eligibility for the benefit sought.[10] Generally, the standard of proof to establish eligibility for a self-petition is preponderance of the evidence.[11] Establishing eligibility by a preponderance of the evidence means that it is more likely than not that the self-petitioner qualifies for the benefit. This is a lower standard of proof than both the “clear and convincing” and “beyond a reasonable doubt” standards of proof. The burden is on self-petitioners to demonstrate their eligibility for the self-petition by a preponderance of the evidence.[12] However, see prior discussion for standards of proof regarding prior marriage fraud, marriages entered into after the self-petitioner is entered into removal proceedings, or second spousal petition for classification of the spouse of an alien under INA 204(a)(2).[13]

2. Any Credible Evidence

In determining eligibility, USCIS considers any credible evidence relevant to the petition. The determination of what evidence is credible, and the weight afforded to that evidence, is within the sole discretion of USCIS.[14] Generally, petitioners are required to submit primary evidence with a family-based immigrant visa petition or secondary or tertiary evidence if primary evidence is unavailable.[15]

Although Violence Against Women Act (VAWA) self-petitioners submit primary or secondary

evidence whenever possible, USCIS considers any credible evidence a self-petitioner submits to establish eligibility.[16] Though not required, an explanation from the self-petitioner regarding the unavailability of specific documents assists officers in determining eligibility.

The burden of proof is on the self-petitioner to demonstrate eligibility for the self-petition by generally the preponderance of the evidence standard. For each eligibility requirement, self-petitioners must submit sufficient relevant, probative, and credible evidence to establish that the claim is "more likely than not" or "probably" true, unless a higher standard is required by law.

Credible evidence has been defined as "[e]vidence that is worthy of belief; trustworthy evidence."[17] So the requirement that USCIS consider any credible evidence simply means that USCIS considers any evidence that is trustworthy or worthy of belief. Credible evidence is plausible, sufficiently detailed, and internally and externally consistent in fact. Evidence that is relevant includes specific facts that address the eligibility criteria for VAWA classification. Probative value speaks not to the quantity of evidence but instead to its quality. Evidence may be credible but lack sufficient probative value to establish the eligibility requirements. USCIS considers the probative value, relevance, and credibility of each piece of evidence on a case-by-case basis.[18]

Evidence may be found credible and acceptable, but fail to meet the self-petitioner's burden of proof to establish each eligibility requirement. Additionally, some pieces of evidence may be credible (that is, detailed, plausible, and consistent) to establish one eligibility requirement, but fail to establish another eligibility requirement.

Insufficient credible evidence means that the self-petitioner has not provided enough credible or persuasive information to support the claim or claims he or she is making. This may sometimes appear as the self-petitioner providing evidence that is not detailed enough or is irrelevant to the burden of proving a particular fact. Self-petitioners are not required to submit any specific type of evidence.[19] In addition, a self-petition may not be denied for failure to submit a particular piece of evidence.[20] However, USCIS has the discretion to issue Requests for Evidence (RFEs) or Notices of Intent to Deny (NOIDs), and may do so if the evidence submitted lacks detail, probative value, or is insufficient to establish eligibility.[21]

Determining the Weight and Credibility of Evidence

USCIS determines the weight and credibility of evidence on a case-by-case basis. Weight and credibility are legal and evidentiary concepts; they are related, but not the same. The weight of the evidence is "the persuasiveness of some evidence in comparison with other evidence."[22] Credibility is "the quality that makes something (as a witness or some evidence) worthy of belief."[23]

In assessing weight, USCIS may consider the relevance, probative value, and credibility of the evidence. For example, a self-petitioner may submit a personal statement identifying his or her claims, but if the claims made therein are corroborated by other forms of objective evidence, including but not limited to hospital reports, police reports, or records from a social worker or case worker, it may carry more evidentiary weight. In particular, USCIS may determine that a sworn statement that consists of conclusory statements, but which lacks sufficient factual detail, carries less evidentiary weight.

Officers must examine each piece of evidence individually and within the context of the totality of the evidence for relevance, probative value, and credibility. USCIS determines the appropriate weight to afford each piece of evidence after reviewing the record in its entirety. As part of meaningfully fulfilling USCIS' responsibilities in these cases, officers must consider whether the evidence is credible or not when looking at the record in its entirety during the adjudicative investigation of the facts of the case that is required under INA 204(b).

