

MICHAEL J. HEYMAN
United States Attorney

JOSHUA A. TRAINI
Assistant U.S. Attorneys
U.S. Attorney's Office
Federal Building & U.S. Courthouse
222 West Seventh Avenue, #9, Room 253
Anchorage, Alaska 99513-7567
Phone: (907) 271-5071
Fax: (907) 271-2344
Email: Josh.Traini@usdoj.gov

Attorneys for Federal Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

HONORIO LATYR PEREIRA BARRETO,

Petitioner

v.

STATE OF ALASKA, Department of Corrections;
ARNALDO HERNANDEZ,
Superintendent of the Anchorage Correctional
Complex, in his official capacity, et al.

Defendants.

Case No. 3:26-cv-00235-SLG

NOTICE OF FILING

Federal respondents, David Venturella and Laura Hermosillo, United States Immigration and Customs Enforcement (ICE), and Markwayne Mullin, Department of Homeland Security, through undersigned counsel, provide Chapter 2 – Terms and Conditions of CPR Status of the U.S. Citizenship and Immigration Services Policy Manual

at Volume 6 – Immigrants, Part I – Family-Based Conditional Permanent Residents.

RESPECTFULLY SUBMITTED this June 17, 2026, in Anchorage, Alaska.

MICHAEL J. HEYMAN
United States Attorney

/s/ Joshua A. Traini
Assistant U.S. Attorney
United States of America

CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2026,
a true and correct copy of the foregoing
was served electronically on the following:

Margaret D. Stock, Esq.
Kristine A. Quint, Esq.
Cascadia Cross Border Law Group LLC
Attorneys for Petitioner

/s/ Joshua A. Traini
Office of the U.S. Attorney

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Chapter 2 - Terms and Conditions of CPR Status

Guidance

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A. Conditional Permanent Residents Required to Remove Conditions on Residence

USCIS grants permanent residence on a conditional basis for 2 years to an alien who obtains permanent residence through a qualifying marriage to a U.S. citizen or lawful permanent resident (LPR).^[1] A marriage is considered a qualifying marriage if the marriage was entered into less than 2 years before the date the alien obtains permanent residence.^[2] These aliens are considered conditional permanent residents (CPRs). A CPR may be a spouse or child.

The petition that provides the basis for obtaining CPR status is a Petition for Alien Relative ([Form I-130](#)) or a Petition for Alien Fiancé(e) ([Form I-129F](#)).^[3]

In order to avoid termination of status after 2 years, CPRs must seek to remove the conditions on permanent residence by filing a Petition to Remove Conditions on Residence ([Form I-751](#)). Filing a Petition to Remove Conditions on Residence requires the CPR and the petitioning spouse (if not deceased) to jointly file a Form I-751.



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statute also provides the ability to request a waiver, which allows the CPR to file a Form I-751 without the petitioning spouse in certain circumstances.^[5]

1. Notification

USCIS notifies a CPR about the obligations associated with being a CPR,^[6] either verbally or in writing. Specifically, USCIS notifies the CPR of the following:

- The conditional basis of the CPR's permanent resident status;
- The mandatory requirement to file a Form I-751 within the 90-day period immediately preceding the second anniversary of the CPR obtaining permanent resident status; and
- The result of the failure to file a Form I-751 being an automatic termination of the CPR's permanent resident status in the United States.^[7]

Initial Notification

The initial notification to the CPR is provided either verbally or in writing by a:

- U.S. Customs and Border Protection (CBP) officer who inspects and admits the alien with an immigrant visa at the point of entry into the United States; or
- USCIS officer who adjudicates and approves the Application to Register Permanent Residence or Adjust Status ([Form I-485](#)).^[8]

Subsequent Notification

USCIS issues a second notification to the CPR and petitioning spouse or stepparent^[9] by mail approximately 90 days before the CPR's second anniversary of becoming a CPR. The notice reminds the CPR of the requirement to file a [Form I-751](#).^[10]

