Sanctuary for Families

APPLYING FOR A GREEN CARD

This chapter will walk you through the process of helping your asylee client apply for permanent resident status. This process is commonly referred to as adjustment to permanent resident status, becoming a lawful permanent resident (LPR), or obtaining a green card.

Eligibility

A person who has been granted asylum is eligible to file an application to adjust to permanent resident status any time after one year from the date of the grant of asylum. There is no deadline for filing, but an asylee may not file before one year has passed. If your client was granted asylum conditionally before being granted finally, you should check their I-94 to find the official asylum approval date. You may file one year after that date.

A derivative asylee who arrived in the United States pursuant to an approved I-730 case is eligible to file an application to adjust to permanent resident status after one year of physical presence in the United States.

What to File

Please review the instructions provided by USCIS on its website (www.uscis.gov) for each form listed here as there are often changes to essential details, such as filing fee or location. Furthermore, applications change every few years, so be sure to download the most recent version prior to filing.

Cover Letter

In your cover letter, please be sure to include your client's name and A number (as well as the names and A numbers of any derivative asylees eligible to adjust status at the same time). Make note of the client's eligibility to adjust based on their asylee status, and list the enclosed forms and documents.

Form I-912, Request for Fee Waiver

Please check the USCIS website for the current fee schedule, and note that the fee is typically different for adults than for certain minors. If your client cannot afford to pay the fee and your firm is unable to cover that cost, please file a fee waiver request for your client or inform your contact at Sanctuary for Families. A fee waiver consists of:

- Form I-912, including an explanation of your client's economic necessity. You will need to provide all information requested, i.e. your client's current expenses, including rent, utilities, and food, and their current income, including any employment and all public benefits being received. If your client has children or other dependents, please mention any expenses related to providing for those children, including school fees, books, and clothing.

- Documentation substantiating the fee waiver request, such as a copy of your client's budget letter from the New York City Human Resources Administration or other agency document confirming the client's receipt of public benefits. Proof of the client's expenses and income may be necessary as well. Note, however, that a fee waiver request may be rejected if the client is not receiving public assistance (excluding Medicaid).

Form I-485, Application to Register Permanent Residence or Adjust Status

You must file a Form I-485 application to adjust to permanent resident status, for your client and each asylee family member regardless of age. This application should be filled out completely, including all biographic data and responses to the "yes/no" questions. You should be sure to read the entire application, including these questions in their entirety, to your client in a language in which your client is fluent.

If your client has traveled out of the United States as an asylee before applying for a green card, you must thoroughly document and explain all travel. If your client receives public assistance, which includes food stamps, cash assistance, and housing subsidies, you must answer "yes" in Part 3 and provide a separate but very short affidavit which lists the benefits your client receives. Asylee applications to adjust are not negatively impacted by the receipt of public benefits. Any other "yes" responses in Part 3 require a separate explanation and probably merits discussion with your contact at Sanctuary to see if a Form I-602, Application by Refugee for Waiver of Grounds of Excludability, is necessary.

Form I-693, Report of Medical Examination and Vaccination Record

Your client and any asylee family member must undergo a basic medical exam conducted by a USCIS approved civil surgeon and submit a completed Form I-693. We often send our clients to see Dr. Anthony Blau ((212) 766-4433; www.greencardmedicalexam.com) whose fees are reasonable. If neither your client nor your firm can pay, please inform your Sanctuary contact. Your client will bring the medical report to you in a sealed envelope which must remain sealed when filed with USCIS. Please ask the client to obtain a copy of the report so that you can review it and be sure there are no issues regarding the client's eligibility to adjust status.

Accompanying Applications

Form I-131, Application for Travel Document

You may also file an application for a refugee travel document on Form I-131 at the same time as your client's application to adjust. Include copies of the approval letter from the Asylum Office or order from the Immigration Court showing an asylum grant and a copy of the I-94, as the I-131 application is likely to be separated from the I-485 packet during processing. This I-131 application is free if filed at the same time as Form I-485 or anytime while the I-485 application is pending, provided your client paid the I-485 application fee. If your client wishes to travel, they must have this document, but we suggest they wait until after they have their green card to leave the country. As discussed in the previous chapter, your client must not

return to their home country even with this document and their green card, and should not travel to neighboring countries without first discussing this possibility with you and Sanctuary.

If you file the I-131 application separately after the I-485 has been receipted but while the I-485 is still pending, include a copy of the I-485 receipt notice and check the I-131 form instructions for the correct filing address.

Form I-765, Application for Employment Authorization

Your client should have received a two-year employment authorization document (EAD) under category (a)(5) when they were granted asylum. There is a fee for renewing the category (a)(5) EAD. However, if your client files an I-765 at the time of filing an I-485 or anytime while the I-485 is pending, they can file as an applicant for adjustment under category (c)(9) and avoid the fee. Please read the instructions for Form I-765 on the USCIS website to confirm details such as the correct category of filing.

If you file the I-765 separately after the I-485 has been receipted but while the I-485 is still pending, include a copy of the I-485 receipt notice and check the I-765 form instructions for the correct filing address.

Order of Application Materials

The following can all be two-hole punched and fastened with a two-prong fastener. Do not bind or staple any of the pages.

- Cover letter
- Form I-912, Request for Fee Waiver, and supporting documentation
- Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative (on blue paper)
- Form I-485 with two passport-size photos, check if paying fee, and sealed medical report on Form I-693
- Affidavit of client explaining affirmative answers on Form I-485 and any necessary supporting documentation
- Copies of asylum office approval letter or Immigration Court order and I-94 (front and back)
    - If applicant is a derivative asylee, you may also include the following if applicable:
        - A copy of the I-730 approval notice and a copy of the boarding foil indicating asylee status
- Copy of birth certificate

Repeat same for all asylee family members eligible to apply for permanent residence at the same time as your client. Bind each family member's application separately with two-prong fasteners.

If you also submit the following applications at the same time as the I-485 application, bind each of the application packets separately with two-prong fasteners, as these are likely to be separated from the I-485 application during processing.

- Form I-602, Application by Refugee for Waiver of Grounds of Excludability, supporting documentation, and G-28 (if necessary)
- Form I-131, supporting documentation, and G-28
- Form I-765, supporting documentation, and G-28

Processing/Adjudication

You should receive a receipt notice that confirms a fee waiver for Form I-485 or a rejection notice based on the fee waiver request alone, in which case you will have to re-submit the application with the necessary fees. Once the application has been properly receipted, you should also receive a notice for biometrics.

Your client will most likely not be called for an interview with USCIS regarding the adjustment application. Sometimes interviews are scheduled to clear up any out-of-the-ordinary responses on an application, such as arrests. Please let your contact at Sanctuary know if you receive an interview notice. In most cases, however, you should receive a decision on the adjustment application without an interview.