Chapter 3 - Documentation and Evidence

Guidance

Resources (20)

Appendices (0)

Updates (5)

A. Overview of Evidentiary Requirements

The evidentiary requirements for T-1 principal applicants for adjustment of status are more extensive than the requirements for T-2, T-3, T-4, T-5, and T-6 derivative adjustment applicants because of the additional eligibility requirements applicable to T-1 principal applicants.

The following table summarizes the evidentiary and other filing requirements, which are discussed in further detail throughout this chapter.

Summary of Required Documentation and Evidence

Nonimmigrant Classification	Required Documentation and Evidence

Need Help? Chat with Emma™

Nonimmigrant Classification	Required Documentation and Evidence
All T Nonimmigrants	• Application to Register Permanent Residence or Adjust Status (Form I-485); • Two passport-style photographs; • Copy of all pages of applicant's most recent passport or explanation of why they do not have a passport; • Report of Immigration Medical Examination and Vaccination Record (Form I-693); • Application for Waiver of Grounds of Inadmissibility (Form I-601), if applicable; • Evidence of lawful admission as a T nonimmigrant; • Birth certificate; • Evidence the applicant continues to be in valid T nonimmigrant status; • Evidence of positive discretionary factors; and • Evidence of valid marriage, such as a marriage certificate or divorce decree, if applicable (for T-2 applicants only).
T-1 Principal Nonimmigrant	• All evidence listed above, as required for all T nonimmigrants; • Evidence of continuous physical presence in the United States for the requisite period; • Evidence of good moral character; and • Evidence of compliance with reasonable law enforcement requests or evidence that the applicant established an age exemption, trauma exception, or extreme hardship.

B. Evidence Required of All Applicants

All T nonimmigrant applicants for adjustment of status must submit all required initial evidence with the Application to Register Permanent Residence or Adjust Status (Form I-485).[1]

Initial evidence required of all T nonimmigrant applicants for adjustment of status includes the following:

- Application to Register Permanent Residence or Adjust Status (Form I-485);
- Evidence of lawful admission into the United States in T nonimmigrant status, such as:
  - Copy of Notice of Action (Form I-797) granting T nonimmigrant status;

- Copy of Arrival/Departure Record (Form I-94); or
- Copy of applicant's passport with a T nonimmigrant visa and an admission stamp[2] evidencing that U.S. Customs and Border Protection admitted the applicant as a T nonimmigrant;

- Copy of the applicant's birth certificate and a certified translation if the document is in a foreign language (or secondary evidence of birth if an applicant is unable to obtain their birth certificate);[3]
- Two passport-style photographs;[4]
- Biometrics submission (generally after receiving an appointment notice and attending an appointment at an Application Support Center);
- Copy of all pages of the applicant's most recent passport[5] (or an explanation of the reason the applicant does not have a passport);
- Report of Immigration Medical Examination and Vaccination Record (Form I-693);[6] and
- Application for Waiver of Grounds of Inadmissibility (Form I-601), if applicable.
- All applicants should also include evidence that USCIS should exercise discretion in their favor in granting their application for adjustment of status.[7] If there are adverse factors, applicants may submit information regarding any mitigating factors they wish USCIS to consider.[8]

C. Evidence Required of Principal Applicants Only

In addition to the evidence and documentation listed above, principal T-1 nonimmigrant applicants for adjustment of status must include with their adjustment application evidence establishing that they meet each of the eligibility requirements specific to principal applicants.

The following subsections discuss the evidence required to establish the eligibility requirements of continuous physical presence, good moral character, and compliance with reasonable law enforcement requests.

1. Continuous Physical Presence in the United States

A T-1 applicant must submit sufficient evidence to establish that the applicant has been physically present in the United States for a continuous period of either:

- At least 3 years since the date of admission as a T-1 nonimmigrant; or
- The duration of the investigation or prosecution of the acts of trafficking, in cases where the Attorney General has determined the investigation or prosecution is complete, if less than 3 years.

Required Evidence

To establish continuous physical presence during the requisite time period, T-1 principal nonimmigrant applicants for adjustment of status must submit:

- An affidavit stating that they have been continuously physically present in the United States for the requisite period;[9]
- Copies of all pages of all the applicant's passports or equivalent travel document valid during the required period (or a valid[10] explanation of why the applicant does not have a passport);[11]

- A list of any departures from the United States or other evidence of such departures, (see below for necessary details regarding departures);[12] and
- Evidence of continuous physical presence in the United States.[13]

Evidence of Departures from the United States

If an applicant has departed the United States, they must submit documentation of any departure from, and return to, the United States, while in T-1 nonimmigrant status. Such documentation must show:

- Date of departure;
- Place of departure;
- Length of departure;
- Manner of departure (such as plane or boat);
- Date of return; and
- Place of return.

