



Adjustment of Status for Afghans Paroled into the U.S.

Transitioning from Asylee or SIV Applicant to Permanent Resident

Adjustment of status (AOS) is the process by which noncitizens in the United States obtain lawful permanent residence, informally known as “getting a green card.” There are multiple categories of eligibility by which a noncitizen may adjust status, with specific requirements for each category. This resource is intended for attorneys and legal representatives and focuses on the common ways that Afghans paroled into the United States through Operation Allies Refuge may obtain permanent residence.

Basis for Adjustment of Status

For Afghans paroled into the United States during Operation Allies Refuge (OAR), there are two main categories of eligibility¹ that allow for adjustment of status:

1. Asylees (persons granted asylum in the U.S. based on an approved Form I-589 or approved Form I-730), and
2. Afghans who were employed by or on behalf of the U.S. government and received approval of their Chief of Mission (COM) applications—the first part of the Special Immigrant Visa process.

Requirements for Adjustment of Status Based on Grant of Asylum

U.S. immigration law allows persons granted asylum (“asylees”) to apply for lawful permanent resident (LPR) status if they meet the adjustment of status eligibility requirements. USCIS cannot approve such an application until the asylee has been physically present in the U.S. for at least one year.

To be eligible for adjustment of status as an asylee, the applicant must meet the following requirements:

- **Has been granted asylum**

¹ This guide will cover only these two categories of eligibility for adjustment of status because they are the categories most likely to be used by Afghans paroled into the United States during Operation Allies Refuge (OAR) beginning in 2021. It is important to note, however, that Afghan parolees may be eligible under other categories of adjustment of status not covered in this guide. It is also important to note that not all Afghan parolees are eligible to adjust status and get a green card.

- As a principal applicant who filed an I-589 for her/himself
 - As a derivative listed on a principal applicant's I-589 who was in the U.S. and received asylum at the same time as the principal
 - As a derivative with an approved I-730 who is in the U.S.
- Has properly filed Form I-485, Application to Register Permanent Residence or Adjust Status;
 - Was physically present in the U.S. at the time of filing the Form I-485;
 - Has been physically present in the U.S. for at least one year after being granted asylum. Note that USCIS now allows asylees to file their adjustment applications before they have one year of physical presence post-asylum, but USCIS cannot approve the application until the applicant has at least one year of physical presence post-asylum. (See the section *When to Mail Asylee AOS Applications*, below, for more important considerations around this point.);
 - Continues to meet the definition of a refugee, or is the spouse or child of a person who meets the definition of a refugee;²
 - Is not firmly resettled in a foreign country;
 - Grant of asylum has not been terminated;
 - Is admissible to the U.S. for lawful permanent residence or eligible for a waiver of inadmissibility or other form of relief; and
 - Merits a favorable exercise of discretion.

Requirements for Adjustment of Status Through SIV Program

The Afghan Allies Protection Act of 2009 authorized the issuance of Special Immigrant Visas (SIVs) to eligible Afghans who were employed by or on behalf of the U.S. government, the International Security Assistance Force (ISAF), or a successor mission in Afghanistan for a minimum of one year. An SIV allows a noncitizen to become an LPR when they enter the U.S. with that visa. After Kabul fell to the Taliban in August 2021, many Afghans came to the U.S. who had not yet started or not yet completed the SIV application process. They

were paroled into the U.S. and must now apply for adjustment of status in the U.S. in order to become LPRs.

To be eligible for adjustment through the SIV program, the applicant must meet the following requirements:

- **Has a Chief of Mission (COM) Approval Letter after vetting by the U.S. Department of State (DOS);**
- **Has an approved Form I-360 (by U.S. Citizenship and Immigration Services (USCIS) or an approved DS-157 (by DOS));³**
- Has properly filed Form I-485, Application to Register Permanent Residence or Adjust Status;
- Was inspected and admitted **or paroled** into the U.S. in a status other than SIV;
- Is physically present in the U.S.;
- Has an immigrant visa number immediately available at the time of filing; and
- Is admissible to the U.S. for lawful permanent residence or eligible for a waiver of inadmissibility or other form of relief.

