



Marriage-Based Adjustments

Online Course

AILA Marriage-Based Adjustments Online Course Outline

MODULE 1: CONDUCTING THOROUGH INITIAL CONSULTATIONS

Module Outline:

- **Video:** Welcome to the AILA Marriage-Based Adjustments Online Course –*Speaker: Angela J. Ferguson, Course Committee Chair, Kansas City, MO*
- **Reading:** How to Take This Course
- **Video:** Marriage-Based Case: Best Legal Option?
 - Overview of Module 1: Conducting Thorough Initial Consultations
 - Who Can Marry Legally? Examining the Validity of Marriage
 - Screening for K-1, J-1, Entry Without Inspection, and Unlawful Presence
 - Same-Sex Marriage After Previously Being in Opposite-Sex Marriage
 - Polygamous Marriages
 - Proxy Marriages
- **Reading:** P. McShiras, “Ethically Building and Keeping a Book of Clients: Laying the Framework with Family-Based Clients” *Immigration Practice Pointers* (2023–24 Ed.)
- **Video:** Evaluating Adjustment of Status vs. Consular Processing
 - Processing Time
 - Travel and Work Considerations, and Advanced Parole
 - Access to Counsel
 - Decisions and Appeals
 - Immigrant Intent, 90-Day Rule, and Misrepresentation on Entry
 - Jurisdictional Issues: Executive Office for Immigration Review (EOIR) vs. U.S. Citizenship and Immigration Services (USCIS)
- **Exercise:** Explaining Adjustment of Status vs. Consular Processing to Clients
 - Prepare a Simple, Client-Friendly Explanation of the Pros and Cons of Adjustment of Status and Consular Processing
- **Video:** Considerations for Children
 - Can Stepchildren Obtain Status?
 - Child Born Outside the Marriage, but During the Marriage
 - Children Not Mentioned on Petitioner’s or Beneficiary’s Previous Immigration Applications
 - Careful Review of Birth Certificates
 - Adam Walsh Act Analysis
- **Video:** Using the Consultation to Identify Red Flags That Make USCIS Suspect Marriage Fraud
 - Serial Petitioners, Couples with Numerous Divorces or Who Divorce and Remarry
 - Disparity in Age, Religion, Race or Social Class, or No Shared Language

(ML) = Module Leader

All speaker affiliations reflect the 2021–22 AILA committee year, when the course was recorded.



Marriage-Based Adjustments

Online Course

- Marriage Conveniently Timed, Marriage Quickly After Meeting or a Divorce, Secret Marriages, Arranged Marriages
- No Cohabitation During Marriage
- Adjusting Fees Based on the Complexity of the Case
- Countries That Immigration Offices Deem as High Risk of Marriage Fraud
- **Video:** Ethical Considerations in Dual Representation of Married Couples
 - What Is Dual Representation in a Marriage Case Context?
 - Informed Consent or Waiver of Potential Conflicts
 - How to Mitigate Problems with Dual Representation at the Beginning of Case
 - What to Include in Your Contract
 - Ethics of Flat Fees
- **Document:** Sample Paragraph(s) for Retainer Agreements Pertaining to Dual Representation in Marriage Context
- **Hypotheticals**
- **Resources List**
 - *A Curated List of Additional Publications, Recordings, and Resources*

Faculty:

Teddy Chadwick (ML), AILA Board of Governors, Milwaukee, WI

Eliana Christina Nader, Boston, MA

Stephanie Theresa DiPietro, Course Committee, New York, NY

MODULE 2: TACKLING PITFALLS, FRAUD, AND INADMISSIBILITY

Module Outline:

- **Video:** Ethics in Adjustment of Status
 - Overview of Module 2: Pitfalls, Fraud, and Inadmissibility
 - Duty of Candor to the Tribunal (and USCIS)
 - Duty of Confidentiality
 - Conflicts of Interest Between Parties
 - Taking Advantage of a Cooling-Off Period Until the Next Action Needed on the Case
 - When Clients Lie to You
 - When Non-Disclosure Becomes a Misrepresentation
- **Readings:** Bite-Sized Ethics
 - A. Pollack, “Creative Strategies to Overcome Marriage Fraud Presumption” *Immigration Practice Pointers* (2023–24 Ed.)
 - A. Goldfarb, “Choosing Between Loyalty and Lying,” AILA Doc. No. 18051560
- **Document:** Sample Legal Services Agreement Addressing Dual Representation

(ML) = Module Leader

All speaker affiliations reflect the 2021–22 AILA committee year, when the course was recorded.



Marriage-Based Adjustments

Online Course

- **Document:** Sample Criminal History Chart
- **Video:** Past Criminal Acts and Their Effect on a Foreign National's Eligibility
 - Crimes Involving Moral Turpitude (CIMT), Petty Offense Exception
 - Domestic Violence
 - Juvenile Offenses
 - Dismissed Charges, Sealed or Expunged Cases, and What Is a Conviction
 - Disclosing and Discussing Traffic Issues
 - Drug Use, Legalization of Marijuana in Some States
- **Document:** Chart of Common Crimes and Effect on Eligibility
- **Video:** Immigration History That Negatively Affects the Process
 - Entry Issues: Waved Through, False Documents, False Claims to Citizenship at Entry
 - Past Applications Filed with Immigration Agencies, INA §245(i)
 - False Claim to U.S. Citizenship After Entry
 - Using FOIA to Your Advantage
 - Adjusting in EOIR/INA §204(c) Standard
- **Document:** Sample FOIA Requests
- **Video:** Determining Whether Discretion Will Be an Issue
 - Establishing Good Moral Character/Discretionary Merit
 - Overcoming Negative Discretionary Factors:
 - Old Arrests
 - Tax Issues
 - Child Support Arrears
 - Unauthorized Work with Fake Immigration Documents
 - Exclusion Orders as a Negative Factor
- **Video:** Addressing Red Flags Identified in the Initial Consult
 - Bona Fide Marriage (Cohabitation, Commingled Assets)
 - History of Marriage Petitions
 - Age Gaps
 - Quick Meeting, Short Courtship
 - History of Heterosexual Relationships/Present Same-Sex Relationship and Anticipating Adjudicator Scrutiny About Sexual Orientation
 - Language and Cultural Barriers
 - Potential Public Charge
 - Trafficking Allegations, Especially with Bringing/Arranging Entered Without Inspection (EWI) Trips for Family Members
 - Met via Online Dating, or at Work with Policy Against Interoffice Dating
- **Document:** Sample Client Questionnaires
- **Document:** "Bona Fide" Checklist for Marriage-Based Adjustment Cases
- **Video:** Strategy in Presentation of Sticky Issues
 - When the Client's Memory Isn't Perfect, Especially About Entry History
 - When the Criminal Records Aren't Favorable and Whether to Provide Police Reports

(ML) = Module Leader

All speaker affiliations reflect the 2021–22 AILA committee year, when the course was recorded.



Marriage-Based Adjustments

Online Course

- When the Facts Aren't Favorable, Especially with Apparently Fraudulent Past Behavior/Marriages
- **Exercise:** Draft an Office Dual Representation Letter
- **Hypotheticals**
- **Resources List**
 - *A Curated List of Additional Publications, Recordings, and Resources*

Faculty:

Jason Abrams (ML), New York, NY

Jesse Evans-Schroeder, Tucson, AZ

Alexander Mondor Gavern, Denver, CO

MODULE 3: ADJUSTMENT OF STATUS APPLICATION PREPARATION

Module Outline:

- **Video:** Proving a Good Faith Marriage: Evidence and Special Circumstances
 - Overview of Module 3: Adjustment of Status Application Preparation
 - Burden of Proof on Applicant: Preponderance of the Evidence
 - The Basics: Lease, Bank Accounts, Photos, Witness Letters, Mail, Utilities, Taxes, Insurance Policies, etc.
 - Evidence to Overcome Separate Residences
 - Documenting Marriage and Divorces According to the Jurisdiction
 - Evidence in Common Law Marriages, Kissing Cousins, Same Sex Marriages, etc.
 - Reciprocity Tables
 - Overcoming Poor Records
 - Marriage in Removal Proceedings
 - Two-Year Bar and Exceptions
 - Good-Faith Exception with Clear and Convincing Evidence (Higher Burden of Proof)
- **Reading:** M. Bordeaux and S. Mailander, “Adjustment of Status for Beginning Practitioners,” *Navigating the Fundamentals of Immigration Law* (2024–25 Ed.)
- **Video:** The Basics: Proving Eligibility Under INA §245(a)
 - F2A Spouse Needs to Show in Status Entire Presence and No Unauthorized Work
 - What Evidence Proves a Lawful Admission?
 - Admission or Parole: Special Circumstances
 - *Quintanlan* Entry/“Wave-Through”
 - Advance Parole

(ML) = Module Leader

All speaker affiliations reflect the 2021–22 AILA committee year, when the course was recorded.



Marriage-Based Adjustments

Online Course

- Parole in Place
 - U Nonimmigrant Grant
 - TPS? Stay Tuned...
- Initial Evidence Checklist
- **Document:** Sample *Velarde* Affidavit for Marriages Occurring Subsequent to the Issuance of a Notice to Appear (NTA)
- **Video:** INA §245(i) Adjustment of Status
 - Evidence That Grandfathering Petition Was “Approvable When Filed” and Filed by April 30, 2001 (Received Between April 30, 2001 and May 3, 2001)
 - If INA §245(i) Petition Between Jan. 14, 1998 and April 30, 2001; Principal Beneficiary Shows Physical Presence on Dec. 21, 2000
 - Locating Evidence Through FOIA
 - Who Is Covered by INA §245(i)?
 - Form I-485 Supplement A
- **Video:** Have You Ever ...?
 - Preparing an Addendum on Inadmissibilities: When to Include Discretionary Evidence
 - Obtaining Documentation on Inadmissibilities
 - When to File an I-601 Application for Waiver of Grounds of Inadmissibility: Considerations for Determining Whether to Include It in Initial Filing vs. At or After Interview
 - I-601 Eligibility Requirements
- **Video:** I-864 Affidavits of Support
 - Cast of Characters: Petitioner Sponsors, Joint Sponsors, Household Members, Intending Immigrants, and Substitute Sponsors
 - How to Document Value of Assets and Income
 - Explaining Sponsor’s Obligations and When They Terminate
- **Exercise:** Using Assets to Supplement Income
- **Video:** (Non-)Representation of a Joint Sponsor: Ethical Considerations
 - Model Rule 1.7: Conflict of Interest: Current Clients
 - Model Rule 4.3: Dealing with Unrepresented Person
 - Communicating Your Role with Joint Sponsor Requires that You Inform Him You Are Not “Disinterested”:
 - Explain That You Represent the Client Beneficiary
 - Correct Any Perception That Joint Sponsor May Have That You Represent His Interests, Including Any Perception That You Should “Reasonably” Have Detected
 - May Not Advise Beyond Recommendation to Obtain Separate Legal Representation, Including to Separately Execute I-864
 - Documenting Your Communications and Obtaining Signed Acknowledgement from Joint Sponsor
 - Confidentiality When Joint Sponsor Does Not Want Personal Information Shared with Client
 - I-864: Preparer's Statement (Part 10, Item 7)
- **Hypotheticals**

(ML) = Module Leader

All speaker affiliations reflect the 2021–22 AILA committee year, when the course was recorded.



