# DETAILED TABLE OF CONTENTS

## IMMIGRATION LAW AND THE FAMILY, 7TH ED.

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Summary of Contents</td>
<td>v</td>
</tr>
<tr>
<td>About the Editor</td>
<td>vii</td>
</tr>
<tr>
<td>Acknowledgments</td>
<td>ix</td>
</tr>
<tr>
<td>Preface</td>
<td>xi</td>
</tr>
<tr>
<td><strong>Chapter One: Family-Based Immigration: Immediate Relatives and the Preference System</strong></td>
<td>1</td>
</tr>
<tr>
<td>Immigrating as Immediate Relatives</td>
<td>1</td>
</tr>
<tr>
<td>Immigrating under the Family Preference System</td>
<td>1</td>
</tr>
<tr>
<td>Requirements for Family Relationships</td>
<td>2</td>
</tr>
<tr>
<td>Immediate Relatives and the Preference System</td>
<td>4</td>
</tr>
<tr>
<td>Immediate Relatives</td>
<td>4</td>
</tr>
<tr>
<td>Preference System</td>
<td>5</td>
</tr>
<tr>
<td>Quota System</td>
<td>5</td>
</tr>
<tr>
<td>Derivative Beneficiaries</td>
<td>7</td>
</tr>
<tr>
<td>Retention of Priority Dates</td>
<td>8</td>
</tr>
<tr>
<td>The Child Status Protection Act</td>
<td>11</td>
</tr>
<tr>
<td>Children of U.S. Citizens</td>
<td>11</td>
</tr>
<tr>
<td>Children of LPRs and Derivatives</td>
<td>12</td>
</tr>
<tr>
<td>Relief for F-2B Beneficiaries When the Petitioner Naturalizes</td>
<td>15</td>
</tr>
<tr>
<td>Relief for Some F-2A Beneficiaries over 21 When the Petitioner Naturalizes</td>
<td>15</td>
</tr>
<tr>
<td>Effective Date</td>
<td>16</td>
</tr>
<tr>
<td>Authority</td>
<td>17</td>
</tr>
<tr>
<td>Statutes</td>
<td>17</td>
</tr>
<tr>
<td>Regulations</td>
<td>17</td>
</tr>
<tr>
<td>Agency Guidelines</td>
<td>17</td>
</tr>
</tbody>
</table>
Chapter Two: Overview of the Application Process for Permanent Residence ....19

First Step: Filing the Petition for Alien Relative (Form I-130).........................19
  Who May File a Form I-130 Petition? ...............................................................19
  Who Files Form I-130A? ...................................................................................20
  Completing the Form I-130 ...............................................................................21
  Supporting Documentation ................................................................................26

Other Forms and Documents Included in the Form I-130 Application Packet......28
  Where to File......................................................................................................29
  Filing Fee ...........................................................................................................30

Second Step: USCIS Marriage Interview.................................................................30

Third Step: Adjustment of Status or Consular Processing.................................31

Fourth Step: Inspection and Admission by CBP..................................................32

Petition Revocation and Reinstatement................................................................32

Immigrating Adopted Children under the Hague Convention Rules ...............36
  Procedure for Applying......................................................................................38

Chapter Three: Adjustment of Status ..................................................................41

Requirements for Adjustment of Status ...............................................................41
  Historical Background ...................................................................................41
  INA §245(a) and (c): Adjustment Eligibility without Penalty Fee ...............42
  Qualifying under Section 245(i) ......................................................................43
    Overview......................................................................................................43
    Approvable Petition on File by April 30, 2001 ...........................................45
    Beneficiaries .................................................................................................45
    Filing under Section 245(i) ..........................................................................47
  Discretionary Act..............................................................................................48

Process for Adjusting Status ...............................................................................48
  Completing the Form I-485 ...............................................................................48

Other Forms and Documents Included in Adjustment Application Packet .......58
  Where to File......................................................................................................60
  Filing Fees..........................................................................................................60
  Interview Process...............................................................................................60
### Chapter Four: Consular Processing

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Visa Center</td>
<td>63</td>
</tr>
<tr>
<td>Payment of Fees</td>
<td>65</td>
</tr>
<tr>
<td>Affidavit of Support</td>
<td>65</td>
</tr>
<tr>
<td>The Immigrant Visa Application</td>
<td>65</td>
</tr>
<tr>
<td>Required Documentation</td>
<td>66</td>
</tr>
<tr>
<td>Document Submission</td>
<td>67</td>
</tr>
<tr>
<td>Appointment Letter for Immigrant Visa Applicants</td>
<td>68</td>
</tr>
<tr>
<td>Contacting NVC</td>
<td>68</td>
</tr>
<tr>
<td>The Medical Examination</td>
<td>69</td>
</tr>
<tr>
<td>The Consular Interview</td>
<td>69</td>
</tr>
<tr>
<td>USCIS Immigrant Fee</td>
<td>71</td>
</tr>
<tr>
<td>Termination of Registration</td>
<td>71</td>
</tr>
</tbody>
</table>