For example, one piece of evidence may be inconsistent or contradictory to other elements or evidence provided as part of the self-petition. As another example, evidence that appears inconsistent with or contradictory to information contained in USCIS or DHS records, systems, or electronic databases is likely not credible on an external basis.

Where information submitted by the self-petitioner is inconsistent with objective information found in DHS systems (such as a record of travel) and that information demonstrates an inconsistency related to an eligibility requirement, USCIS may confront the self-petitioner and provide an opportunity for the self-petitioner to explain the inconsistency.[24]

The use of this information is permissible under the Privacy Act and in regard to the DHS System of Record Notice "Regarding Collection, Use, Retention, and Dissemination of Personally Identifiable Information" policy.[25] The mixed systems policy provides that the protections of the Privacy Act should be afforded to all persons (not just U.S. citizens and lawful permanent residents (LPRs)) to the maximum extent practicable.

Officers must carefully review evidence in both these regards before making a credibility determination. If an officer identifies an inconsistent or contradictory piece of evidence submitted as part of a self-petition, it may call into question the credibility of other evidence submitted with the self-petition,[26] particularly with respect to a piece of evidence that lacks detail, specificity, reliability, or that cannot be independently corroborated. Similarly, if a self-petitioner submitted a fraudulent document or knowingly made a false statement in a benefit request to USCIS, that may call into question the credibility of all other evidence submitted with the self-petition. In these hypothetical examples, both weight of evidence and credibility may be impacted by inconsistency

or contradiction with other parts of the record.

The determination of what is credible will often also be a function of other elements in the case.

For example, if USCIS finds a self-petitioner's affidavit to be inconsistent with other evidence in the record, officers could determine in their inherent discretion that the credibility or weight of the self-petitioner's affidavit is diminished. This is even more likely to be the case where the same hypothetical self-petitioner's affidavit was inconsistent with an official DHS record or system or with an official third-party record, such as a public record, a record of regularly conducted activity, a certified record, or an official business record.

This is not to say that a single discrepancy in any self-petitioner's affidavit would always lead to a finding of ineligibility. Officers are instructed to use their commonsense judgement when evaluating the weight and credibility of each piece of evidence submitted with a self-petition. Discrepancies in the evidence call into question the self-petitioner's ability to document the requirements under the statute and regulations. Doubt cast on any aspect of the evidence submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition.[27] It is the self-petitioner's burden to demonstrate eligibility and to resolve any inconsistencies in the record with credible evidence.

Some general principles are applicable in making the weight and credibility determination. Officers generally give more weight to primary evidence and evidence provided in court documents, medical reports, police reports, and other official documents.[28] Self-petitioners who submit affidavits are encouraged to provide detailed, specific, and reliable affidavits from more than one person.

Any form of documentary evidence may be submitted, and the absence of a particular form or piece of evidence is not grounds for ineligibility. However, the burden of proof rests with the self-petitioner, not USCIS. Affidavits that lack a sufficient amount of detail, specificity, and reliability might not be afforded a significant amount of weight under the "any credible evidence" provision.

USCIS may issue an RFE or a NOID to notify self-petitioners of deficiencies in the self-petition and to allow them an opportunity to respond before issuing a final decision.[29]

C. Interview

USCIS has the authority to require an interview for any benefit request,[30] including VAWA Form I-360s. Interviews may be routine and categorical, or non-routine and isolated. USCIS has the discretion to require an interview based specifically on the facts and circumstances of a particular case. The decision to interview a particular case is not inherently derogatory. The purpose of the interview is to develop the facts or confirm information relevant to the adjudication for an

immigration benefit, consistent with USCIS' obligation under INA 204(b) to conduct an adjudicative investigation of the facts in each case.

In any case where USCIS requires an interview, USCIS notifies the self-petitioner in advance of the interview, including any attorney or representative, according to processes in accordance with all applicable USCIS policy. The notice includes the date, time, and place of the scheduled interview. USCIS schedules any interview for the self-petitioner at the USCIS field office with appropriate jurisdiction. USCIS may need to send an RFE for the self-petitioner's physical address to determine the correct office of jurisdiction, if that address was not provided to USCIS. USCIS reserves the right to interview the self-petitioner on the Form I-360 simultaneously with a pending Application to Register Permanent Residence or Adjust Status (Form I-485),[31] where applicable. USCIS also may determine an interview is appropriate on a pending VAWA Form I-360 where the self-petitioner has not filed a Form I-485 yet.