Marriage-Based Adjustments

Online Course

- **Resources List**

- *A Curated List of Additional Publications, Recordings, and Resources*

Faculty:

Elina Magaly Santana (ML), AILA Board of Governors, Miami, FL

Randall A. Chamberlain, New York, NY

Ral E.N. Obioha, Houston, TX

MODULE 4: INTERVIEW PREPARATION AND REPRESENTATION

Module Outline:

- **Video:** Preparing for the Interview
 - Overview of Module 4: Interview Preparation and Representation
 - Documents to Support the Marriage
 - Rescheduling: Drawbacks
 - Interpreters
 - Accommodations for Applicants with Disabilities
 - Appearing Telephonically and Accommodations for Vulnerable Clients
 - Preparing LGBTQ Couples
 - Preparing to Discuss a Previous I-130 Application
- **Document:** Sample List of Items to Bring to an Interview
- **Reading:** T. Chadwick *et al.*, “Defining and Defending Bona Fide Marriages,” *Immigration Practice Pointers* (AILA 2021–22 Ed.)
- **Video:** Newly Discovered Problems During the Interview
 - Handling Surprises During the Interview (Sidebar During vs. Later)
 - Separation
 - Social Media
 - Documentation Problems (Divorce Decree Not Signed, etc.)
 - Convictions or Prior Deportation
 - Referral to USCIS's Fraud Detection and National Security Directorate (FDNS)
 - *Stokes* Interview Prep
- **Video:** Advocacy at USCIS
 - Best Practices and Tips: What to Do and NOT Do
 - Tone and Attitude
 - How Much to Interrupt
 - How Much to Expect from Officer in Terms of Respect
 - Client Attire

(ML) = Module Leader

All speaker affiliations reflect the 2021–22 AILA committee year, when the course was recorded.



Marriage-Based Adjustments

Online Course

- Remembering the Officers' Names
 - Asking Permission to Use Computers
 - Bringing Own ID Cards
 - Insisting on Correct Pronoun Use for Transgender or Nonbinary Clients
 - When to Get a Supervisor Involved
 - When Your Client Is Arrested at Interview
- **Video:** Ethical Issues in Interview Preparation and Representation
 - No Misrepresentations, Omissions, or Misleading by Counsel
 - What to Do If Client Is Lying to USCIS
 - Obligation to Disclose Potential Bad Acts
 - Role of the Attorney During the Interview: How Zealous Is Too Zealous
 - Obligation to Disclose Additional Criminal Offenses After the Interview or Just Prior to the Interview
- **Mock Scene Video:** What to Expect at the Adjustment of Status Interview and How to Deal with Difficult Situations
 - The Beginning: Getting There Early, Looking Presentable, Being Prepared to Wait, Being Seated, "Reading" the Officer in First Few Minutes
 - Use of Interpreter
 - Make Sure Client Knows to Use the Interpreter
 - Applicant Can't Rely on Spouse or Even the Attorney to Interpret, Need a Third Party
 - How to Use the Interpreter in the Interview—*i.e.*, Make Sure Those Who Need the Interpreter Wait for Interpreter to Repeat the Officer's Question Completely Before Answering Any Questions
 - *Stokes* Interview
 - Officer Asking Questions That Seem Invasive or Go Beyond What Is Necessary for the Interview
 - Whether to Sign an Affidavit Prepared by the Officer During the Interview of the Officer's Questions, Applicant/Petitioner Responses
 - Officer Makes a Record of Specific Questions and Applicant Answers, then Has Applicant Sign the Document
 - Bare Minimum Actions Attorney Should Take to Protect Client
 - Discuss Why Some Attorneys Instruct Clients Not to Sign These Documents at All
- **Document:** What to Expect at USCIS Interviews
 - A List of Dos, Don'ts, and Tips for the General USCIS Interview
- **Document:** Checklist: What Documents/Information to Have in Preparation for Your Adjustment of Status Interview
- **Exercise:** Advise Your Client on What They Need to Bring for the Interview
- **Hypotheticals**
- **Resources List**
 - *A Curated List of Additional Publications, Recordings, and Resources*

(ML) = Module Leader

All speaker affiliations reflect the 2021–22 AILA committee year, when the course was recorded.