Effect of Failure to Provide Notification

USCIS' failure to provide notice to the CPR does not excuse the CPR from the obligation of timely filing the [Form I-751](#).^[11] Such failure may occur if, for example, the CPR fails to notify USCIS of an address change as USCIS mails the notification to the CPR's last known address.^[12]

2. Dependent Children

Children Subject to INA 216 Conditions

Generally, both alien spouses and children are granted CPR status if their adjustment or admission is based on a qualifying marriage that is less than 2 years old at the time of adjustment or admission. If the child is admitted or adjusted at the same time as the CPR parent, the child is also granted CPR status.

Children Not Subject to INA 216 Conditions

There are certain circumstances under which children are not subject to the conditions at Immigration and Nationality Act (INA) 216.

If a child is admitted or adjusted on the basis of the child's alien parent's marriage to a U.S. citizen spouse and the marriage is less than 2 years old, the child should be admitted as an LPR, rather than a CPR, if the alien parent was admitted or adjusted on a basis other than marriage to the U.S. citizen spouse (employment, for example).^[13]

In other words, if the alien parent obtained status through means other than marriage to the U.S. citizen or LPR spouse, the child should be admitted or adjusted as an LPR without conditions, even if the marriage between the U.S. citizen petitioner and alien parent is less than 2 years old.

Officers may encounter cases where a child was misclassified as a CPR. This generally occurs due to the inspecting or adjudicating officer's failure to realize that the child should not be subject to conditions at INA 216. Officers who encounter a [Form I-751](#) filed by a child who was misclassified as a CPR should process the case according to local procedures for misclassified CPRs.^[14]

Children Who May Be Included on Their Parent's Petition

A CPR child may be included on the parent's [Form I-751](#) if the CPR child obtained CPR status on the same day as the CPR parent, or within 90 days thereafter.^[15]

Children Who Must File a Separate Petition

A CPR child who is unable to be included in the parent's [Form I-751](#) must file a separate Form I-751. Some examples of a CPR child needing to file a separate Form I-751 include but are not limited to:

- The child obtained CPR status more than 90 days after the CPR parent;
- The child's CPR parent died before filing Form I-751; or
- Any other circumstances preventing the child from being included in the Form I-751 of the parent or stepparent.^[16]

CPR children who must file a separate Form I-751 may do so at any time, even before the 90-day period preceding the second anniversary of obtaining CPR status, as long as the child is not subject to a final order of removal.

[Redaction - Start]

When adjudicating a [Form I-751](#) filed separately by a CPR child, the officer must determine the status of the CPR spouse (the CPR child's parent) and determine whether the CPR spouse ever filed a Form I-751. If the CPR spouse's Form I-751 is pending, it should be joined with the CPR child's file and the cases should

be adjudicated together, unless the CPR child's Form I-751 is a waiver based on battery or extreme cruelty and the CPR spouse (the CPR child's parent) is listed as the alleged abuser.

If the CPR spouse's Form I-751 was previously approved, the officer should proceed with adjudication. Generally, if the CPR spouse's Form I-751 was approved, the CPR child's petition is likely approvable. If the CPR spouse's Form I-751 was denied, the officer should determine the reasons for denial and conduct further research and examine the parent's A-file if appropriate. Before approving a CPR child's Form I-751, the officer must be satisfied that the child has met the burden in demonstrating by a preponderance of the evidence that the qualifying marriage was entered into in good faith and that the CPR status was not obtained through fraud.