### Chapter Five: Immigrating through Marriage

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conditional Resident Status</td>
<td>73</td>
</tr>
<tr>
<td>Basic Principles</td>
<td>74</td>
</tr>
<tr>
<td>Foreign National Spouses Affected</td>
<td>75</td>
</tr>
<tr>
<td>Children Affected</td>
<td>75</td>
</tr>
<tr>
<td>Termination of Conditional Status by USCIS</td>
<td>76</td>
</tr>
<tr>
<td>Removing Conditional Status</td>
<td>78</td>
</tr>
<tr>
<td>Filing the Joint Petition</td>
<td>78</td>
</tr>
<tr>
<td>Filing for a Waiver of the Joint Petition Requirement</td>
<td>79</td>
</tr>
<tr>
<td>Procedures for Filing the Petition</td>
<td>82</td>
</tr>
<tr>
<td>Documentary Evidence</td>
<td>83</td>
</tr>
<tr>
<td>Travel Abroad</td>
<td>83</td>
</tr>
<tr>
<td>Late Petitions</td>
<td>84</td>
</tr>
<tr>
<td>Failing Marriages</td>
<td>85</td>
</tr>
<tr>
<td>Petitions and Waivers Filed for Children</td>
<td>85</td>
</tr>
<tr>
<td>USCIS Interview</td>
<td>86</td>
</tr>
<tr>
<td>Waiver of the Interview Requirement</td>
<td>87</td>
</tr>
</tbody>
</table>
Multiple Criminal Convictions ................................................................. 110
Controlled-Substance Violations ................................................................. 110
Traffickers in Controlled Substances ......................................................... 110
Prostitution and Commercialized Vice ...................................................... 111
Foreign Government Officials Who Have Engaged in Particularly Severe Violations of Religious Freedom ......................................................... 112
Significant Traffickers in Persons .............................................................. 112
Resources for Evaluating Immigration Consequences of Crimes ............ 113
National Security Grounds ........................................................................ 113
Espionage, Sabotage, Export Control Violations, and Other Unlawful Activities ................................................................. 114
Terrorist Activity ....................................................................................... 114
Potential for Serious Adverse Consequences for Foreign Policy .......... 117
Beliefs, Statements, and Association Exception .................................. 117
Exception for Foreign Politicians .......................................................... 117
Membership in the Communist or a Totalitarian Party ......................... 117
Meaning of Membership in a Totalitarian or Communist Party .......... 117
Membership in the Communist Party and Foreign Policy Considerations 118
Involuntary Membership Exception ....................................................... 118
Past Membership Limitations ................................................................. 119
Participant in Genocide or Nazi Persecution .......................................... 119
Waivers .................................................................................................. 119
Public Charge .......................................................................................... 120
Labor Protection Grounds ....................................................................... 120
Previous Immigration Violations ............................................................. 120
Foreign Nationals Present without Permission or Parole ...................... 121
Failure to Attend Removal Proceedings .................................................. 121
Fraud or Willful Misrepresentation ......................................................... 122
False Claim of U.S. Citizenship ............................................................... 124
Stowaways .............................................................................................. 126
Smugglers and Encouragers of Unlawful Entry ...................................... 126
Final Civil Document Fraud Order ................................................................. 127
Documentary Requirements ............................................................................. 128
Ineligible for Citizenship .................................................................................. 129
Prior Removal Orders or Periods of Unlawful Presence .................................. 130
  Having Previously Been Removed ................................................................. 131
Unlawful Presence Bars .................................................................................... 131
  Foreign Nationals “Unlawfully” Present Who Depart the United States .. 131
  Leaving the United States with Advance Parole Does Not Trigger the
  Three- or Ten-Year Bars ............................................................................. 132
Definition of “Lawfully Present” and “Unlawfully Present” .......................... 133
Period of Inadmissibility ............................................................................ 135
Waiver of Inadmissibility .............................................................................. 135
Reentering the United States without Authorization ...................................... 136
Miscellaneous Grounds ................................................................................. 137
Reinstatement of Removal ............................................................................. 138
Retroactive Application ................................................................................. 139
Appeals to Federal Court ............................................................................. 140
What Practitioners Can Do Now ................................................................... 141

Chapter Seven: Waivers of Inadmissibility ................................................ 143
  Extreme Hardship ......................................................................................... 143
    INA §212(g) Waivers for Health-Related Grounds ................................... 148
      Communicable Disease, Physical, or Mental Disorder .......................... 148
      Vaccination Requirement ...................................................................... 150
    INA §212(h) Waivers for Criminal Conduct ........................................... 152
    INA §212(i) Waivers for Fraud or Misrepresentation ............................. 154
    INA §212(a)(9)(B)(v) Waiver for Unlawful Presence ............................... 154
Strategy and Procedure for Filing ................................................................. 155
Provisional Waivers for Unlawful Presence .................................................. 157
Form I-212, Consent to Reapply for Admission ............................................. 160
  Eligibility ..................................................................................................... 160
Strategy and Procedure .................................................................................. 161
### Detailed Table of Contents

**INA §209(c) Waivers for Asylees and Refugees**
- Eligibility........................................................................................................ 162
- Strategy and Procedure.................................................................................. 163