Marriage-Based Adjustments

Online Course

Faculty:

Tristan Gunn (ML), Course Committee, Chicago, IL

Ana Maria Schwartz, AILA Family Section Steering Committee, Houston, TX

Andrea Comfort Martinez, Kansas City, MO

Stanley P. Walker, Fort Walton Beach, FL

MODULE 5: POST-INTERVIEW ISSUES

Module Outline:

- **Video:** What to Do When You Don't Have a Decision Post-Interview
 - Overview of Module 5: Post-Interview Issues
 - Timeline for When to Take Action
 - Submit Request for Decision/Inquiry with USCIS, via Contact Center or Email If Available for Your Local Field Office
 - Reach Out to Your Local AILA/USCIS Liaison for Assistance
 - Congressional Assistance
 - Sue in Federal Court (Mandamus)
- **Document:** Sample Mandamus Complaint
- **Video:** Responding to Requests for Evidence (RFEs) and Notices of Intent to Deny (NOIDs)
 - Options: Submit a Complete or Partial Response, or Withdraw the Application/Petition
 - Standard of Review for RFEs: Preponderance of the Evidence
 - Is NOID Based on Derogatory Information? An Opportunity to Rebut That Information Shall Be Provided to the Applicant
 - Consider the Totality of the Submission
- **Exercise:** Organize Your Evidence and Response
 - Know What to Respond to and How to Respond
- **Video:** USCIS Denied the I-130 and/or Adjustment of Status Application: What Is Next?
 - Motion to Reconsider I-485 Application
 - Appeal of the I-130 Denial
 - Litigation in Federal Court
 - Refiling
 - When Will USCIS Issue an NTA?
 - If Applicant Is Unlawfully Present in United States at Time of the Denial, USCIS May Issue an NTA

(ML) = Module Leader

All speaker affiliations reflect the 2021–22 AILA committee year, when the course was recorded.



Marriage-Based Adjustments

Online Course

- USCIS Will Issue an NTA in Cases Where Fraud or Misrepresentation Is Substantiated
- Criminal Cases Where an Individual Is Convicted of a Criminal Offense May Be Referred to ICE Without Issuing an NTA or Adjudicating an Immigration Benefit
- **Reading:** NILA and AIC Practice Advisory, “Mandamus and Administrative Procedure Act (APA) Delay Cases: Avoiding Dismissal and Proving the Case” (Feb. 19, 2021)
- **Video:** Ethical Considerations Post-Interview
 - Ethics of Modified Fee Structures
 - Determine That the Modified Fee Is Fair and Reasonable
 - Inform the Client in Writing of the Modified Fee
 - Obtain the Client’s Informed Consent, in a Writing Signed by the Client
 - Divorce or Separation After the Interview
- **Hypotheticals**
- **Resources List**
 - *A Curated List of Additional Publications, Recordings, and Resources*

Faculty:

Heather L. Poole (ML), Pasadena, CA

Andrea Paola Reyes, Jacksonville, FL

MODULE 6: I-751 REMOVAL OF CONDITIONS

Module Outline:

- **Video:** Who Needs to File a Form I-751? Basic Overview
 - Overview of Module 6: I-751 Removal of Conditions
 - Joint Filing: When to File
 - Mention of Children’s I-751 Filings
 - Late Filings
 - Document Preparation for Joint Filings
 - Special Circumstances (*i.e.*, Joint Filings but Not Living Together Due to Work, Separated but Not Divorced, Marriage Counseling, Possible Interviews, etc.)
 - Option to File for Naturalization When Eligible Due to Long Processing Time for Form I-751
 - Amending Joint Filing to Waivers
- **Document:** Sample Redacted RFE for Jointly Filed Form I-751
- **Video:** Waivers for Good Faith Marriage or Deceased Spouse

(ML) = Module Leader

All speaker affiliations reflect the 2021–22 AILA committee year, when the course was recorded.