The primary purpose of an interview is to develop the facts the officer needs for a sound adjudication under immigration laws, regulations, policies, and procedures, by:

- Verifying information in the record, including answers to questions on USCIS forms;
- Clarifying information;
- Developing and discovering new information, whether favorable or unfavorable, that may be relevant to adjudication; and
- Determining the credibility of the evidence submitted.

USCIS interviews are non-adversarial.

At the end of the interview, the officer informs the self-petitioner and his or her representative of any next steps and gives them the opportunity to ask any questions. USCIS makes a copy of all identification documents and original materials when practicable (if not done at the beginning of the interview), places the copies in the A-file, and hands the originals back to the self-petitioner.

D. Decision

1. Discretion

The decision to approve or deny a self-petition is not technically discretionary. However, USCIS has the sole discretion to determine appropriate weight and the amount of credibility to give evidence submitted in determining whether the eligibility requirements are met.[32] Furthermore, the self-petitioner must establish they have good moral character[33] which is evaluated on a case-by-case basis taking into account the provisions regarding good moral character in INA 101(f) and the standards of the average citizen in the community.[34] Where USCIS determines the self-petitioner

satisfies all statutory and regulatory eligibility requirements, USCIS approves the self-petition. USCIS does not have the authority to deny a self-petition in the sole exercise of discretion where USCIS already determined eligibility was established.[35]

If derogatory information unrelated to eligibility for the self-petition is discovered, the officer may forward the information to an investigation unit for appropriate action. Unless the derogatory information relates to eligibility for the self-petition, however, such information cannot serve as the basis for a denial.

2. Approvals

If USCIS determines that the information and evidence provided with the Form I-360 demonstrate eligibility, USCIS approves the self-petition.

Self-petitioning spouses, children, and parents of abusive U.S. citizens are considered immediate relatives and may seek adjustment of status or an immigrant visa immediately after approval of the self-petition, as a visa is immediately available for this category of family-based immigrants.[36] Immediate relatives in the United States also have the option to file an application for adjustment of status concurrently with the self-petition, as the visa is immediately available after the petition is approved.[37]

Self-petitioning spouses and children of abusive LPRs receive a visa number from a family-based preference category when the self-petition is approved and may file an application for adjustment of status or seek an immigrant visa when a visa is available.[38] If a self-petitioner seeks an immigrant visa from outside the United States, USCIS forwards the self-petition to the National Visa Center.[39]

An approved self-petition does not confer immigration status to self-petitioners or their derivative beneficiaries. An approved self-petition provides immigrant classification so that the self-petitioner and any derivative beneficiaries have a basis upon which they may be eligible to apply for lawful permanent resident status.

Employment Authorization

Approved self-petitioners are eligible for employment authorization.[40] USCIS may issue an Employment Authorization Document (EAD) to principal self-petitioners upon approval if they requested an EAD on the Form I-360.[41] Aliens seeking employment in the United States must present an acceptable document or combination of documents to their employer as evidence of both identity and employment authorization.[42]

Derivative beneficiaries may apply for an EAD by submitting an Application for Employment Authorization (Form I-765) and supporting documentation of the principal's approved self-petition and of the qualifying derivative relationship. Aliens eligible for employment authorization based on an approved self-petition receive an EAD with a (c)(31) employment authorization code.

Deferred Action

Approved self-petitioners and their derivative beneficiaries may be considered for deferred action on a case-by-case basis.[43] Derivative beneficiaries requesting deferred action must include a copy of the self-petitioner's approval notice and evidence of the qualifying derivative relationship with the request.

3. Denials

If USCIS finds that the facts and information provided with the Form I-360 do not demonstrate eligibility, then USCIS denies the self-petition. USCIS notifies the self-petitioner of the denial in writing and provides the reason(s) for the denial and the right to appeal the decision.[44] A denial of a self-petition does not prevent the self-petitioner from filing another self-petition.

