

TOC – INSTRUCTIONS
Form I-601A, Application for Provisional Unlawful Presence Waiver
2/27/2013

Location	Previous Draft	Proposed Language
<p>Page 1, Who May File Form I-601A?</p>	<p>...4. You have an immigrant visa case pending with the Department of State, for which you have already paid the immigrant visa processing fee; and...</p>	<p>...4. You have an immigrant visa case pending with the Department of State (DOS), which is related to the approved immediate relative immigrant visa petition classifying you as an immediate relative (Form I-130 or I-360) and for which you have already paid the DOS immigrant visa processing fee; and...</p>
<p>Page 1, Who Is Not Eligible to Receive a Provisional Waiver?</p>	<p>You are not eligible for a provisional unlawful presence waiver and your application will be denied if...</p> <p>2. You have a pending application for lawful permanent residence with USCIS;</p> <p>3. You are in removal proceedings that have not been terminated or dismissed;</p> <p>4. You have not had the charging document</p>	<p>[Page 1]</p> <p>Who Is Not Eligible to Receive a Provisional Unlawful Presence Waiver?</p> <p>You are not eligible for a provisional unlawful presence waiver, and your application will be denied if...</p> <p>2. You have a pending Form I-485, Application to Register Permanent Residence or Adjust Status, with USCIS;</p> <p>3. You are in removal proceedings, unless your removal proceedings are administratively closed and have not been placed back on the Department of Justice, Executive Office for Immigration Review (EOIR) calendar to continue your removal proceedings at the time you file the Form I-601A.</p> <p><i>Note: If your removal proceedings have been administratively closed, you are still “in removal proceedings” until EOIR terminates or dismisses your case. However, you are eligible to <u>apply</u> for a provisional unlawful presence waiver if EOIR has not placed your removal proceedings back on EOIR’s calendar to continue your removal proceedings.</i></p> <p>4. You are subject to a final order of removal,</p>

	<p>(Notice to Appear) to initiate removal proceedings cancelled;</p> <p>5. You are in removal proceedings that have been administratively closed but not subsequently reopened for the issuance of a final voluntary departure order;</p> <p>6. You have been ordered removed, excluded, or deported from the United States;</p> <p>7. You are subject to reinstatement of a removal order;</p> <p>8. The Department of State already scheduled your immigrant visa interview;</p>	<p>deportation, or exclusion, or to the reinstatement of a prior order of removal, deportation, or exclusion.</p> <p><i>Note: If you are subject to a final removal order, and you have not left the United States since the order became final, you are not eligible for a provisional unlawful presence waiver.</i></p> <p>5. You are subject to a Department of Homeland Security (DHS) order reinstating a prior order of removal, deportation, or exclusion.</p> <p>6. DOS initially acted before January 3, 2013, to schedule your immigrant visa interview for the approved immediate relative petition upon which your Form I-601A is based.</p> <p><i>Note: The actual date and time that you are scheduled to appear for your immigrant visa interview is <u>not</u> the date USCIS will use to determine if you are eligible to file a Form I-601A. USCIS will use the date DOS initially acted to schedule your immigrant visa interview for the approved immediate relative petition upon which your Form I-601A is based. If DOS initially acted to schedule your immigrant visa interview before January 3, 2013, you are not eligible to file a Form I-601A, even if you failed to appear for your interview or you or DOS cancelled or rescheduled your interview on or after January 3, 2013.</i></p> <p>[Page 2]</p> <p>7. You fail to establish that the refusal of your admission would result in extreme hardship to your U.S. citizen spouse or parent, or that your application should be approved as a matter of discretion;</p> <p>8. USCIS has reason to believe the Department of State may find you inadmissible at the time of your immigrant visa interview for grounds other than unlawful presence under INA section 212(a)(9)(B)(i)(I) or (II); or</p>
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	<p>9. You do not establish that the refusal of your admission would result in extreme hardship to your U.S. citizen spouse or parent, or that your application should be approved as a matter of discretion;</p> <p>10. USCIS has reason to believe you may be found inadmissible at the time of your immigrant visa interview for grounds other than unlawful presence under INA section 212(a)(9)(B)(i)(I) or (II); or</p> <p>11. You previously filed a provisional unlawful presence waiver application.</p>	<p>[Delete]</p> <p>[Delete]</p> <p>[Delete]</p>
<p>Page 1-3, What Should I Do Once My Provisional Waiver Is Approved?</p>	<p>After your provisional unlawful presence waiver is approved, you need to depart the United States and attend your immigrant visa interview at a U.S. Embassy or consulate. If you fail to do this, the provisional waiver approval will no longer be valid.</p> <p>If you were granted voluntary departure in removal proceedings, you must depart the United States before the expiration of the period authorized on the voluntary departure order. If you fail to do this, the provisional waiver will no longer be valid.</p>	<p>[Page 2]</p> <p>What Should I Do Once My Provisional Unlawful Presence Waiver Is Approved?</p> <p>Once USCIS approves your Form I-601A, it will inform the National Visa Center (NVC) of its decision. You will then need to depart the United States to attend your immigrant visa interview as directed by DOS. If you fail to depart and attend your immigrant visa interview, the provisional unlawful presence waiver will not take effect, and the approval may no longer be valid.</p> <p>The approval of your provisional unlawful presence waiver is no longer valid if you enter or attempt to reenter the United States without inspection and admission or parole during any of the following periods:</p> <ol style="list-style-type: none"> 1. While your application for a provisional unlawful presence waiver is pending with USCIS; 2. After your provisional unlawful presence waiver is approved; or 3. Before your immigrant visa is issued. <p>If you are in removal proceedings and eligible for a provisional unlawful presence waiver and USCIS approves your Form I-601A, you should seek an order from EOIR terminating or dismissing your removal proceeding before</p>

