

Interim Guidance: Documentary Evidence of Status as a Qualified Alien

Qualified Alien: *As defined under PRWORA (8 U.S.C. 1641):*

1. *An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;*
2. *An alien who is granted asylum under section 208 of such Act;*
3. *A refugee who is admitted to the United States under section 207 of such Act;*
4. *An alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year;*
5. *An alien whose deportation is being withheld under section 243(h) of such Act;*
6. *An alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980;*
7. *An alien who is a Cuban/Haitian Entrant as defined by section 501(e) of the Refugee Education Assistance Act of 1980;*
8. *An alien who has been battered or subjected to extreme cruelty under section 431 of the Immigration and Nationality Act. 8 U.S.C. 1641 contains more on aliens battered or subjected to extreme cruelty.*

The documents listed below will, when combined with satisfactory proof of identity (which will come from the document itself if it bears a photograph of the person to whom it relates), establish that an applicant falls within one of the categories of “qualified alien” for purposes of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Under the Immigration and Nationality Act (the “INA”), all aliens over the age of 14 who remain in the United States for longer than 30 days are required to register with the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) and obtain an alien registration document. All aliens over the age of 18 who receive a registration document are required to carry it with them at all times. With certain exceptions (e.g., Canadian visitors), aliens entering the U.S. are normally issued a registration document (e.g., a USCIS Form I-94) at the time of entry. The documents listed below that are registration documents are indicated with an asterisk (“*”). Each of the documents listed below will demonstrate lawful status, and you should not require presentation of a registration document if the applicant presents one of the other legally acceptable documents that reasonably appears on its face to be genuine and to relate to the person presenting it. However, if the document presented is not a registration document and does not on its face reasonably appear to be genuine or to relate to the person presenting it, it is appropriate to ask the applicant to produce his or her registration document as additional evidence of immigration status, so long as the request is not made for a discriminatory reason. Presentation of a registration document listed below that reasonably appears on its face to be genuine and to relate to the person presenting it (or to satisfy a higher applicable standard) will often obviate the need to verify the applicant’s immigration status with USCIS; if the applicant presents a registration document that does not meet this standard, sending USCIS a copy of the document will assist it in verifying the applicant’s status quickly and accurately.

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A. Alien Lawfully Admitted for Permanent Residence

*USCIS Form I-551 (Alien Registration Receipt Card, commonly known as a “green card”); or Unexpired Temporary I-551 stamp in foreign passport or on *USCIS Form I-94.

B. Asylee

*USCIS Form I-94 annotated with stamp showing grant of asylum under section 208 of the INA;
*USCIS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(5)”;
*USCIS Form I-766 (Employment Authorization Document) annotated “A5”;
Grant letter from the Asylum Office of USCIS; or
Order of an immigration judge, granting asylum.

C. Refugee

*USCIS Form I-94 annotated with stamp showing admission under Sec. 207 of the INA;
*USCIS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(3)”;
*USCIS Form I-766 (Employment Authorization Document) annotated “A3”; or
USCIS Form I-571 (Refugee Travel Document).

D. Alien Paroled Into the U.S. for a Least One-Year

*USCIS Form I-94 with stamp showing admission for at least one year under section 212(d)(5) of the INA. (Applicant cannot aggregate periods of admission for less than one year to meet the one-year requirement.)

E. Alien Whose Deportation or Removal Was Withheld

*USCIS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(10)”;
*USCIS Form I-766 (Employment Authorization Document) annotated “A10”; or
Order from an immigration judge showing deportation withheld under Sec. 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under Sec. 241(b)(3) of the INA.

F. Alien Granted Conditional Entry

*USCIS Form I-94 with stamp showing admission under Sec. 203(a)(7) of the INA;
*USCIS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(3)”;
*USCIS Form I-766 (Employment Authorization Document) annotated “A3”.

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G. Cuban/Haitian Entrant

- *USCIS Form I-551 (Alien Registration Receipt Card, commonly known as a “green card”) with the code CU6, CU7, or CH6
Unexpired temporary I-551 stamp in foreign passport or on
- *USCIS Form I-94 with the code CU6 or CU7; or
USCIS Form I-94 with stamp showing parole as “Cuba/Haitian Entrant” under Section 212(d)(5) of the INA.

H. Alien Who Has Been Battered or Subjected to Extreme Cruelty

Guidance as to the requirements that must be met for an alien to fall within this category of qualified alien is set forth in DOJ’s Notice of Interim Guidance. Note that Title IV, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, contains provisions requiring that, upon the effective date of the new affidavit of support (required under section 213A of the Act), when determining eligibility for federal means-tested public benefits and the amount of such benefits to which an alien is entitled, the income and resources of the alien be deemed to include those of any person executing an affidavit of support on behalf of the alien and that person’s spouse. Certain exceptions are made for indigent qualified aliens and for qualified aliens who (or whose children) have been battered or subjected to extreme cruelty in the U.S. by a spouse, parent or member of the spouse or parent’s family and for qualified alien children whose parents have been subjected to such abuse.

I. Expired or Absent Documentation

If an applicant presents expired documents or is unable to present any documentation evidencing his or her immigration status, refer the applicant to the local USCIS office to obtain documentation of status. In unusual cases involving applicants who are hospitalized or medically disabled, or who can otherwise show good cause for their inability to present documentation, and for whom securing such documentation would constitute an undue hardship, if the applicant can provide an alien registration number, you may file USCIS Form G-845 and Supplement, along with the alien registration number and a copy of any expired USCIS document presented, with the local USCIS office to verify status. As with any documentation of immigration status, you should confirm that the status information you receive back from USCIS pertains to the applicant whose identity you have verified.

J. Receipt for Replacement Document

If an applicant presents a receipt indicating that he or she has applied to USCIS for a replacement document for one of the documents identified above, file USCIS Form G-845 and Supplement along with a copy of the receipt with the local USCIS office to verify status. Upon return receipt of information from USCIS, confirm that it pertains to the applicant whose identity you have verified. You should ask to see the replacement document at a later date.

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K. Applicants With Disabilities and Nondiscrimination

If an applicant has a disability that limits the applicant's ability to provide the required evidence of immigration status (e.g. mental retardation, amnesia, or other cognitive, mental or physical impairment), you should make every effort to assist the individual to obtain the required evidence. In addition, you should not discriminate against applicants on the basis of race, national origin, gender, religion, age or disability.