E. Special Considerations for Self-Petitions Filed Subsequent to Family-Based Immigrant Petition and Adjustment Application

Aliens may have previously been the beneficiary of a Petition for Alien Relative (Form I-130) and filed a Form I-485 before filing the self-petition. If the Form I-485 is pending, an alien may notify USCIS either verbally in person or in writing by mail to the local USCIS field office that he or she filed a self-petition, and request that USCIS hold adjudication of the pending Form I-485 until the Form I-360 is adjudicated and change the underlying basis of the pending Form I-485 from the Form I-130 to the self-petition.

If an alien intends to file a self-petition, he or she may notify USCIS either verbally in person or in writing by mail to the local USCIS field office of their intention to file the Form I-360 and request that USCIS hold the adjudication of the pending Form I-485. The written notification should contain the alien's name and A-Number, a safe address where USCIS can contact him or her, and the alien's physical address in order to schedule a future interview. The alien has 30 days from the day USCIS receives notification of the request to file the Form I-360. If the alien does not file a self-petition within 30 days of the request, USCIS continues adjudication of the Form I-485 based on the Form I-130. Officers may check USCIS electronic systems to confirm that a self-petition was filed.

When an alien notifies USCIS that he or she intends to file a self-petition or has already filed a self-

petition, DHS considers the confidentiality protections at 8 U.S.C. 1367(a)(1) to apply to the self-petitioner.[45] However, if the alien does not file a self-petition, USCIS concludes the alien does not want be treated as a VAWA self-petitioner and the protections of 8 U.S.C. 1367 will not apply to the adjudication of any forms.[46]

Footnotes

[^ 1] See 8 CFR 204.2(e)(6).

[^ 2] See the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193 (PDF), 110 Stat. 2105 (August 22, 1996) and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104-208 (PDF), 110 Stat. 3009 (September 30, 1996), which restricted eligibility for public assistance to “qualified aliens.”

[^ 3] See Pub. L. 104-193 (PDF), 110 Stat. 2105 (August 22, 1996).

[^ 4] See 8 CFR 204.2(c)(6)(ii) and 8 CFR 204.2(e)(6)(ii). For more information, see Chapter 2, Eligibility Requirements and Evidence [3 USCIS-PM D.2].

[^ 5] See 8 CFR 204.2(c)(6)(ii) and 8 CFR 204.2(e)(6)(ii).

[^ 6] See 8 CFR 204.2(c)(6)(iii) and 8 CFR 204.2(e)(6)(iii).

[^ 7] See 62 FR 60769, 60770 (PDF) (November 13, 1997).

[^ 8] See 8 CFR 204.2(c)(6)(ii) and 8 CFR 204.2(e)(6)(ii).

[^ 9] See 8 CFR 204.2(c)(6)(iii) and 8 CFR 204.2(e)(6)(iii).

[^ 10] See Volume 1, General Policies and Procedures, Part E, Adjudications, Chapter 4, Burden and Standards of Proof [1 USCIS-PM E.4].

[^ 11] See *Matter of Chawathe* (PDF) 25 I&N Dec. 369 (AAO 2010); *Matter of Martinez* (PDF), 21 I&N Dec. 1035, 1036 (BIA 1997); and *Matter of Soo Hoo* (PDF), 11 I&N Dec 151 (BIA 1965). Note that in certain circumstances, the self-petitioner may be required to satisfy a higher standard of proof. See Chapter 3, Effect of Certain Life Events, Section B, Self-Petitioner’s Marriage or Remarriage [3 USCIS-PM D.3(B)].

[^ 12] See INA 291. See *Matter of Brantigan* (PDF), 11 I&N Dec. 493 (BIA 1966).

[^ 13] See Chapter 3, Effect of Certain Life Events, Section C, Marriage-Related Prohibitions on

Self-Petition Approval [3 USCIS-PM D.3(C)].

[^ 14] See INA 204(a)(1)(J). See 8 CFR 204.2(c)(2)(i) and 8 CFR 204.2(e)(2)(i).

[^ 15] See 8 CFR 204.1(f).

[^ 16] See INA 204(a)(1)(J). See 8 CFR 204.2(c)(2)(i) and 8 CFR 204.2(e)(2)(i). See 61 FR 13061 (PDF) (March 26, 1996).

