**Memorandum**

TO: Employee

FROM: Deborah Swett

DATE: December 1, 2016

RE: Application for Adjustment of Status

**General Procedural Overview**

Under certain circumstances, the U.S. Citizenship and Immigration Services (“USCIS”) permits a person and his or her family members to obtain permanent residence status by filing paperwork in the United States rather than by processing outside of the United States at the U.S. Embassy or Consulate in the home country. The application materials (called “Adjustment of Status Application” or hereinafter “Application”) involve fairly extensive paperwork for each family member; the materials may in some situations include a separate request for employment authorization for one or more family members and, in addition, may include a request for permission to travel outside of the United States during pendency of the Application (if travel plans are known at the outset).

Once all of the Application materials have been collected and signed as required, the materials are sent by mail to USCIS for processing. The Application materials are sent to USCIS Nebraska or Texas Service Center for initial processing. Several weeks after filing, each applicant is scheduled to complete biometrics (fingerprinting) at a USCIS Application Support Center (ASC) near your home. In business employment cases USCIS may waive the requirement for a personal interview and simply send the approval notice to the applicant. Once the interview has been held or otherwise waived and the Application approved, the applicant will receive the actual “green card” (the Form I-551) from a central processing facility. If an applicant needs to travel outside of the United States between the date of approval and the date on which the Form I-551 is received, the applicant can request a special passport stamp from the local USCIS office that will permit the applicant (and any family members whose passports are also stamped) to reenter the United States as a permanent resident.

**Note on Original Documents**

Original documents such as birth and marriage certificates should not be mailed with the Application. If an interview is required, however, original documentation will need to be presented for inspection by the interviewing officer.

**General Eligibility for Adjustment**

Any applicant or family member who has ever remained in the United States without authorization beyond the expiration date of the I-94 admission record or who has ever engaged in unauthorized employment may not be eligible to adjust status in the United States. In the employment-based preference petition context, however, such unauthorized stay or unauthorized employment may not be a bar to adjustment if certain conditions are satisfied (including, for example, that the unauthorized activity did not exceed 180 days in duration). Unfortunately, this relief does not apply to family members of the principal employment-based applicant. Please advise immediately if you or any family member has engaged in any unauthorized employment or has otherwise violated the terms of stay in the United States.

**Application Materials**

**Form I-485, Application to Register Permanent Residence or Adjust Status**: The applicant must complete and execute the Application (Form I-485). A separate Application must be completed for each additional family member applying for an adjustment of status, regardless of age. During the pendency of the Application travel outside the United States is restricted as discussed below. (Seyfarth Shaw will complete this Form for your signature.)

**Form G-325 Biographic Information**: Form G-325A must be completed for each applicant. (Seyfarth Shaw will complete this Form for your signature.)

**Birth Certificate**: A photocopy of the long form birth certificate must be submitted with the Application by each applicant. A certified translation1 must accompany the birth certificate if it is not in English. Acceptable birth certificates generally contain the full names of both parents and of the Applicant. Please note that affidavits together with third party supporting documents are required if the child’s or parents’ full names are not listed or if a birth certificate is unavailable. We attach samples of such affidavits for your convenience (see below). Note that if you do not have a birth certificate, you must provide a statement from the appropriate civil authority from your country of birth stating that a birth certificate does not exist for you and/or explaining why the birth certificate is unavailable, as well as indicating whether similar records for the time and place of your birth are available. Affidavits alone will not be sufficient. For information on obtaining a birth certificate from your country of birth, please visit <http://travel.state.gov/visa/fees/fees_3272.html> and choose your country of birth from the drop-down menu.

**Marriage License**: A photocopy of the marriage license or certificate must be submitted.

**Divorce/Death Certificate**: A photocopy of the divorce and/or death certificate(s) of any and all prior spouses must be submitted, if applicable.

**Passport and I-94 Admission Record**: A photocopy of the passport and I-94 admission record must be submitted with the Application by each applicant.

**Photographs**: Each applicant must submit two identical full frontal/passport style color photographs which meet the specifications as set forth on the Department of State’s website. Please review the instructions found on the website

1 The certification format should include the certifier’s name, signature, address and date of certification. A suggested format is: I ,\_\_\_\_\_\_\_\_, certify that Iam fluent in the English and \_\_\_\_\_\_\_\_ languages, and that the above/attached document is a complete and accurate translation of the document attached entitled\_\_\_\_\_\_\_\_\_\_. Note that the birth certificate holder should not certify the translation.

<http://travel.state.gov/content/visas/english/general/photos.html> carefully and present them to the photographer. Please note that USCIS is very strict regarding this requirement. In all cases, photographs must be taken within 30 days of the Application date. Two additional photographs are required for each advance parole application or employment authorization request -- both of which are discussed below.