**Chapter Eight: Public Charge and the Affidavit of Support**
- Public Charge Ground of Inadmissibility..................................................... 165
- Current Public Charge Standard.................................................................. 166
- Applicants Not Subject to Public Charge..................................................... 167
- *USCIS Policy Manual* Guidelines............................................................... 168

**Overview of Affidavit of Support**............................................................... 170

**Mandatory Filing Requirement**................................................................. 171
- Who Is Affected .......................................................................................... 171
- Who Is Not Affected .................................................................................. 172
- When the Affidavit Must be Filed................................................................ 173

**Definition of Sponsor**................................................................................ 173
- Citizen, National, or Lawful Permanent Resident....................................... 174
- Domiciled in the United States................................................................. 174
- Consequences of Petitioner’s Dying............................................................ 176

**Legally Enforceable Contract**.................................................................. 177
- Enforceable by the Sponsored Immigrant............................................... 177
- Enforceable by a Federal, State, or Other Entity...................................... 178
- Enforcement in General............................................................................. 178
- Legally Enforceable .................................................................................. 179

**Statutory Requirements for Completing the Form**.................................. 180
- Satisfying the Minimum Income Requirement.......................................... 180
- Determining Federal Poverty Line.............................................................. 180
- Determining Family Unit Size................................................................... 180
- Counting Income....................................................................................... 181
- Applying the Income Test......................................................................... 182
- Counting Assets....................................................................................... 185
- Use of Joint Sponsors................................................................................ 186
Chapter Nine: Self-Petitions for Abused Spouses, Children, and Parents

Self-Petitioning

Who Can Apply

Basic Requirements

The Contents of the Self-Petition Packet

Intake Interview and Gathering Evidence

Procedure for Filing

Deferred Action and Employment Authorization

Help Down the Road

Adjustment of Status, Inadmissibility Grounds

Applying for Adjustment of Status

Inadmissibility Grounds

Domestic Violence Deportability Ground Eased for Abused Persons

Applying for Adjustment Before the Immigration Court; Motions to Reopen

Other Relief for VAWA Self-Petitioners in Removal Proceedings

Naturalization

Chapter Ten: Ethical Issues in Family-Based Immigration Law
# Detailed Table of Contents

Duty of Confidentiality to Former Clients ............................................................ 223
Implied Authorization to Disclose........................................................................ 224
Client Fraud and Confidentiality ......................................................................... 225

Conflict of Interest ............................................................................................... 226
Conflicts of Interest between Existing Clients ..................................................... 226
Concurrent Conflicts of Interest Sometimes Allowed ........................................... 227
  Multiple Representation Can Be Appropriate When Conflicts Are Only
  Potential, Not Actual......................................................................................... 227
Cases Involving an Affidavit of Support Raise Conflict of Interest Issues .......... 228
  Informed Consent Requires Full Disclosure of Pros and Cons of Common
  Representation................................................................................................. 228
  Obtaining Clients’ Consent ........................................................................... 229
  Duty to Withdraw from Representation of All Clients If One Client’s
  Interest Become Adverse to an Existing Client’s Interests .......................... 229
Conflict between Existing Client and Former Client: Allowed Unless Subject
  Matter Is “Substantially Related” to Former Case ............................................ 230
Duty of Continuing Loyalty to Former Clients .................................................... 231
Unrepresented Third Party .................................................................................. 231
Meritorious Claims............................................................................................... 232

DOJ and DHS Rules on Professional Conduct for Immigration Practitioners ..... 233
  Document Fraud.............................................................................................. 234
Terminating Representation Due to Fraud or Other Reasons ................................ 235
  Withdrawing from Representation in Affidavit-of-Support Case .................... 236
  How to Protect Interests of Client During Termination ................................. 237
Conclusion............................................................................................................. 237

Appendices Table of Contents ................................................................................. 239

Appendix 1: January 2023 Visa Bulletin Family-Sponsored Preferences .......... 241
Appendix 2: Request to Reinstate I-130 Petition Based on INA §204(l), with List of
  Supporting Documents...................................................................................... 243
Appendix 3: Sample I-130 Approval Notice on Form I-797 ................................. 245
Appendix 4: Document Checklist for Adjustment of Status Application ..................247
Appendix 5A: Sample Notice of Immigrant Visa Case Creation .................................249
Appendix 5B: Sample Fee Receipt ..............................................................................251
Appendix 5C: Sample NVC Notice Regarding Your Immigrant Visa Case ...............253
Appendix 5D: Sample Notice That a Case Is Documentarily Complete ....................255
Appendix 5E: Sample Appointment Letter ....................................................................257
Appendix 5F: Sample Medical Examination Instructions ...........................................259
Appendix 6A: Mental Disorders That May Have Associated Harmful Behavior ......263
Appendix 6B: Mental Disorders That Necessarily Have Associated Harmful Behavior ............................................................................................................................265
Appendix 7: Questions to Ask Qualifying Relative to Establish Hardship .................267
Appendix 8: Form I-864P, 2023 HHS Poverty Guidelines for Affidavit of Support ..273
Appendix 9: USCIS Memo and Chart on Determinations of Good Moral Character.277

Index ....................................................................................................................................287