[^ 17] See Black’s Law Dictionary (12th ed. 2024).

[^ 18] See *Matter of Chawathe* (PDF), 25 I&N Dec. 369, 376 (AAO 2010).

[^ 19] See 8 CFR 103.2(b)(2)(iii).

[^ 20] See INA 204(a)(1)(J). See 8 CFR 204.2(c)(2)(i) and 8 CFR 204.2(e)(2)(i). See 61 FR 13061 (March 26, 1996).

[^ 21] See 8 CFR 103.2(b)(8)(iii).

[^ 22] See Black’s Law Dictionary (12th ed. 2024).

[^ 23] See Black’s Law Dictionary (12th ed. 2024).

[^ 24] See 8 CFR 103.2(b)(16)(i).

[^ 25] See DHS Privacy Policy Regarding Collection, Use, Retention, and Dissemination of Personally Identifiable Information (PDF), DHS Directive 262-16, signed and issued on May 4, 2022.

[^ 26] See *Matter of Ho* (PDF), 19 I&N Dec. 582 (BIA 1988) (“Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition.”).

[^ 27] See *Matter of Ho* (PDF), 19 I&N Dec. 582 (BIA 1988).

[^ 28] See 61 FR 13061, 13068 (PDF) (March 26, 1996).

[^ 29] See 8 CFR 103.2(b)(8).

[^ 30] See 8 CFR 103.2(b)(9) (“USCIS may require any applicant, petitioner, sponsor, beneficiary, or individual filing a benefit request, or any group or class of such persons submitting requests, to appear for an interview and/or biometric collection.”).

[^ 31] Regulations require USCIS interview every applicant for adjustment of status (pending Form I-485) who is over the age of 14 years old and who is clearly not ineligible under INA 245(c), unless USCIS waives it on a case-by-case basis. See 8 CFR 245.6.

[^ 32] See INA 204(a)(1)(J). See 8 CFR 204.2(c)(2)(i), 8 CFR 103.2(b)(2)(iii), and 8 CFR 204.2(e)(2)(i). See 61 FR 13061 (PDF) (March 26, 1996).

[^ 33] See INA 204(a)(1)(A)(iii)(II)(bb), INA 204(a)(1)(A)(iv), INA 204(a)(1)(A)(vii)(II), INA 204(a)(1)(B)(ii)(II)(bb), and INA 204(a)(1)(B)(iii). See 8 CFR 204.2(c)(1)(i)(F) and 8 CFR 204.2(e)(1)(i)(F).

[^ 34] See 8 CFR 204.2(c)(1)(vii), 8 CFR 204.2(e)(1)(vii), and 8 CFR 316.10(a)(2).

[^ 35] See INA 204(b).

[^ 36] See INA 201(b) and INA 245(a). See 8 CFR 245.2(a)(2)(i) and 8 CFR 245.1(g).

[^ 37] See 8 CFR 245.2(a)(2)(i)(B)-(C).

[^ 38] See INA 203(a) and INA 245(a). See 8 CFR 245.2(a)(2)(i) and 8 CFR 245.1(g). Visa availability depends on several factors, including the self-petitioner's immigrant classification. Information on visa availability and priority dates is available at the Adjustment of Status Filing Charts from the Visa Bulletin web page. For more information, see Volume 7, Adjustment of Status, Part A, Adjustment of Status Policies and Procedures, Chapter 3, Filing Instructions, Section B, Definition of Properly Filed, Subsection 4, Visa Availability Requirement [7 USCIS-PM A.3(B)(4)] and Chapter 6, Adjudicative Review, Section C, Verify Visa Availability [7 USCIS-PM A.6(C)].

[^ 39] See 8 CFR 204.2(c)(3)(i) and 8 CFR 204.2(e)(3)(i).

[^ 40] See INA 204(a)(1)(K), INA 204(a)(1)(D)(i)(II), and INA 204(a)(1)(D)(i)(IV).

[^ 41] See INA 204(a)(1)(K). See the Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360).

[^ 42] See 8 CFR 274a.2. See Volume 7, Adjustment of Status, Part A, Adjustment of Status Policies and Procedures, Chapter 6, Adjudicative Review, Section B, Determining Ongoing Eligibility [7 USCIS-PM A.6(B)].