**Form I-693, Medical Examination**: All applicants are required to obtain a medical

examination using Form I-693. The sealed medical examination results must be included in the Application materials. The purpose of the medical examination is to report on the physical and mental condition of each applicant. The examination is to be conducted by a USCIS-authorized physician (instructions on how to locate a physician in your area are contained in the accompanying email). The examination includes a chest x-ray for tuberculosis and serological test for syphilis and HIV, neither of which is required for children under the age of 15. If each applicant is not found to have any defect, disease or disability, then the physician endorses and seals the Form I-693 which is to be included with the Application (the sealed envelope must not be opened).

**Evidence of Vaccinations**: Each applicant must provide evidence that all vaccinations are up-to-date. Please provide any vaccination/immunization records to your examining physician. If vaccination records are unavailable or are too difficult to be obtained, then the examining physician will make arrangements for each applicant to be immediately vaccinated against certain vaccine-preventable diseases (including mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, haemophilus influenza type b, rotavirus, meningococcal, varicella, pneumococcal, influenza, gonorrhea, hepatitis A and hepatitis B). Any physician from the authorized list of medical examiners (instructions on how to locate a physician in your area are contained in the accompanying email) can provide additional information regarding the vaccines or possible waivers for medically inappropriate vaccines. If a waiver for medically inappropriate vaccinations is needed, please advise so that the proper waiver application form may be obtained. The last page of this memorandum provides information and vaccination requirements for the physical examination.

**Evidence of Bona Fide Nature of Marriage**: If yours spouse is filing an Application for Adjustment of Status and if your marriage is less than two years old at the time the Application is filed, your spouse must provide documentation to evidence the bona fide nature of your marriage. Such evidence would include evidence of joint ownership of assets, cohabitation, wedding ceremony, photos, beneficiary status under life insurance or other financial assets, copy of wills, lease agreement or property deeds showing joint ownership, birth certificates of common children, etc.

**Evidence of Arrest/Criminal Record**: Photocopies of all documentation related to any and all prior arrests, criminal convictions, etc. (excluding routine traffic violations such as speeding tickets) must be submitted.

**Form G-28, Notice of Entry of Appearance as Attorney or Representative**: This form authorizes legal representation by your attorney. One form must be signed by each applicant (including family members) for each application submitted. (The firm will complete this Form for your signature.)

**Employment Authorization**

Pending the grant of permanent residence status, the applicant must not take employment without the specific authorization of USCIS. However, if the applicant was authorized to engage in

employment prior to the filing of the Application, then the applicant can maintain the same employment during the adjustment processing period until the prior employment authorization expires. Note, however, that once an applicant returns to the U.S. after a trip abroad (using a properly obtained advance parole), any prior employment authorization is generally no longer valid; moreover, if the underlying visa petition expires before the Application has been

approved, employment authorization will also have expired. Thus, to ensure there are no gaps in proper employment authorization, Form I-765 should be concurrently filed with the Application. Two recent photographs must also accompany Form I-765.

**Travel Outside of the United States**

Once the Application is filed, the applicant (and all non-U.S. citizen family members) must not leave the United States without advance permission until the Application has been approved (and after any required travel documents have been obtained) unless the applicant has a valid L or H visa, in which case travel is permitted on the nonimmigrant visa. In all other cases, if travel is undertaken without first obtaining the so-called “advance parole” travel documentation, the Application is deemed to have been abandoned.

If travel outside the United States is necessary and the applicant does not have a valid L or H visa, the applicant must first secure advance permission from USCIS -- as far in advance of intended departure as possible -- by filing Form I-131 on which the purpose and length of absence must be stated. The applicant must also submit two photographs to USCIS in order to obtain the advance parole travel document. Advance parole travel documentation may be issued on a multiple entry basis if travel outside of the United States is anticipated to be frequent.

The following are example affidavits to be used where long form birth certificates are not available. Please note, an applicant only needs to obtain these affidavits if the applicant’s birth certificate does not list the applicant’s full name, date of birth, and the full names of both parents or if a birth certificate is unavailable.

**AFFIDAVIT**

I, (Please list full name), do hereby state under oath and penalty of perjury the following matters based upon my personal information:

This affidavit is given for the purpose of establishing my name.

I was born on in (Please list city and country of birth) and was

named (Please list full name). My mother’s name is , and my

father’s name is .

In support of the above I attach the following documents with this affidavit: Certified copy of my high school certificate stating my name (EXHIBIT I).

Affidavit of my father (or other relative), , confirming the details of my birth (EXHIBIT

II).

Affidavit of my mother (or other relative) , maiden name \_\_\_\_\_, confirming the details of

my birth (EXHIBIT III).

Further Affiant sayeth not.