Adjustment of Status Application Process

Adjustment applicants must file a Form I-485, along with required supporting documentation and, in some cases, a filing fee with USCIS. Each applicant, no matter their age, must file their own I-485: there are no derivatives on adjustment applications. USCIS may adjudicate the application entirely on paper—this sometimes happens for asylee adjustment applicants—or USCIS may call the applicant for an adjustment interview at a local Field Office. Afghans applying through the SIV program should generally expect to be required to attend an adjustment interview; asylee applicants are less likely to be required to attend adjustment interviews.

Filling Out Form I-485

Much of the information required on Form I-485 is not specific to the category of eligibility for adjustment. Here, we will highlight what information is common to both asylees and SIVs, and what information is different.

² If a derivative asylee loses their relationship to the principal asylee before the derivative adjusts status (whether because of the marriage of the derivative child, death of the principal, divorce of the principal and derivative spouse, or naturalization of the principal asylee), the derivative must go through an additional process before adjusting status. This process is called a “nunc pro tunc” asylum application.

³ The USCIS website has [a chart](#) that explains which applicants must submit an I-360 and which applicants must submit an approved DS-157.

Form I-485

Anyone applying for adjustment of status must submit Form I-485, Application to Register Permanent Residence or Adjust Status. There is a standard set of information and supporting documents that must be submitted with the application. However, depending on the category of eligibility, certain answers on the form will differ, and certain additional documents must be submitted.

Each applicant must file their own I-485, including minor children.

Part 1

Part 1 is Information About You [the Applicant]. This section asks for the applicant's legal name, all names the applicant has used in the past, date and place of birth, A-Number, mailing address, and Social Security number (SSN) or authorization for the Social Security Administration (SSA) to issue an SSN. Note that the majority of Afghan OAR parolees already have an SSN. Part 1 also asks for the applicant's immigration history: passport information, information about their arrival into the U.S., and I-94 information.

Part 2

Part 2 asks for the Category of Eligibility—that is, the legal basis for the applicant to obtain their green card. For Item 1, check this option for **asylees**:

1.d. Asylee or Refugee

- Asylum status (INA section 208), Form I-589 or Form I-730
- Refugee status (INA section 207), Form I-590 or Form I-730

For Item 1, check this option for **SIV applicants**:

1.c. Special Immigrant

- Religious worker, Form I-360
- Special immigrant juvenile, Form I-360
- Certain Afghan or Iraqi National, Form I-360 or Form DS-157

Item 2 will be “no” for Afghan asylee and SIV applicants; 245(i) is not applicable to their cases.

Items 3–9 only apply to SIV applicants; asylees may leave them blank or write “N/A.” The principal SIV applicant will complete only questions 3 and 4 with their underlying petition number (I-360 receipt number or DS-157 case number).

Information About Your Immigrant Category

If you are the **principal applicant**, provide the following information.

3. Receipt Number of Underlying Petition (if any)

4. Priority Date from Underlying Petition (if any)
(mm/dd/yyyy)

Any derivative SIV family members will leave the above part blank but will add the principal applicant's information in items 5–9.

If you are a **derivative applicant** (the spouse or unmarried child under 21 years of age of a principal applicant), provide the following information for the **principal applicant**.

Principal Applicant's Name

- 5.a. Family Name
(Last Name)

- 5.b. Given Name
(First Name)

- 5.c. Middle Name

6. Principal Applicant's A-Number (if any)

▶ A-

7. Principal Applicant's Date of Birth

(mm/dd/yyyy)

8. Receipt Number of Principal's Underlying Petition (if any)

▶

9. Priority Date of Principal Applicant's Underlying Petition
(if any) (mm/dd/yyyy)

Parts 3–12

There is no difference in how an asylee or SIV applicant completes parts 3 through 12 of Form I-485, as this information is required of all applicants for adjustment of status.

“Public Charge” Ground of Inadmissibility

Asylees and SIV applicants are **not** subject to the public charge ground of inadmissibility at [INA 212\(a\)\(4\)](#).