	<p>NOTE: The filing or approval of a provisional unlawful presence waiver ...</p> <p><i>It does NOT provide interim benefits.</i> The filing of the provisional waiver application does not give you interim employment authorization or advance parole to return to the United States while your application is pending with USCIS. The approval of a provisional unlawful presence waiver also does not give you any interim benefits while your immigrant visa application is pending with the Department of State. If you depart the United States and re-enter without inspection or parole, your provisional unlawful presence waiver will become invalid.</p> <p><i>It does NOT provide lawful status...</i> provisional unlawful presence waiver does not give you lawful immigration status in the United States.</p> <p><i>It does NOT stop the accrual of unlawful presence or provide protection from removal.</i> The filing or approval of a provisional unlawful presence waiver ...</p> <p><i>It does NOT remove the requirement to depart the United States to seek a visa...</i> The approval does not allow you to seek adjustment of status if you are not eligible for</p>	<p>you leave the United States. If you leave the United States before your removal proceedings are terminated or dismissed, you may delay processing of your immigrant visa or risk becoming ineligible for the immigrant visa based on another ground of inadmissibility. Please visit the USCIS Web site at www.uscis.gov for information about how to seek termination or dismissal of your removal proceedings before you depart the United States.</p> <p>Limitations of Provisional Unlawful Presence Waiver Approval [<i>New Sub-heading</i>]</p> <p>The filing or approval of an application for a provisional unlawful presence waiver...</p> <p>The provisional unlawful presence waiver approval:</p> <p><i>Does NOT provide interim benefits.</i> The filing of an application for a provisional unlawful presence waiver does not give you interim employment authorization or advance parole to return to the United States while your application is pending with USCIS. The approval of a provisional unlawful presence waiver also does not give you any interim benefits while your immigrant visa application is pending with the Department of State. If you depart the United States and re-enter without inspection and admission or parole, your provisional unlawful presence waiver will become invalid.</p> <p><i>Does NOT provide lawful status...</i> provisional unlawful presence waiver application does not give you lawful immigration status in the United States.</p> <p><i>Does NOT stop the accrual of unlawful presence or provide protection from removal.</i> The filing or approval of a provisional unlawful presence waiver application ...</p> <p><i>Does NOT remove the requirement to depart the United States and seek an immigrant visa...</i> The approval of your application for a</p>
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	<p><i>adjustment of status...</i></p> <p><i>It does NOT guarantee visa issuance.</i> If your provisional unlawful presence waiver application is approved by USCIS, it does not mean that you are guaranteed an immigrant visa. A Department of State consular officer will determine whether you are eligible for an immigrant visa. There are many reasons why an individual may be ineligible for an immigrant visa and the provisional unlawful presence waiver application only waives one ground of inadmissibility resulting from unlawful presence in the United States. For additional information regarding immigrant visa requirements, please consult the Department of State Web site at www.state.gov.</p> <p><i>It does NOT guarantee admission to the United States.</i> Neither the approval of an unlawful presence waiver ...</p>	<p>provisional unlawful presence waiver does not make you eligible for adjustment of status in the United States. To obtain more information...</p> <p>[Page 3]</p> <p><i>Does NOT guarantee immigrant visa issuance.</i> If your application for a provisional unlawful presence waiver is approved by USCIS, it does not mean that you are guaranteed an immigrant visa. A DOS consular officer will determine if you are eligible for an immigrant visa. There are many reasons why an individual may be ineligible for an immigrant visa, and the provisional unlawful presence waiver application only provisionally waives one ground of inadmissibility resulting from unlawful presence in the United States. For additional information regarding immigrant visa requirements, please consult the DOS Web site at www.immigrantvisas.state.gov.</p> <p><i>Does NOT guarantee admission to the United States.</i> Neither the approval of an application for a provisional unlawful presence waiver by USCIS ...by the Department of State guarantees that you will...</p>
<p>New</p>		<p>[Page 3]</p> <p>What Should I Do If My Form I-601A Is Denied or I Withdraw My Form I-601A?</p> <p>If your provisional unlawful presence waiver request is denied or if you withdraw your provisional unlawful presence waiver application before USCIS makes a decision, you may:</p> <p>1. File a new Form I-601A, Application for Provisional Unlawful Presence Waiver, with required filing and biometric services fees. You must still meet all the eligibility requirements for the provisional unlawful presence waiver at the time of filing (including that you are physically present in the United States and appear for your</p>

		<p>biometrics appointment at a USCIS Application Support Center (ASC)).</p> <p>NOTE: The approval of a provisional unlawful presence waiver is automatically revoked if you, at any time before or after approval of the provisional unlawful presence waiver or before an immigrant visa is issued, reenter or attempt to reenter the United States without being inspected and admitted or paroled.</p> <p>OR</p> <p>2. File a Form I-601, Application for Waiver of Grounds of Inadmissibility, after you have attended your DOS immigrant visa interview at the U.S. Embassy or consulate abroad, and after DOS has determined whether you are subject to any other grounds of inadmissibility, including inadmissibility on account of unlawful presence.</p>
<p>Page 2-4 General Instructions</p>	<p>Each application must be properly signed and accompanied by the appropriate fee. (See the section entitled "What is the Filing Fee?".) A photocopy of a signed application or a typewritten name in place of a signature is not acceptable.</p> <p>Evidence. You must submit all required initial evidence along with all the supporting documentation with your application at the time of filing.</p> <p>[See below. Moved to the beginning of "General Instructions" section.]</p> <p>[See below. Moved to the beginning of "General Instructions" section.]</p>	<p>[Page 3]</p> <p>Each application must be properly signed and filed. A photocopy of a signed application or a typewritten name in place of a signature is not acceptable.</p> <p>Each application must be accompanied by the appropriate filing and biometric services fees.</p> <p>Evidence. You must submit all required initial evidence along with all the supporting documentation with your application at the time of filing.</p> <p>Biometric Services Appointment. After receiving your application and ensuring completeness, USCIS will inform you in writing when to go to your local USCIS ASC for your biometrics services appointment. Failure to attend the biometrics services appointment will result in denial of your application.</p> <p>Copies. Unless specifically required that an</p>

[See below. Moved to the beginning of “General Instructions” section.]