Sworn to and subscribed before me this,

|  |  |  |
| --- | --- | --- |
| day of , 2016 |  |  |
|  |  |  |

Notary Public Please list full name

Please list full home address

My Commission Expires:   
[NOTARIAL SEAL]

**TO WHOM IT MAY CONCERN:**

This is to certify that I have personal knowledge regarding (Please list full name)’s

birth. I am (Please list full name)’ s father (or list other relative) and have personally known him since his birth. [Please provide a brief description of how you can attest to

the details of the birth (i.e. I was present during the birth of ).]

The following information regarding (Please list full name)’s birth is based on my

personal knowledge:

Date of Birth:

Place of Birth:

Full Name:

Full Name of Father:

Full Name of Mother:

This day of ,2016,

Father’s name (or list other relative)   
Father’s full home address

Date of Birth:   
Place of Birth:

Sworn to and subscribed before me

this \_\_\_\_\_ day of , 2016

Notary Public

My Commission Expires:

**TO WHOM IT MAY CONCERN:**

This is to certify that I have personal knowledge regarding (Please list full name)’s

birth. I am (Please list full name)’s mother (or list other relative) and have

personally known him since his birth. Because I am (Please list full name)’s mother, I was present at his birth and can attest to the details of the event.

The following information regarding (Please list full name)’s birth is based on my

personal knowledge:

Date of Birth:

Place of Birth:

Full Name:

Full Name of Father:

Full Name of Mother:

This day of ,2016,

Mother’s name, maiden name: \_\_\_\_\_ (or list other relative)   
Mother’s full home address

Date of Birth:   
Place of Birth:

Sworn to and subscribed before me

this \_\_\_\_\_ day of , 2016

Notary Public

My Commission Expires:

**VACCINATION REQUIREMENTS FOR IMMIGRANT VISA APPLICANTS AND ADJUSTMENT OF STATUS APPLICANTS**

**What are the vaccination requirements?**

They are: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, haemophilus influenza type b, rotavirus, meningococcal, varicella, pneumococcal, influenza, gonorrhea, hepatitis A, hepatitis B, and any other age-appropriate vaccinations recommended by the Advisory Committee for Immunization Practices (ACIP). The law requires all individuals applying for status as a lawful permanent resident (either by applying for an immigrant visa abroad or for adjustment of status in the United States) to establish that they have been vaccinated. Nonimmigrant (temporary) visa applicants are not required to comply with the vaccination requirements as a condition of visa issuance, but must comply if they apply for adjustment of status at a later date.

**Are there any exceptions?**

Yes. Orphans age 10 and under who are applying for IR-3 and IR-4 visas at a U.S. consular post are exempt from complying with the vaccination requirements before the visa is issued (but not exempt from the vaccination requirements altogether.) To qualify for the exception, the adoptive parent must sign an affidavit that the child will be vaccinated within 30 days of arrival or at the earliest time that it is medically appropriate. Adoptive parents who are unable to sign the affidavit in good faith because compliance with the vaccination requirements would be against their religious beliefs or moral convictions, must apply for a waiver on behalf of the child.

**Are there any waivers available?**

Yes. There are three types of waivers available. (1) You didn't have all the vaccinations (or all the vaccination certificates) at first, but then receive the missing vaccinations (or find the missing certificates); OR (2) The designated physician (known as civil surgeons for adjustment of status applicants in the United States and as panel physicians for immigrant visa applicants abroad) certifies that it would not be medically appropriate for you to have one or more of the required vaccinations. USCIS can grant these two waivers based on the civil surgeon’s or panel physician’s certification on the vaccination supplement. You do not need to file a separate waiver application or pay a fee. Take your vaccination records with you to your medical appointment. The civil surgeon or panel physician will review your vaccination history with you to determine whether you are in compliance. Do not try to comply with these requirements before you meet with the civil surgeon or panel physician, in case it is not medically appropriate for you to have one or more of the required vaccinations.

**What if I object to the vaccination requirements because of religious or moral reasons?**

The third waiver covers those applicants who believe that compliance with the vaccination requirements would be against their religious beliefs or moral convictions. Form I-601, Application for Waiver of Grounds of Excludability, with fee, is required. You must also meet the following three requirements: (1) You oppose vaccinations in any form; (2) The opposition is based on religious beliefs or moral convictions (whether or not as a member of a recognized religion); and (3) The religious belief or moral conviction is sincere. When the applicant is a child, the parent must meet all of these requirements.

**Where can I get the vaccination supplement?**

The civil surgeons and panel physicians have already received the vaccination supplement and instructions from the Centers for Disease Control and Prevention (CDC). Your civil surgeon or panel physician should contact CDC directly if he or she did not receive this mailing from CDC or visit CDC’s website at: <http://www.cdc.gov/ncidod/dq/health.htm.>