[Redaction - End]

B. Permanent Residents Not Classified as CPRs and Misclassified CPRs

1. Permanent Residents Not Classified as CPRs

The following permanent residents are not classified as CPRs and therefore are not subject to or required to remove conditions on residence:

- An alien spouse who obtains permanent residence through a marriage that is more than 2 years old at the time of admission or adjustment;
- An alien who obtains permanent residence on a basis other than marriage;^{[\[17\]](#)} and
- An alien who, regardless of whether the alien's marriage to the principal beneficiary is less than 2 years old, obtains permanent residence as an accompanying or following to join dependent of an alien who obtains permanent residence under any provision of the INA, or any other law, that allows dependents to accompany or follow to join a principal beneficiary. Examples include but are not limited to:
 - Special immigrant classification;
 - Refugee or asylee classification;
 - Employment-based classification;
 - Diversity immigrant visa-based classification; and
 - Family-based preference classification, other than family-based second preference.^{[\[18\]](#)}

2. Misclassified CPRs

Alien spouses or children who believe they were misclassified as CPRs because the marriage took place 2 or more years before they obtained conditional permanent residence or who otherwise believe they are not subject to conditions imposed by INA 216^[19] should file an Application to Replace Permanent Resident Card ([Form I-90](#)) according to the form instructions.^[20]

Officers may encounter cases where the CPR was misclassified when the CPR entered the United States or adjusted status. This generally occurs due to the inspecting or adjudicating officer's failure to notice that at least 2 years had passed since the marriage providing the basis for status occurred, at the time the alien was admitted to the United States as a permanent resident or adjusted to permanent resident status.

Officers who encounter a Form I-751 filed by an alien who was admitted or adjusted on the basis of a marriage less than 2 years old at the time of admission (as a CR1, CR6, C21, C26, CR2, CR7, C23, or C28), but should have been admitted or adjusted on the basis of a marriage that was more than 2 years old at the time of admission (as an IR1, IR6, F21, F26, IR2, IR7, F22, or F27), should update the alien's class of admission code accordingly.

The misclassification of the alien does not render the alien's admission or adjustment unlawful, and the alien remains eligible for naturalization, if otherwise qualified, even if a Form I-751 is not filed or approved.^[21]

C. Evidence of CPR Status

In general, a CPR remains in lawful status until USCIS makes a decision on the CPR's [Form I-751](#), so long as the Form I-751 was properly filed.^[22] When a CPR properly files Form I-751, USCIS sends the CPR a receipt notice (Notice of Action ([Form I-797](#))). This notice serves as evidence of USCIS' extension of the validity of CPR status for the time period specified in the notice. The notice, combined with the expiring or expired CPR card, serves as evidence of CPR status and may be used to prove employment authorization and authorization to return to the United States after temporary foreign travel.^[23]

A CPR whose CPR card has expired and whose extension notice period has also expired, or a CPR who demonstrates a need for evidence of a longer extension than remains, may request documentation of status for travel, employment, or other purposes by calling the [USCIS Contact Center](#) to schedule an appointment with a USCIS field office. The USCIS field office may issue an Alien Documentation, Identification and Telecommunication (ADIT) stamp (also known as an I-551 stamp) to serve as temporary evidence of status at an in-person appointment or may issue an ADIT stamp through the mail. An officer may only place an ADIT stamp on a Arrival/Departure Record (Form I-94) (with photo) or unexpired passport.

D. Termination of Status

USCIS may terminate a CPR's status for different reasons depending on whether it is before or after the 2-year anniversary of the CPR obtaining CPR status.^[24]

1. Before 2-year Anniversary as CPR

In general, if USCIS determines before the 2-year anniversary of the CPR obtaining CPR status that the marriage was improper,^[25] USCIS notifies the CPR and the petitioning spouse and terminates the CPR's permanent resident status.^[26]

USCIS considers the qualifying marriage to be improper if:

- The marriage was not entered into in accordance with the laws of the place where the marriage took place;^[27]
- The marriage has been judicially annulled or terminated other than through the death of a spouse;^[28]
- The marriage was entered into for the purpose of procuring the CPR's admission as an immigrant;^[29] or
- The CPR or someone else gave a fee or other consideration for filing a petition for an immigrant visa with respect to the CPR or the CPR's son or daughter.^[30]

2. After 2-year Anniversary as CPR

USCIS terminates a CPR's status after the 2-year anniversary of the CPR obtaining CPR status if:

- The CPR fails to properly file a [Form I-751](#);^[31]
- The CPR and petitioning spouse, if required, fail to appear at their interview;^[32] or
- USCIS denies the Form I-751.^[33]

Failure to File

If the CPR fails to file a [Form I-751](#) by the second anniversary of the date the CPR obtained status, USCIS issues a notice of termination to the CPR. The termination of CPR status takes effect as of the second anniversary of the date the CPR obtained status. USCIS is required to issue a Notice to Appear (NTA), placing the CPR in removal proceedings.^[34] Following the NTA, the CPR may request a review of the termination in removal proceedings.^[35]

Petition Denied

When USCIS denies a [Form I-751](#) filed as a joint petition, USCIS terminates the CPR's permanent resident status and provides the principal CPR with notification of the denial and termination of status.^[36] The CPR must surrender any permanent resident cards to USCIS and USCIS is also required by statute to issue

an NTA, placing the CPR in removal proceedings.^[37] When USCIS denies a Form I-751 filed as a waiver or individual filing request, USCIS follows the same procedures.^[38]

Following the denial of a Form I-751, the termination of permanent resident status takes effect as of the date of the denial, which is the written notice of termination. USCIS concurrently terminates CPR status for children included in the parent's petition and any inadmissibility waivers the CPR may have received to obtain CPR status.^[39] Following the NTA, the CPR may request a review of the denial determination in removal proceedings.^[40]

3. Temporary Evidence of Permanent Residence

A CPR with a terminated status is entitled to evidence of lawful permanent residence while awaiting review before an immigration judge.^[41] When requested, USCIS issues evidence of such status unless the CPR has received a final order of removal.

4. Proceedings Upon Termination of CPR Status

The regulations require DHS to initiate removal proceedings following the termination of CPR status.^[42] The charges alleged depend on the specific circumstances of the case. USCIS may base the charges solely on the termination of CPR status or may include other bases of removability.^[43]

5. Adjustment After Termination of CPR Status

In general, CPRs are ineligible to adjust status on a new basis under the provisions of INA 245(a).^[44] Instead, CPRs must generally comply with the requirements of INA 216 to remove the conditions on their LPR status. This bar to adjustment, however, only applies to an alien in the United States in lawful CPR status. In *Matter of Stockwell*,^[45] the Board of Immigration Appeals adopted a narrow interpretation of the regulation implementing this adjustment bar,^[46] stating that the bar no longer applies if USCIS terminates the alien's CPR status.^[47]

For an alien whose CPR status was terminated for failure to timely file a [Form I-751](#),^[48] the alien may be eligible to adjust status on a new basis, if the alien filed an Application to [Form I-485](#) after the second anniversary of initially obtaining CPR status, regardless of whether or not USCIS issued a notice of termination of CPR status before the alien filed an adjustment application under the new basis. Officers should verify, in USCIS systems, that the alien's CPR status is terminated before approving a new adjustment application.

Even though the regulations require that an applicant be eligible for the requested benefit at the time of filing, the INA provides that the CPR's status terminates as a matter of law as of the second anniversary of the alien's lawful admission for permanent residence.^[49] The lack of notice in this instance generally does not create any undue harm to the person because the person is relying on the fact that the status has been terminated to be eligible for the benefit sought.

Footnotes

[^1] See [INA 216\(a\)\(1\)](#) and [INA 216\(h\)\(1\)](#).

[^2] See [INA 216\(h\)\(1\)](#).

[^3] An alien whose basis for adjustment is a [Form I-129F](#) and whose qualifying marriage is less than 2 years old at the time of adjustment receives CPR status.

[^4] See [INA 216\(c\)\(1\)\(A\)](#). A jointly-filed [Form I-751](#) is often referred to as a joint petition. If the petitioning spouse is deceased, the CPR may file Form I-751 as an individual filing request.

[^5] See [INA 216\(c\)\(4\)](#). See Chapter 5, Waiver of Joint Filing Requirement [[6 USCIS-PM I.5](#)].