How to Fill Out Form I-601A

1. Type or print legibly in black ink.
2. Answer all questions fully and accurately. If an item is not applicable or the answer is “none,” leave the space blank.
3. If you need additional space to complete any item, proceed to **Part 5** of the form.

Approved Immediate Relative Petition

One of the eligibility requirements to file a provisional unlawful presence is that you must be the beneficiary of an approved immigrant visa petition classifying you as an immediate relative of a U.S. citizen...

The Child Status Protection Act (CSPA) permits certain beneficiaries of visa petitions to retain.....

Certain widows/widowers of deceased U.S. citizens can also be immediate relatives.

original document be filed with an application or petition, a legible photocopy may be submitted. Original documents submitted when not required will remain a part of the record and will not be automatically returned to you.

Translations. Any document submitted to USCIS that contains a foreign language must be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator’s certification that he or she is competent to translate from the foreign language into English.

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How to Fill Out Form I-601A

1. Type or print legibly in black ink.
2. Answer all questions fully and accurately. If an item is not applicable or the answer is “none,” leave the space blank.
3. If you need additional space to complete any item, proceed to **Part 5., Additional Information.**

Approved Immediate Relative Petition

You must be the beneficiary of an approved immigrant visa petition classifying you as an immediate relative of a U.S. citizen to file an application for a provisional unlawful presence waiver...

The Child Status Protection Act (CSPA) permits certain beneficiaries of immigrant visa petitions to retain.....

Certain widows/widowers of deceased U.S. citizens and the children of such widows/widowers can also be immediate relatives.

Consular Processing of the Immigrant Visa...

Upon receiving an approved visa petition from USCIS...

One of the eligibility requirements to file a provisional unlawful presence waiver is that you must have already paid the Department of State immigrant visa processing fee and provided USCIS a copy of your DOS immigrant visa fee receipt when you submit the provisional unlawful presence waiver application...

NOTE: You must notify the NVC of your intention to pursue the provisional unlawful presence waiver before the NVC schedules your immigrant visa interview. If you have already been scheduled to appear at a U.S. Embassy or consulate for an immigrant visa interview, you cannot file a request for a provisional unlawful presence waiver. Instead, you must file Form I-601, Application for Waiver of Grounds of Inadmissibility, from outside the United States, after you have been interviewed for the immigrant visa and the consular officer finds you are inadmissible for a ground that may be waived.

Immigrant Visa Processing...

Upon receiving an approved immigrant visa petition from USCIS...

You must have already paid the DOS immigrant visa processing fee and must provide USCIS with a copy of your DOS immigrant visa fee receipt when you submit your application for a provisional unlawful presence waiver. The DOS immigrant visa fee receipt must be for the NVC case associated with the approved immigrant visa petition classifying you as an immediate relative. Contact the NVC if you need another copy of your DOS immigrant visa fee receipt.

Immigrant Visa Interviews *[New Sub-heading]*

If DOS initially acted **on or after** January 3, 2013, to schedule your immigrant visa interview for the approved immediate relative petition upon which your Form I-601A is based, you can file an application for a provisional unlawful presence waiver. If DOS initially acted **before** January 3, 2013, to schedule your immigrant visa interview for the approved immediate relative petition upon which your Form I-601A is based, you cannot file an application for a provisional unlawful presence waiver. Instead, you must file Form I-601, Application for Waiver of Grounds of Inadmissibility, from outside the United States after you have been interviewed for the immigrant visa, and the consular officer finds you are inadmissible for a ground that may be waived. USCIS will use the date that DOS initially acted to schedule your interview to determine if you are eligible to file a Form I-601A, not the date you are scheduled to appear for your immigrant visa interview.

Extreme Hardship to a Qualifying Relative

You must show that you have a U.S. citizen spouse or parent (qualifying relative) who would experience extreme hardship if you were refused admission to the United States. The qualifying relative does not need to be the relative who filed the immigrant visa petition to classify you as an immediate relative, but he or she must be a U.S. citizen spouse or parent...

[Deleted]

Extreme Hardship to a Qualifying Relative

To be eligible for a provisional unlawful presence waiver, you must show that you have a U.S. citizen or LPR spouse or parent (qualifying relative) who would experience extreme hardship if you were refused admission to the United States. The qualifying relative does not need to be the visa petitioner, but must be a U.S. citizen or LPR spouse or parent...

A lawful permanent resident may not be a qualifying relative for the purpose of showing extreme hardship in this provisional waiver application. If you are unable to show extreme hardship to your U.S. citizen spouse or parent, and you would like to request a waiver based on extreme hardship to your lawful permanent resident spouse or parent, you may seek a waiver on Form I-601 from outside the United States, after you have been interviewed for the immigrant visa at a U.S. Embassy or consulate and a consular officer has found you inadmissible.

NOTE to parents of a U.S. citizen or LPR child: A U.S. citizen or LPR child may not be a qualifying relative for the purpose of showing extreme hardship in this application.

NOTE to parents of a U.S. citizen child: A U.S. citizen child may not be a qualifying relative for the purpose of showing extreme hardship in this application. USCIS will not consider hardship experienced by your U.S. citizen children except to the extent that it affects the hardship your qualifying U.S. citizen spouse or parent would experience if you were refused admission to the United States.