Answer “no” to Item 61 and skip to Item 69.a.

For further guidance, please see the Instructions for Form I-485.⁴

Required Supporting Evidence

All Form I-485 applications require the following supporting evidence to be submitted with the application:

- Two recent identical color passport-style photographs of the applicant;
- Photocopy of a government-issued identity document that has the applicant's name and photograph;
- Photocopy of the applicant's tazkira⁵ (Afghan identity card) (for asylee applicants, the tazkira or birth certificate is not required; USCIS instructs asylees to submit these "if available"); and
- Photocopies of documentation showing the applicant was inspected by an immigration officer and either admitted or paroled into the United States, such as an I-94 or passport stamp; (not required for asylee applicants, but all OAR parolees should have these).
- [Form I-693, Report of Immigration Medical Examination and Vaccination Record](#),⁶ completed by a U.S. Civil Surgeon⁷;
 - Note that as of January 2024, I-693s are valid only for two years. Given that the average asylee adjustment processing time is close to two and a half years, and given the cost of the medical exam some asylees choose not to submit the I-693 with the initial application. In that case, USCIS should send an RFE for the I-693 at the time of adjudication. While USCIS has indicated that they are expediting processing for all Afghan cases, there are no official case processing times specific to Afghans.
- For derivative asylees and SIV derivatives, proof of relationship to the principal applicant:

- Marriage certificates for spouse, or secondary evidence of marriage (and divorce decrees for any prior marriages);
- Birth certificates for children, or secondary evidence of parentage; or
- Adoption paperwork for adopted children⁸;
- If applicable, certified police and court records for any criminal charges, arrests, or convictions;
- If applicable, an application for a waiver of any grounds of inadmissibility; and
- [Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative](#) if an attorney or accredited representative is entering their appearance on the case.

For Asylees: Check [USCIS.gov](https://uscis.gov) for Current Filing Fees

Applicants may be eligible for a fee waiver. Use [Form I-912](#) to request one.

Additional Supporting Evidence for Asylees

- Evidence of asylum status (such as a copy of the asylum approval notice from USCIS or the immigration court order granting asylum); and
- Evidence of physical presence in the U.S. Such evidence can include employment letters, paystubs, housing leases, school enrollment records, bank statements, etc. Note that asylees may submit their adjustment of status applications before accruing one year of physical presence.⁹

Where to Mail Asylee AOS Applications

Filing location depends on the asylee's state of residence. See the USCIS web page [Direct Filing Addresses for Form I-485, Application to Register Permanent Residence or Adjust Status](#) for the proper mailing address.

⁴ Form I-485 Instructions are available at <https://www.uscis.gov/sites/default/files/document/forms/i-485instr.pdf>.

⁵ For Afghan applicants, the tazkira is acceptable in lieu of a birth certificate, per the State Department's Visa Reciprocity Table. See <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Afghanistan.html>.

⁶ Some SIV applicants had medical examinations overseas that comply with all or some of the USCIS medical exam requirements. USCIS has a chart that indicates which SIV applicants do not need to submit a new medical exam with their adjustment of status applications, under the "[Afghan National Parolee Vaccination Status and Immigration Medical Examinations](#)" tab.

⁷ The USCIS "Find a Civil Surgeon" tool is available at <https://www.uscis.gov/tools/find-a-civil-surgeon>.

⁸ Because adoption is not legal in Afghanistan, it is unlikely that Afghan adjustment applicants will have legally adopted children.

⁹ If submitting Form I-485 before the one-year physical presence requirement has been met, the applicant can submit evidence of physical presence up to the time of filing. At their interview or in response to a Request for Evidence, the applicant can submit additional evidence of physical presence.

When to Mail Asylee AOS Applications

USCIS may only approve an asylee adjustment application once an asylee has been physically present in the U.S. for at least one year following the grant of asylum. In the past, asylees were not permitted to file for adjustment of status until they had one year of physical presence, but in February 2023 USCIS issued [Policy Guidance](#) indicating that asylees (and refugees) may file their adjustment applications before that one-year mark. USCIS can then send an RFE if they need more evidence of physical presence at the time of adjudication.