[^6] See [INA 216\(a\)\(2\)](#). See [8 CFR 216.2](#).

[^7] See [8 CFR 216.4\(a\)\(6\)](#).

[^8] See [INA 216\(a\)\(2\)\(A\)](#). See [8 CFR 216.2\(a\)](#).

[^9] See [INA 101\(b\)\(1\)\(B\)](#). To be eligible as the stepchild of a U.S. citizen or LPR for immigration purposes, the marriage between the CPR spouse and the U.S. citizen or LPR spouse must have taken place before the child turns 18.

[^10] See [INA 216\(a\)\(2\)\(B\)](#). See [8 CFR 216.2\(b\)](#).

[^11] See [INA 216\(a\)\(2\)\(C\)](#). See [8 CFR 216.2\(c\)](#).

[^12] See [INA 216\(a\)\(2\)\(B\)](#). See [8 CFR 216.2\(b\)](#).

[^13] See Legacy INS General Counsel Opinion 90-3 (concluding that a stepchild adjusting as an immediate relative of a U.S. citizen was not subject to the INA 216 conditions since the alien parent adjusted on some basis other than the recent marriage to the U.S. citizen).

[^14] For additional information about misclassified CPRs, see Volume 12, Citizenship and Naturalization, Part D, General Naturalization Requirements, Chapter 2, Lawful Permanent Resident Admission for Naturalization, Section A, Lawful Permanent Resident at Time of Filing and Naturalization, Subsection 2, Conditional Permanent Residents [[12 USCIS-PM D.2\(A\)\(2\)](#)].

[^15] See [8 CFR 216.4\(a\)\(2\)](#).

[^16] See [8 CFR 216.4\(a\)\(2\)](#).

[^17] For example, an alien who adjusts status through an employment-based petition, even if the alien is married to a U.S. citizen at the time and the marriage is less than 2 years old.

[^ 18] Family-based second preference principal applicants and derivative applicants who are seeking LPR status based on a marriage to an LPR petitioner that is less than 2 years old at the time the alien is admitted or adjusted are classified as CPRs and required to remove conditions. See [INA 216\(h\)\(1\)\(C\)](#) and [INA 203\(d\)](#) (derivative applicants).

[^ 19] Certain children are not subject to the conditions imposed by [INA 216](#). See Section A, Conditional Permanent Residents Required to Remove Conditions on Residence, Subsection 2, Dependent Children [[6 USCIS-PM I.2\(A\)\(2\)](#)].

[^ 20] CPRs who believe they were misclassified do not need to pay the filing fee and should follow the form instructions and special instructions on the USCIS webpage for [Form I-90](#). See Fee Schedule ([Form G-1055](#)).

[^ 21] For more information on misclassification of CPRs and eligibility for naturalization, see Volume 12, Citizenship and Naturalization, Part D, General Naturalization Requirements, Chapter 2, Lawful Permanent Resident Admission for Naturalization, Section A, Lawful Permanent Resident at Time of Filing and Naturalization, Subsection 2, Conditional Permanent Residents [[12 USCIS-PM D.2\(A\)\(2\)](#)].

[^ 22] See [8 CFR 216.4\(a\)\(1\)](#).

[^ 23] For more information on travel documents for CPRs, see CBP's [Carrier Information Guide](#).

[^ 24] See [INA 216\(b\)](#) and [INA 216\(c\)](#). See [8 CFR 216.3\(a\)](#) and [8 CFR 216.4\(d\)\(2\)](#).

[^ 25] See [INA 216\(b\)\(1\)\(A\)\(ii\)](#).

[^ 26] See [INA 216\(b\)\(1\)](#).

[^ 27] See [INA 216\(d\)\(1\)\(A\)\(i\)\(I\)](#).