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NOTE to surviving immediate relatives: If your U.S. citizen spouse or parent (the immigrant visa petitioner) died after filing Form I-130 on your behalf, USCIS will consider the death of your U.S. citizen spouse or parent to be the functional equivalent of extreme hardship to the petitioner if you meet the following requirements: (1) you resided in the United States at the time of the death of the petitioner and (2) you continue to reside in the United States. You must still complete **Part 2., Information About Immediate Relative Petition and Immigrant Visa**

	<p>USCIS will not consider hardship experienced by your children except to the extent that it affects your U.S. citizen or LPR spouse or parent.</p> <p>NOTE to surviving immediate relatives: If your U.S. citizen spouse or parent died after filing Form I-130 on your behalf, USCIS will consider the death of your U.S. citizen spouse or parent (the petitioner) to be the functional equivalent of extreme hardship to the petitioner if you meet the following requirements: (1) you resided in the United States at the time of the death of the petitioner; and (2) you continued to reside in the United States. You must still complete Part 2. and Part 3. of the form with information about the Form I-130 petitioner. In Part 4 of the form, you must explain why you believe your application should be approved as a matter of discretion. You must also provide a copy of the petitioner's death certificate with the application.</p> <p>Biometrics Services Appointment. After receiving your application and ensuring completeness, USCIS will inform you in writing where to go to your local USCIS Application Support Center (ASC) for your biometrics services appointment. Failure to attend the biometrics services appointment may result in denial of your application.</p> <p>Copies. Unless specifically required that an original document be filed with an application or petition, a legible photocopy may be submitted. Original documents submitted when not required may remain a part of the record, and will not be automatically returned</p>	<p>Processing, and Part 3., Information About Qualifying Relative, with information about the Form I-130 petitioner. In Part 4., Statement from Applicant, you must explain why you believe your application for a provisional unlawful presence waiver should be approved as a matter of discretion. You must also provide a copy of the petitioner's death certificate with your application.</p> <p>[Moved to the beginning of "General Instructions" section. See above.]</p> <p>[Moved to the beginning of "General Instructions" section. See above.]</p> <p>[Moved to the beginning of "General Instructions" section. See above.]</p>
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	<p>to you.</p> <p>Translations. Any document containing a foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator’s certification that he or she is competent to translate from the foreign language into English.</p>	
<p>Page 4-6 Specific Instructions</p>	<p>Part 1 – Information About the Applicant</p> <p>In this section, provide information about yourself.</p> <p>Item Number 1. A-Number. Write your Alien Registration Number (A-Number). Your A-Number is the number USCIS uses to identify your immigration records. This number may be located on documents you received from the NVC or on your fee receipt for the immigrant visa processing fee.</p> <p>Item Number 2. Social Security Number...</p> <p>Item Number 3.a. – 3.c. Full Name....</p> <p>Item Number 6.a. – 6.e. Home Address. Write the address where you currently reside, even if this is not where you receive mail...</p> <p>Item Number 14. Country of Citizenship. ... If you do not have citizenship in any country, write “stateless” and provide an explanation in Part 5...</p> <p>Item Numbers 18. - 24. Previous Entries Into The United States. Write when and where you were previously in the United States, if</p>	<p>[Page 5]</p> <p>Part 1. Information About Applicant</p> <p>In this section, provide the following information about yourself:</p> <p>Item Number 1. Alien Registration Number (A-Number). Write your A-Number. Your A-Number is the number USCIS uses to identify your immigration records. This number may be located on documents you received from USCIS or the Department of Justice, Executive Office for Immigration Review (EOIR) during immigration proceedings in court.</p> <p>Item Number 2. U.S Social Security Number...</p> <p>Item Numbers 3.a. – 3.c. Your Full Name...</p> <p>Item Numbers 6.a. – 6.e. Home Address. Write the address where you currently reside, even if the address is not where you receive your mail...</p> <p>Item Number 14. Country of Citizenship. ... If you do not have citizenship in any country, write “stateless” and provide an explanation in Part 5., Additional Information...</p> <p>Item Numbers 18. - 24. Previous Entries Into The United States. Write when and where you were previously in the United States, if applicable, and your immigration status at the time of entry, in the appropriate fields. If you entered without inspection or parole, write</p>

applicable, and your immigration status at the time of entry, in the appropriate fields. If you entered without inspection or parole, write “EWI.”

Item Numbers 25. - 34. *Immigration or Criminal History Records.* Answer the questions in **Item Numbers 25. - 33.** by marking either “Yes” or “No” after each question. You must provide information about criminal history records regardless of the country where the event occurred.

(1) If you have ever been in removal proceedings, provide additional information in Part 5 of the form, including the location, date and outcome of the removal proceedings (i.e. terminated, dismissed, charging document cancelled, or administratively closed and then reopened for issuance of final voluntary departure order). **You must provide a copy of the Notice to Appear and any documents showing the outcome of the removal proceedings.**

(2) If you answer “Yes” to **Item Numbers 31. or 32.**, provide the location and date of the event, and a brief description, in the

“EWI” as your immigration status. If you need more space, use **Part 5, Additional Information.**

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Item Numbers 25. – 31.d. *Immigration or Criminal History.* Answer the questions in **Item Numbers 25. - 31.d.** to provide information about any immigration or criminal history.

(1) If you answer “Yes” to Item Number 25., provide information about the status of your removal proceedings in **Item Number 26.** of the form, and provide a copy of the charging document (Notice to Appear or Order to Show Cause) together with your administrative closure order from the Department of Justice, Executive Office for Immigration Review (EOIR) **or** any other documents showing the outcome of your removal proceedings.

