



Joseph Law Firm, P.C.
Immigration Law Specialists

BREAKING NEWS

January 3, 2013

BREAKING NEWS: USCIS Publishes New Waiver Filing Rules

On January 3, 2013, the U.S. Citizenship and Immigration Services (USCIS) published a final rule changing the way people who are inadmissible to the United States for accruing unlawful presence file for a pardon or “waiver” of that inadmissibility. The final rule, published January 4, 2013, allows immediate relatives of U.S. citizens who are physically present in the United States to file provisional unlawful presence waivers prior to traveling abroad for consular processing. The only relatives eligible to file at this time are spouses, children, and parents of United States Citizens.

USCIS hopes that the new waiver process will decrease the amount of time that families are separated and will encourage more noncitizens to apply for their immigrant visas. Currently, individuals are required to wait until the consular officer adjudicates their case at interview before they can file for a waiver. Then, once the waiver application is filed, the individual must wait outside the United States until a final decision is made on their application, almost two years in some instances. This new process will allow individuals to file the waiver application when the I-130 petition has been approved and the applicant has paid their immigrant visa processing fees at the National Visa Center; allowing the foreign national to hold off on their interview at the consulate until they have (hopefully) an approval of the waiver application.

It is important to note that this process is only available to individuals who are inadmissible for unlawful presence and not any other section of the Immigration & Nationality Act; only for immediate relatives of United States Citizens and therefore not relatives of lawful permanent residents; and it is not available to individuals who are currently in removal proceedings.

Please contact your attorney or schedule a consultation if you want to know more.

-Melanie Corrin, Senior Attorney