[^ 28] See [INA 216\(d\)\(1\)\(A\)\(i\)\(II\)](#). A CPR may seek a waiver if the CPR entered into the qualifying marriage in good faith, but the marriage was terminated other than by death of the petitioning spouse. See Chapter 5, Waiver of Joint Filing Requirement, Section B, Good Faith Marriage (Divorce) [[6 USCIS-PM I.5\(B\)](#)] for information about good faith marriage waivers for CPRs whose marriage was terminated.

[^ 29] See [INA 216\(d\)\(1\)\(A\)\(i\)\(III\)](#).

[^ 30] See [INA 216\(d\)\(1\)\(A\)\(ii\)](#). See [8 CFR 216.4\(c\)\(4\)](#). The statutory provision on fee or consideration does not refer to fees paid to attorneys, notarios, or others who assisted with filing petitions, but rather refers to instances where a fee or other consideration was paid in connection with a fraudulent marriage. If a fee or other consideration was paid in order to enter into a fraudulent marriage or to obtain an immigration benefit through a fraudulent marriage, the CPR is ineligible for removal of conditions.

[^ 31] See [INA 216\(c\)\(2\)\(A\)\(i\)](#). See [8 CFR 216.4\(a\)\(6\)](#).

[^ 32] See [INA 216\(c\)\(2\)\(A\)\(ii\)](#). See [8 CFR 216.4\(b\)\(3\)](#).

[^ 33] See [INA 216\(c\)\(3\)\(C\)](#). See [8 CFR 216.4\(d\)\(2\)](#) and [8 CFR 216.5\(f\)](#). For information on joint petitions and individual filing requests, see Chapter 4, Joint Petitions and Individual Filing Requests [[6 USCIS-PM I.4](#)]. For information on waivers, see Chapter 5, Waiver of Joint Filing Requirement [[6 USCIS-PM I.5](#)].

[^ 34] See [8 CFR 216.4\(a\)\(6\)](#) and [8 CFR 239.2](#). An NTA may be cancelled for specifically enumerated reasons, including when the beneficiary is not in the United States.

[^ 35] See [INA 216\(c\)\(2\)\(B\)](#). See [8 CFR 216.4\(a\)\(6\)](#).

[^ 36] See [8 CFR 216.4\(d\)\(2\)](#). USCIS lists any children added on the same [Form I-751](#) in the denial notice but USCIS does not send the children individual notices.

[^ 37] See [8 CFR 216.4\(d\)\(2\)](#).

[^ 38] See [8 CFR 216.5\(f\)](#).

[^ 39] See [INA 216\(f\)](#).

[^ 40] See [INA 216\(c\)\(3\)\(D\)](#). See [8 CFR 216.4\(d\)\(2\)](#).

[^ 41] For more information, see Volume 11, Travel and Identity Documents, Part B, Permanent Resident Cards, Chapter 2, Replacement of Permanent Resident Cards, Section F, Temporary Evidence of Permanent Resident Status [[11 USCIS-PM B.2\(F\)](#)].

[^ 42] See [8 CFR 216.4\(d\)\(2\)](#) and [8 CFR 216.5\(f\)](#).

[^ 43] See [INA 237\(a\)\(1\)\(D\)\(i\)](#).

[^ 44] See [INA 245\(d\)](#). See [8 CFR 245.1\(c\)\(5\)](#).

[^ 45] See [Matter of Stockwell \(PDF\)](#), 20 I&N Dec. 309 (BIA 1991).

[^ 46] See [8 CFR 245.1\(c\)\(5\)](#) (previously 8 CFR 254.1(b)(12), which *Matter of Stockwell* cites to).

[^ 47] For more information, see Volume 7, Adjustment of Status, Part B, 245(a) Adjustment, Chapter 7, Other Barred Adjustment Applicants, Section G, Conditional Permanent Residents [[7 USCIS-PM B.7\(G\)](#)].

[^ 48] See [INA 216\(c\)\(2\)\(A\)](#).

[^ 49] See [INA 216\(c\)\(2\)\(A\)](#). See [8 CFR 103.2\(b\)\(1\)](#).

Current as of May 08, 2026