Note: If your removal proceedings were administratively closed, you are still “in removal proceedings” **until** EOIR terminates or dismisses your case. However, you can apply for a provisional unlawful presence waiver if EOIR has not placed your removal proceedings back on EOIR’s calendar to continue your removal proceedings before USCIS receives your application for a provisional unlawful presence waiver.

If you are subject to a final removal order and you have not left the United States since the order became final **or** you are subject to reinstatement of a prior final removal order, you are not eligible for a provisional unlawful presence waiver.

(2) If you answer “Yes” to any question in Item Numbers 27. – 31.d., provide the location and date of the event, and a brief description, in **Part 5., Additional Information.** The provisional unlawful presence waiver only addresses the

appropriate fields in **Item Numbers 34.a. - 34.e.** If you need additional space, you must provide information regarding the events in **Part 5** of the form.

(3) If you answer “Yes” to **Item Numbers 31. or 32.**, provide any related court dispositions to show that you were not convicted of a crime.

NOTE: USCIS will deny your provisional waiver application if you answered “No” to Item Numbers 25.b. or 26.b.; if you answered “Yes” to Item Numbers 27., 28., 29., 30. or 33.; or if there is any other reason to believe you may be found inadmissible at the time of your immigrant visa interview for a ground other than unlawful presence under INA section 212(a)(9)(B)(i)(I) or (II).

inadmissibility grounds associated with unlawful presence under INA section 212(a)(9)(B)(i). USCIS will deny your application if there is reason to believe that another ground of inadmissibility may apply in your case. You should present evidence to establish your eligibility for an immigrant visa to the consular officer at the time of your immigrant visa interview.

(3) **If you were arrested or detained,** you must provide information about the event regardless of the country where the event occurred.

(4) **If you were charged with a crime** you must provide certified court dispositions showing the outcome of the court proceedings. You must provide information even if your records were expunged; you were placed in an alternative sentencing or rehabilitation program (for example: diversion, deferred prosecution, withheld adjudication, deferred adjudication); your records were sealed or otherwise cleared; or if anyone, including a judge, law enforcement officer, or attorney, told you that you no longer have a criminal record.

(5) **If you were arrested but not charged with a crime or offense,** you must provide documentation from the arresting authority or prosecutor's office showing that you were not charged.

(6) **If you have ever engaged in, ordered, incited, assisted or otherwise participated in any human rights violations** (e.g., acts involving torture, genocide, or human trafficking; murder; severely injuring another, engaging in sexual activity with anyone being forced or threatened), you must provide information about the event(s) (place, date and brief description) regardless of the country where the event(s) occurred.

Part 2. Information About Immediate Relative Petition and Immigrant Visa Processing...

Part 2 - Information About Immediate Relative Petition and Consular Visa Processing...

Item Number 1. USCIS Receipt Number.
Write the receipt number for the approved petition classifying you as an immediate relative of a U.S. citizen, and include a copy of the petition approval notice (Form I-797, Notice of Action) with your application...

Item Number 4. Consular Case Number.
Write your consular case number (NVC Case Number). Your NVC Case Number is located on your receipt for the Department of State immigrant visa processing fee.

Item Number 5. Immigrant Visa Interview.
Indicate whether the Department of State already scheduled you to appear at a U.S. Embassy or consulate for an immigrant visa interview. If you mark “Yes,” you are not eligible to file this application.

Item Number 1. USCIS Receipt Number.

Write the receipt number for the approved immigrant visa petition classifying you as an immediate relative of a U.S. citizen (Form I-130 or I-360), and include a copy (if available) of the petition approval notice (Form I-797, Notice of Action). This will assist USCIS in processing your application for a provisional unlawful presence waiver. Failure to provide a copy of the petition approval notice may result in processing delays or in the rejection of your application. Failure to provide a copy of the petition approval notice does not, by itself, result in the denial of your application.

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Item Number 4. Consular Case Number.
Write your consular case number (NVC Case Number). Your NVC Case Number is located on your receipt for the DOS immigrant visa processing fee. The NVC Case Number must be associated with the approved petition you listed in **Part 2., Item Number 1.**

Item Number 5. Immigrant Visa Interview.
Indicate whether DOS initially acted before January 3, 2013, to schedule your immigrant visa interview for the approved immediate relative petition upon which your Form I-601A is based.

NOTE: The actual date and time that you are scheduled to appear for your immigrant visa interview is not the date USCIS will use to determine if you are eligible to file a Form I-601A. USCIS will use the date DOS initially acted to schedule your immigrant visa interview for the approved immediate relative petition upon which your Form I-601A is based. Information about how to determine when DOS took action to schedule your immigrant visa interview may be found on the DOS website at www.immigrantvisas.state.gov . If DOS initially acted before January 3, 2013, you are not eligible to file a Form I-601A, even if you