Marriage-Based Adjustments

Online Course

- When to File
- Document Preparation for Good Faith Marriage and Deceased Spouse Waivers, Types of Documents to Prove Good Faith Marriage
- How to Obtain Support Letter from U.S. Citizen Spouse
- Terms in Divorce Settlement Agreement That May Support or Harm Good Faith Marriage Waivers (*i.e.*, Spousal Support, Division of Joint Property, Child Custody, etc.)
- Preparing for a Good Faith Marriage Waiver Interview
- **Exercise:** Drafting Declarations in Support of Good Faith Marriage Waivers
- **Video:** Domestic Violence, Extreme Cruelty, and Extreme Hardship Waivers
 - When to File
 - Document Preparation Including Police Reports, Restraining Orders, Criminal Domestic Violence Charges, etc.
 - Pros and Cons of Filing Under Domestic Violence Waiver vs. Good Faith Marriage Waiver
 - Preparing for a Domestic Violence Waiver Interview
- **Reading:** J. Montesanti, “Complex I-751 Petitions to Remove Conditions on Residency (Ethical Considerations),” *Immigration Practice Pointers* (2022–23 Ed.)
- **Video:** Children’s Form I-751 Filings
 - When to File
 - To Be Included with a Parent’s Filing or File Child’s Own Separate I-751
 - Document Preparation for Good Faith Marriage, Domestic Violence, Extreme Cruelty, and Extreme Hardship Waivers Specifically Addressing Children’s Own Form I-751 Filings
 - Preparing Children for I-751 Waiver Interview
- **Video:** Ethical Considerations in Filing Form I-751
 - Does Counsel Have Ethical Obligation to Notify or Remind Client of the Filing of Form I-751?
 - Dual Representation of Couples
 - Ethical Issues for Waivers: Divorce, Annulment, Domestic Violence, etc.
 - Can the Same Attorney Who Represented the Couple Represent a Single Person in Case of Divorce or Domestic Violence?
 - Ethical Issues Between Principal Applicant (Parent) and Children’s I-751 Filings
 - Can Same Attorney Who Represented the Parent’s Joint Filing with U.S. Citizen Spouse Represent a Child’s I-751 with Possible Child Abuse Allegations?
 - Informed Consent for Continuing Representation
- **Video:** What to Do If the I-751 Is Denied
 - Timing Considerations
 - Jurisdictional Considerations
 - NTA and Removal Proceedings
 - If There Is No NTA: Mandamus, Refiling, or Filing for Citizenship
 - If Your Client Remarries
 - Exploring Other Options for Legal Status
- **Hypotheticals**

(ML) = Module Leader

All speaker affiliations reflect the 2021–22 AILA committee year, when the course was recorded.



Marriage-Based Adjustments

Online Course

- **Resources List**

- *A Curated List of Additional Publications, Recordings, and Resources*

Faculty:

Ginny Hsiao (ML), Course Committee, Arcadia, CA

Hardeep Sull, AILA Board of Governors, Las Vegas, NV

Irene Mugambi, AILA USCIS Field Operations Committee, Dallas, TX

AILA Marriage-Based Adjustments Online Course Committee

Angela J. Ferguson, Course Committee Chair, Kansas City, MO

Stephanie Theresa DiPietro, New York, NY

Kreuz L. Gjezi, Southfield, MI

Tristan Gunn, Chicago, IL

Ginny Hsiao, Arcadia, CA

Bernadette McGuire, Englewood, CO

Heidi Beth Nowotny, Overland Park, KS

Kate Molski, AILA eLearning Manager, Washington, DC

(ML) = Module Leader

All speaker affiliations reflect the 2021–22 AILA committee year, when the course was recorded.