A word of caution: some asylees who filed their adjustment applications soon after the grant of asylum have received denials based on lack of one-year of physical presence. Because of this possibility, VECINA currently recommends waiting 8–9 months after the grant of asylum before filing for adjustment.

No Filing Fee for Afghan SIVs

Through September 30, 2024, applicants do not have to pay the filing or biometric services fees if they were paroled into the U.S. under categories OAR/OAW/PAR and are applying as an Afghan Special Immigrant. On or after October 1, 2024, applicants should check the USCIS.gov website to see if USCIS has extended this fee exemption.

Additional Supporting Evidence for SIVs

- Copy of applicant’s COM approval notice; and
- Copy of applicant’s signed DS-157 or copy of applicant’s I-360 approval notice.¹⁰

Where to Mail SIV AOS Applications

USCIS changes filing locations from time to time. Always check the USCIS website for the current filing location. See [Green Card for an Afghan Who Was Employed by or on Behalf of the U.S. Government](#).

Processing Times for Adjustment of Status Applications

Processing times for all adjustment of status applications vary widely depending on which USCIS

offices are handling the cases. USCIS publishes its average case processing times based on case type on its website.¹¹ Keep in mind, however, that each case is unique, and some cases may take longer than others.

Note: Afghan SIV adjustment applications have generally been granted expedited processing. However, some cases require additional background checks, which delay processing times.

Waivers for Grounds of Inadmissibility

Applicants for adjustment of status cannot be approved for adjustment if they are subject to certain grounds of ineligibility called “grounds of inadmissibility.” These grounds are laid out in Section 212(a) of the Immigration and Nationality Act (INA). Not all adjustment applicants are subject to all the grounds of inadmissibility, and even for those who are, certain adjustment categories allow for particular grounds to be excused (“waived”).

If an applicant in a particular category is not subject to a particular ground of inadmissibility, it simply does not apply. If the ground applies but a waiver is available, the applicant may need to file a separate application requesting a waiver.

The inadmissibility and waiver requirements are different for asylees and SIV applicants. Asylees have a different waiver form and a more generous standard for granting waivers. It is very important that a legal representative understands which grounds apply in which category, uses the correct form, and makes arguments and presents evidence based on the correct waiver standard.

Asylees

- File on **Form I-602, [Application by Refugee for Waiver of Inadmissibility Grounds](#)**
- Standard: Granting waiver would serve humanitarian purposes, family unity, or be in the public interest
- Exemptions/no waiver needed for:
 - Public charge (INA section 212(a)(4));
 - Labor certification (INA section 212(a)(5)); and
 - Documentation requirements for immigrants (INA section 212(a)(7)(A)).

Continued on next page

¹⁰ See [this USCIS page](#) for information on which applicants need a DS-157 and which need an I-360.

¹¹ Check case processing times at <https://egov.uscis.gov/processing-times/>.

- **All other grounds** may be waived “for humanitarian purposes, family unity, or when it is in the public interest” **except for:**
 - INA 212(a)(2)(C): controlled substance traffickers;
 - INA 212(a)(3)(A): espionage, sabotage, trying to overthrow U.S. government by violent means;
 - INA 212 (a)(3)(B): terrorism-related grounds of inadmissibility;
 - INA 212 (a)(3)(C): serious adverse foreign policy consequences for U.S.; and
 - INA 212 (a)(3)(E): participants in Nazi persecution, genocide, commission of torture or extrajudicial killing

SIVs

- File on **Form I-601, [Application for Waiver of Grounds of Inadmissibility](#)**
- Standard: Varies by ground of inadmissibility, but usually a waiver is needed due to extreme hardship to immediate relative who is a U.S. citizen or lawful permanent resident
 - Review the I-601 Instructions to determine the standard of proof for the cited ground of inadmissibility
- Exempt/no waiver needed for:
 - Public charge (INA section 212(a)(4));
 - Labor certification (INA 212(a)(5)).