	<p>Part 3 - Information About Qualifying Relative</p> <p>In this section, provide information about the U.S. citizen or LPR spouse... if you were refused admission to the United States and sought to return as a permanent resident.</p> <p>...Item Number 2. Relationship to Applicant. Indicate whether the qualifying relative is your U.S. citizen spouse, LPR spouse, U.S. citizen parent, or LPR parent.</p> <p>Item Number 3. Other Qualifying Relative(s). Indicate whether you have another qualifying relative (U.S. citizen or LPR spouse or parent) who would experience hardship. If you mark “Yes,” provide the name, relationship and citizenship/LPR status of the additional qualifying relative in Part 5. of the form...</p> <p>Part 4 – Statement from Applicant</p> <p>In the space provided, describe...support your request for a waiver.</p> <p>...Your statement must also explain why you</p>	<p>failed to appear for your immigrant visa interview or you or DOS cancelled or rescheduled the interview on or after January 3, 2013.</p> <p>If you indicate on your Form I-601A that DOS initially acted before January 3, 2013, to schedule you for an immigrant visa interview, or if you do not answer the question, USCIS will reject your application for a provisional unlawful presence waiver and return the fee and package to you. USCIS may also deny your application if you indicate on your Form I-601A that DOS did not initially act before January 3, 2013, to schedule you for an immigrant visa interview, but DOS records indicate that DOS did initially act prior to this date to schedule your immigrant visa interview for the approved immediate relative petition upon which the Form I-601A is based.</p> <p>Part 3. Information About Qualifying Relative</p> <p>In this section, provide information about the U.S. citizen spouse...if you were refused admission to the United States.</p> <p>...Item Number 2. Relationship to Applicant. Indicate whether the qualifying relative is your U.S. citizen spouse or parent.</p> <p>Item Number 3. Other Qualifying Relative(s). Indicate whether you have another qualifying relative (U.S. citizen spouse or parent) who would experience extreme hardship if you were refused admission to the United States. If you answer “Yes,” provide the name, relationship and evidence of U.S. citizenship of the additional qualifying relative in the space provided in Part 5., Additional Information.</p> <p>Part 4. Statement from Applicant</p> <p>In the space provided, describe...support your</p>
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believe your application should be approved as a matter of discretion. The approval of a provisional unlawful presence waiver application is discretionary. The USCIS officer will weigh favorable factors and unfavorable factors that are presented in your case to determine whether your application should be approved. You should explain why you believe that your application should be approved because of the favorable factors, and why unfavorable factors should not carry as much weight as the favorable ones.

If you intend to submit a statement in a separate letter, you may do so, but you must write into the space provided that you are attaching a separate letter. The letter must be submitted at the same time as this Form I-601A application. Include your name and A-Number on each page of the letter.

Part 5 - Additional Information

In the space provided, you may add additional information regarding any item in the form. In order to assist USCIS in reviewing your response, identify the Part Number and Item Number of the form which relates to the additional information.

Part 6 – Signature of Applicant

You must sign this application personally, unless you are not competent to sign the application, in which case a duly appointed

application for a provisional unlawful presence waiver.

...Your statement must also explain why you believe your application for a provisional unlawful presence waiver should be approved as a matter of discretion. The approval of a provisional unlawful presence waiver is discretionary. The USCIS officer will weigh favorable factors and unfavorable factors that are presented in your case to determine whether your request should be approved. You should explain why you believe your application for a provisional unlawful presence waiver should be approved because of the favorable factors, and why unfavorable factors should not carry as much weight as the favorable ones.

If you intend to submit a statement in a separate letter, you may do so, but you must write into the space provided that you are attaching a separate letter. The letter must be submitted with this Form I-601A. Include your name and A-Number on each page of the letter.

Part 5. Additional Information

In the space provided, you may add additional information regarding any item in the form. In order to assist USCIS in reviewing your response, identify the **Part Number** and **Item Number** of the form which relates to the additional information.

If you intend to submit a statement in a separate letter, you may do so, but you must write into the space provided that you are attaching a separate letter. The letter must be submitted with this Form I-601A application. If you require more space than what is provided in this section, you may use a separate sheet(s) of paper. Include your name and A-Number on each page of the letter.

[Page 8]

Part 6. Signature of Applicant

	<p>legal guardian may sign the application for you.</p> <p>Part 7. Signature of Person Preparing This Application (If Other Than the Applicant)...</p>	<p>You must sign this Form I-601A personally. A parent or duly appointed legal guardian may sign for a mentally incompetent person. Read the Penalties section of these instructions before you sign this form.</p> <p>Part 7. Signature and Contact Information of Person Preparing This Application (if Other Than the Applicant)...</p> <p>Part 8. Signature of Interpreter</p> <p>If an interpreter assisted the applicant in filling out this application, the interpreter must sign and date the application and provide the information requested.</p>
<p>Page 7-9, What Evidence Should Be Submitted With the Application?</p>	<p>What Evidence Should Be Submitted With the Application?</p> <p>Petition Approval Notice</p> <p>Submit a copy of the USCIS approval notice (Form I-797, Notice of Action) for the petition (Form I-130 or I-360) that classifies you as the immediate relative of a U.S. citizen. See section entitled “General Instructions” for more information.</p> <p>Relationship to Qualifying Relative</p>	<p>[Page 8]</p> <p>What Evidence Should Be Submitted With the Application?</p> <p>Petition Approval Notice</p> <p>Submit a copy (if available) of the USCIS approval notice (Form I-797, Notice of Action) for the immigrant visa petition (Form I-130 or I-360) that classifies you as an immediate relative of a U.S. citizen. This will assist USCIS in processing your application for a provisional unlawful presence waiver. Failure to provide a copy of the petition approval notice may result in processing delays or in the rejection of your application. Failure to provide a copy of the petition approval notice does not, by itself, result in a denial of your application. See also section entitled “General Instructions” for more information.</p> <p>EOIR administrative closure order</p> <p>Submit a copy (required where applicable) of the EOIR administrative closure order</p> <p>Relationship to Qualifying Relative</p>