[^ 43] See INA 103(a), INA 204(a)(1)(D)(i)(II), and INA 204(a)(1)(D)(i)(IV). See *Heckler v. Chaney*, 470 U.S. 821, 831 (1985). Note that deferred action does not permit a person to re-enter the United States lawfully without prior approval if the person were to depart the country.

[^ 44] See 8 CFR 204.2(c)(3)(ii), 8 CFR 204.2(e)(3)(ii), and 8 CFR 103.3(a).

[^ 45] See 8 U.S.C. 1367. See Implementation of Section 1367 Information Provisions (PDF), DHS Instruction 002-02-001, Revision 00.1, issued November 7, 2013. For more information, see Volume 1, General Policies and Procedures, Part A, Public Services, Chapter 7, Privacy and Confidentiality, Section E, VAWA, T, and U Cases [1 USCIS-PM A.7(E)].

[^ 46] See 8 U.S.C. 1367(a)(1).

Chapter 6 - Post-Adjudicative Matters

A. Revocations

USCIS may revoke the approval of a self-petition with notice to the self-petitioner if, at any time prior to adjustment of status or consular processing, USCIS becomes aware of information that constitutes “good and sufficient cause” warranting revocation.[1] Examples of reasons why the approval of a self-petition may be revoked may include, but are not limited to:

- The self-petitioner is no longer a person of good moral character; or
- The self-petitioner was not eligible for Violence Against Women Act (VAWA) classification at the time of filing or adjudication.

Unless the revocation is an automatic revocation,[2] USCIS must provide self-petitioners with notice of the intent to revoke the approval of the self-petition and provide them an opportunity to respond.[3]

If USCIS decides to revoke the approval of the self-petition following consideration of the response, the officer must provide written notification of the decision explaining the specific reasons for the revocation.[4] The self-petitioner may appeal the decision to revoke the approval within 15 calendar days after service of the notice of the revocation or 18 days if the decision was sent by mail.[5]

Officers must keep in mind the 8 U.S.C. 1367 confidentiality provisions preventing USCIS from making an adverse determination regarding of admissibility or deportability using information provided solely by an abuser, a family member of the abuser living in the same household, or someone acting on the abuser’s behalf, as well as the prohibition on the unauthorized disclosure of information related to a protected person, including acknowledgment that a self-petition exists.[6]

B. Appeals, Motions to Reopen, and Motions to Reconsider

If USCIS denies a Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360), and a self-

petitioner disagrees with the decision or has additional evidence to show the decision was incorrect, the self-petitioner may file an appeal, a motion to reopen, or a motion to reconsider by submitting a Notice of Appeal or Motion (Form I-290B).[7]

Footnotes

[^ 1] See INA 205. See 8 CFR 205.1(a) and 8 CFR 205.2(a).

[^ 2] See 8 CFR 205.1(a).

[^ 3] See 8 CFR 205.2(b).

[^ 4] See 8 CFR 205.2(c).

[^ 5] See 8 CFR 205.2(d) and 8 CFR 103.8(b). Self-petitioners may appeal the decision to revoke the self-petition by filing a Notice of Appeal or Motion (Form I-290B).

[^ 6] See 8 U.S.C. 1367(a)(1)-(2). For additional information, see Volume 1, General Policies and Procedures, Part A, Public Services, Chapter 7, Privacy and Confidentiality, Section E, VAWA, T, and U Cases [1 USCIS-PM A.7(E)].

[^ 7] See 8 CFR 103.3 and 8 CFR 103.5.

Part E - Employment Authorization for Abused Spouses of Certain Nonimmigrants

Part F - Parolees

In May 2020, USCIS retired its Adjudicator’s Field Manual (AFM), a collection of our immigration policies and procedures.

See more

In May 2020, USCIS retired its Adjudicator’s Field Manual (AFM), a collection of our immigration policies and procedures. We are working quickly to update and incorporate all of the AFM content into the USCIS Policy Manual, the agency’s centralized online repository for immigration policies. Until then, we have moved any remaining AFM content to its corresponding Policy Manual Part. To the extent that a provision in the Policy Manual conflicts with remaining AFM content or Policy Memoranda, the updated information in the Policy Manual prevails. If you have questions or