All applications for waivers of the grounds of inadmissibility, whether for an asylee or SIV, should include the following:

- A statement from the applicant explaining the acts, convictions, and medical conditions that make them inadmissible. Include copies of any documents that support this statement, such as medical records for health-related grounds of inadmissibility or criminal records for criminal grounds of inadmissibility;
- An explanation and/or legal brief regarding how the applicant meets the standard of proof for their waiver application to be granted; and
- A request that the waiver be granted as a matter of discretion, with an explanation as to why the favorable factors in the case outweigh the unfavorable factors.

A request for a waiver can be filed with the initial I-485. It can also be submitted after filing, at the interview, or after the interview in response to a Request for Evidence.

Interviews: What to Expect

Not every adjustment of status application requires an interview. Some can be approved by the USCIS Service Center. If that happens, the applicant will receive an approval notice by mail, followed by a permanent resident card.

If USCIS decides to interview an applicant, they will schedule an interview at the local USCIS Field Office. Generally, the applicant can expect questions about the information on their applications. Asylees and SIV applicants can expect additional questions related to their status. All applicants can expect questions about the grounds of inadmissibility, including fraud, criminal history, immigration history, military service and weapons training, and any harm they caused to others. Applicants can also expect questions about any inconsistencies between their adjustment application and any other immigration applications they may have submitted.

Special Considerations for Asylees

Asylee adjustments of status may only be approved if the applicant has been physically present in the U.S. for at least one year at the time of adjudication of the Form I-485.

- Physical presence starts accruing on the date the asylee is granted asylum
- Asylees should expect to show documentation of one year of physical presence in the U.S. at their interview

Asylees may also be asked questions if there is reason to believe that they no longer meet the definition of a refugee or that they have firmly resettled in another country.

Special Considerations for SIV Applicants

SIV applicants should expect to be asked questions about their employment in Afghanistan with the U.S. government or coalition, such as where they worked, who they worked for, what they did for their job, whether they underwent background checks and how often, and whether they ever got a negative background check. They should also expect to be asked questions regarding military and weapons training, whether they used weapons, and whether they served in a military or police unit.

Conclusion

In general, adjustment of status processes for Afghan parolees who have been granted asylum or who have SIV COM approval are similar to other types of adjustments of status. The notable differences include the underlying requirements that must be met to apply, the fact that neither asylees nor SIV applicants are subject to the public charge ground of inadmissibility, the category of eligibility chosen on the Form I-485, some additional required evidence, where to file, how waivers are filed, if needed, and questions to expect at the interview. By noting and navigating these differences, you should be able to successfully file Form I-485 and advocate for approval of the application.

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Resources

General I-485 Resources

- [Form I-485, Application to Register Permanent Residence or Adjust Status](#)
- [8 CFR Part 245 – Adjustment of Status to That of Person Admitted for Permanent Residence](#)

I-485 Resources for Asylee Adjustment of Status

- USCIS.gov Topics, [Green Card for Asylees](#)
- [8 CFR Part 209 – Adjustment of Status of Refugees and Aliens Granted Asylum](#)
- USCIS Policy Manual, Volume 7 – Adjustment of Status, [Part M – Asylee Adjustment](#)
- [Form I-602, Application by Refugee for Waiver of Inadmissibility Grounds](#)
- USCIS News Alert, [USCIS Clarifies Physical Presence Guidance for Asylees and Refugees Applying for Adjustment of Status](#)

I-485 Resources for SIV Adjustment of Status

- VECINA/IRAP Training Course: [Special Immigrant Visas for Afghans](#)
- USCIS.gov Topics, [Green Card for an Afghan Who Was Employed by or on Behalf of the U.S. Government](#)
- USCIS Policy Manual, Volume 7 – Adjustment of Status, Part F – Special Immigrant-Based Adjustment, [Chapter 10 – Certain Afghan and Iraqi Nationals](#)
- [Form I-601, Application for Waiver of Grounds of Inadmissibility](#)
- USCIS News Alert, [USCIS Extends and Expands Fee Exemptions and Expedited Processing for Afghan Nationals](#)