	<p>If you claim extreme hardship to a U.S. citizen spouse or parent who is the visa petitioner, you do need to present evidence of your relationship to the petitioner. The visa petitioner will have already presented this evidence with the visa petition.</p> <p>(4) If you were born out of wedlock...This evidence may include evidence that your father lived with you, supported you, or otherwise showed continuing parental interest in your welfare.</p> <p>Citizenship/LPR Status of a Qualifying Relative</p> <p>If you claim extreme hardship to a U.S. citizen spouse or parent who is the visa petitioner, you do not need to present evidence of your relationship to the petitioner. The visa petitioner will have already presented this evidence with the visa petition.</p> <p>...However, if you claim extreme hardship to a qualifying relative who is not the visa petitioner, you must submit evidence showing that your qualifying relative is a U.S. citizen or LPR of the United States...</p> <p>Evidence of LPR status may include:</p> <ul style="list-style-type: none"> (5) A copy of the front and back of your relative's permanent resident card (I-551); (6) If your relative has not received his or her permanent resident card (I-551), copies of his or her passport biographic page and the page showing admission as a permanent resident; or (7) Other evidence of LPR status issued by USCIS or the former INS... 	<p>If you claim extreme hardship to a U.S. citizen spouse or parent who is the immigrant visa petitioner, you do not need to present evidence of your relationship to the petitioner. The immigrant visa petitioner will have already presented this evidence with the immigrant visa petition.</p> <p>[Page 9]</p> <p>(4) If you were born out of wedlock...You may include evidence that your father lived with you, supported you, or otherwise showed continuing parental interest in your welfare.</p> <p>Citizenship Status of a Qualifying Relative</p> <p>If you claim extreme hardship to a U.S. citizen spouse or parent who is the immigrant visa petitioner, you do not need to present evidence of your relationship to the petitioner. The immigrant visa petitioner will have already presented this evidence with the immigrant visa petition.</p> <p>...However, if you claim extreme hardship to a qualifying relative who is not the immigrant visa petitioner, you must submit evidence showing that your qualifying relative is a citizen of the United States...</p> <p>[Deleted]</p> <p>[Page 10]</p>
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	<p>NOTE: USCIS will only consider hardship to a qualifying relative. If you describe hardship to yourself or anyone other than a U.S. citizen or LPR spouse, you must show how this hardship will cause extreme hardship to your qualifying relative or that evidence will not be considered.</p>	<p>NOTE: USCIS will only consider hardship to a qualifying relative. If you describe hardship to yourself or anyone other than a U.S. citizen spouse or parent, you must show how this hardship affects the hardship your qualifying U.S. citizen spouse or parent would experience if you were refused admission to the United States.</p>
<p>Page 9, What Is the Filing Fee?</p>	<p>All applications must be accompanied by a fee of \$585. An additional biometrics services fee of \$85 is required for applicants under 79 years of age. Therefore, the fees you must submit with the application are:</p> <ol style="list-style-type: none"> \$585 plus \$85 for biometrics services fee if you are under 79 years of age; or \$585 if you are 79 years of age or older. <p>You may not request a fee waiver for this application...</p> <p>How to Check If the Fees Are Correct?</p> <p>The form and biometrics services fees on this form are current as of the edition date appearing in the lower left corner of this page. However, because USCIS fees change periodically, you can verify if the fees are correct by following one of the steps below.</p> <ol style="list-style-type: none"> Visit the USCIS Web site at www.uscis.gov, select “FORMS,” and check the appropriate fee; or Telephone the USCIS National Customer Service Center at 1-800-375-5283 and ask for the fee information. 	<p>[Page 10]</p> <p>All applications must be accompanied by a fee of \$585. An additional biometric services fee of \$85 is required for individuals under 79 years of age. Therefore, the fees you must submit with the Form I-601A are:</p> <ol style="list-style-type: none"> \$585 plus \$85 for biometric services fee if you are under 79 years of age; or \$585 if you are 79 years of age or older. <p>You may not request a fee waiver for Form I-601A or for the biometric services fee...</p> <p>[Page 11]</p> <p>How to Check If the Fees Are Correct?</p> <p>The filing and biometric services fees on this form are current as of the edition date appearing in the lower left corner of this page. However, because USCIS fees change periodically, you can verify if the fees are correct by following one of the steps below.</p> <ol style="list-style-type: none"> Visit the USCIS Web site at www.uscis.gov, select “FORMS,” and check the appropriate fee for the Form I-601A; or Telephone the USCIS National Customer Service Center at 1-800-375-5283 and ask for the fee information. For TDD (hearing impaired) call 1-800-767-1833.
<p>Page 10, Where To File?</p>	<p>...where to file this benefit request.</p>	<p>[Page 11]</p> <p>...where to file this benefit request. For TDD (hearing impaired) call 1-800-767-1833.</p>

<p>Page 10, Address Changes</p>	<p>...contact the USCIS National Customer Service Center at 1-800-375-5283.</p> <p>Note: Do not submit a change of address request to the USCIS Lockbox facilities...</p>	<p>[Page 11]</p> <p>...contact the USCIS National Customer Service Center at 1-800-375-5283. For TDD (hearing impaired) call 1-800-767-1833.</p> <p>Note: Do not submit a change of address request to the USCIS Lockbox facilities...</p>
<p>Page 10, Processing Information</p>	<p>Any Form I-601A that is not signed or accompanied by the correct fee will be rejected with a notice that the Form I-601A is deficient. The Form I-601A may also be rejected for the following reasons:</p> <ol style="list-style-type: none"> 1. The applicant does not provide his or her family name, domestic home address, and date of birth; 2. The applicant is under 17 years of age; 3. The applicant does not include evidence of an approved immigrant visa petition that classifies the applicant as an immediate relative of a U.S. citizen; 4. The applicant does not include a copy of the DOS fee receipt as evidence that the applicant has paid the immigrant visa processing fee to DOS; or 5. The applicant has indicated on the provisional unlawful presence waiver application that an immigrant visa interview has been scheduled with DOS... <p>If USCIS rejects your Form I-601A, we...</p>	<p>Page 11,</p> <p>Any Form I-601A that is not signed or accompanied by the correct fee will be rejected with a notice that the Form I-601A is deficient.</p> <p>The Form I-601A also will be rejected if the applicant:</p> <ol style="list-style-type: none"> 1. Fails to provide his or her family name, domestic home address, and date of birth; 2. Is under 17 years of age; 3. Does not include evidence of an approved immigrant visa petition that classifies the applicant as an immediate relative of a U.S. citizen; 4. Does not include a copy of the DOS fee receipt as evidence that the applicant has paid the immigrant visa processing fee to DOS; or 5. Has indicated on the application for a provisional unlawful presence waiver that DOS initially acted before January 3, 2013, to schedule the immigrant visa interview or does not check either box in Part 2., Item Number 5. <p>If USCIS rejects your Form I-601A, we...</p>
<p>Page 10, USCIS Forms and</p>	<p>...telephoning the USCIS National Customer</p>	<p>[Page 12]</p> <p>...telephoning the USCIS National Customer</p>

Information	<p>Service Center at 1-800-375-5283.</p> <p>As an alternative to waiting in line for assistance....To access the system, visit the USCIS Web site...</p>	<p>Service Center at 1-800-375-5283. For TDD (hearing impaired) call 1-800-767-1833.</p> <p>As an alternative to waiting in line for assistance....To access the system, visit the USCIS Web site at www.uscis.gov...</p>
Page 11 Penalties	<p>If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit.</p> <p>In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.</p>	<p>[Page 12]</p> <p>If you knowingly and willfully falsify or conceal a material fact or submit a false document with the Form I-601A, we will deny your Form I-601A and may deny any pending or future immigration benefit request or other request for services.</p> <p>In addition, individuals may be placed into removal proceedings, face severe penalties provided by law, and may be subject to criminal prosecution.</p>
Page 12, Processing Information	<p>[...]</p> <p>If your Form I-601A is denied, you may not appeal the decision or request a motion to reopen or reconsider the decision.</p>	<p>If after fully adjudicating your request USCIS denies your application, USCIS will not refund the fee originally submitted with your request.</p> <p>If your Form I-601A is denied, you may not appeal the decision or request a motion to reopen or reconsider the decision.</p>
Page 12, USCIS Privacy Act Statement	<p>PURPOSE: The primary purpose...</p> <p>DISCLOSURE...may delay a final decision or result in denial of your form.</p>	<p>[Page 12]</p> <p>PURPOSE: The primary purpose...</p> <p>DISCLOSURE... may delay a final decision in your case or result in denial of your benefit request.</p>
Page 12, Paperwork Reduction Act	<p>An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OIA.1B control number. The public reporting burden for this collection of information is estimated at 90 minutes per response, including the time for reviewing instructions, completing and submitting the form. Send comments regarding this burden estimate or</p>	<p>[Page 12]</p> <p>An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 90 minutes per response, including the time for reviewing instructions, gathering the required documentation and information, completing the form, preparing</p>

	<p>any other aspect of this collection of information, including suggestions for reducing this burden to: U.S. Citizenship and Immigration Services, Regulatory Products Division, Office of the Executive Secretariat, 20 Massachusetts Ave., N.W., Washington, DC 20529-2020. Do not mail your completed Form I-601A application to this address.</p>	<p>statements, attaching necessary documentation, and submitting the form. The collection of biometrics is estimated to require 1 hour and 10 minutes. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave NW, Washington, DC 20529-2140. OMB Control No. 1615-0123. Do not mail your completed Form I-601A application to this address.</p>
<p>New Section</p>		<p>[Page 13]</p> <p>Is My Application Complete?</p> <p>Please ensure that you have completed the following actions before you file Form I-601A with USCIS:</p> <p>I completed every applicable item on the Form I-601A, including my full name, my address and my date of birth. I attached documents to support my statements when requested on the Form I-601A and/or in the section of the instructions entitled "What Evidence Should Be Submitted With the Application?", including an administrative closure order, arrest records, and conviction documents, if applicable."</p> <p>In Part 2., Information About Immediate Relative Petition and Immigrant Visa Processing, I provided information about the approved immediate relative petition (Form I-130 or Form I-360) that was filed on my behalf, and I attached a copy (if available) of the immigrant visa petition approval notice (Form I-797, Notice of Action).</p> <p>In Part 2., Information About Immediate Relative Petition and Immigrant Visa Processing, I provided information about my DOS immigrant visa case, and I placed a copy</p>

of my DOS immigrant visa fee receipt on top of the Form I-601A.

DOS did not initially act prior to January 3, 2013, to schedule my immigrant visa interview, and I answered the question in **Part 2., Item Number 5.**

NOTE: The actual date and time that you are scheduled to appear for your immigrant visa interview is not the date USCIS will use to determine if you are eligible to file a Form I-601A. USCIS will use the date DOS initially acted to schedule your immigrant visa interview for the approved immediate relative petition upon which your Form I-601A is based. If DOS initially acted before January 3, 2013, you are not eligible to file a Form I-601A, even if you failed to appear for your immigrant visa interview or you or DOS cancelled or rescheduled the interview on or after January 3, 2013.

USCIS will reject your Form I-601A and return the fee and package to you if you answered “Yes” to the question in **Part 2., Item Number 5.** USCIS may deny your application if you indicate on your Form I-601A that you were not scheduled for an immigrant visa interview before January 3, 2013, but DOS records indicate that you were scheduled prior to this date.

In **Part 3.** and **Part 5.,** I provided information about my qualifying relative(s), and I explained the extreme hardship to my qualifying relative(s) in **Part 4.** I also explained in **Part 4.** why my application for a provisional unlawful presence waiver should be approved as a matter of discretion.

I read the section entitled “**Penalties,**” and I signed this Form I-601A (unless a parent or duly appointed legal guardian signed the Form I-601A for an individual who is mentally incompetent).

		I included a check or money order according to the instructions in the section entitled " What is the Filing Fee? "
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