Specific Types of Evidence to Demonstrate Continuous Physical Presence

Evidence of continuous physical presence may include:

- Evidence the applicant worked in the United States, such as pay stubs or other employment records;
- Evidence that the applicant filed federal or state income tax returns;
- Evidence that the applicant or their children[14] attended school in the United States, including educational records (such as transcripts, report cards, letters) from a United States institution;
- Hospital or medical records;
- Documents showing installment periods, such as a series of monthly rent receipts or utility bills;
- Money orders, deeds, contracts, automobile license receipts, vehicle registrations, mortgage payments, or similar evidence;
- Officially registered and issued birth certificates of children born in the United States; and
- Documentation issued by any governmental or nongovernmental authority that contains the signature, seal, or other authenticating instrument of the authorized representative of the issuing authority if the document would normally contain such authentication.[15]

In addition to the above evidence, an applicant may submit copies of documentation found in their DHS file to establish physical presence, if applicable and available. Such documentation may include, but is not limited to:

- Copy of sworn statement given to a DHS officer;
- Attestation from law enforcement agency that the applicant has continued to comply with requests for assistance;
- Transcript of a formal hearing; and
- Record of Deportable/Inadmissible Alien (Form I-213).

General Principles for Evidence of Continuous Physical Presence

Any absence from the United States, even for 24 hours, can be significant for purposes of eligibility because of the aggregate 180-day restriction on absences from the United States.[16] Travel outside the United States for less than 24 hours does not count toward the 90-day or the 180-day periods.

Evidence submitted relating to continuous physical presence should generally contain the applicant or their family member's name, address (if applicable), and relevant dates.

An applicant does not need to submit documentation to show presence on every single day of the requisite continuous physical presence period, but there should be no significant chronological gaps in documentation.

A signed statement from the T-1 applicant attesting to continuous physical presence alone is not sufficient to establish this eligibility requirement.[17] If documentation to establish continuous physical presence is not available, the applicant must explain why in their affidavit and provide additional affidavits from others with firsthand knowledge attesting to the applicant's physical presence with specific facts.

Determining the Date of Admission as a T-1 Nonimmigrant

For purposes of determining whether the applicant has satisfied the requisite physical presence period, an applicant's date of admission as a T-1 nonimmigrant is generally the date that the applicant was first granted T-1 nonimmigrant status upon approval of their Application for T Nonimmigrant Status (Form I-914). USCIS generally uses this initial admission date to calculate an applicant's physical presence.

If the applicant traveled outside of the United States since being admitted as a T-1 nonimmigrant, did not break continuous physical presence by departing for a single period of 90 days or multiple departures for 180 days in the aggregate, and reentered using an advance parole document, the date that the applicant was first admitted as a T-1 nonimmigrant is still the date of initial admission as a T-1 nonimmigrant, regardless of how the applicant's Arrival/Departure Record (Form I-94) is annotated upon their reentry using an advance parole document.

However, if the Form I-94 is annotated with another nonimmigrant status other than T nonimmigrant status, USCIS may consider the applicant to have been admitted into another nonimmigrant classification, depending on the circumstances. Because an alien cannot hold more than one nonimmigrant status at a time, if the applicant was admitted into another classification, the applicant would no longer hold T nonimmigrant status and would not accrue continuous physical presence as a T-1 nonimmigrant.

If the T-1 nonimmigrant traveled outside the United States and upon return there was an error on their Form I-94 as to the status of the T nonimmigrant through no fault of the T nonimmigrant, they may contact U.S. Customs and Border Protection and request to have the error corrected.[18] If the error on the Form I-94 may prevent an individual from being able to apply for adjustment of status before their T nonimmigrant status expires, they should file a request for extension of status using the Application to Extend/Change Nonimmigrant Status (Form I-539) and include an explanation of the circumstances.

If the T-1 nonimmigrant traveled outside of the United States since being admitted as T-1 nonimmigrant, and broke continuous physical presence by departing the United States for a period of 90 days or 180 days in the aggregate, they may restart the continuous physical presence period and again begin accruing physical presence after any subsequent admission as a T-1 nonimmigrant or after being paroled after presenting an advance parole document granted under INA 212(d)(5).

Evidence of Excused Departure

An applicant who has traveled outside of the United States for a single period in excess of 90 days or 180 days in the aggregate while in T nonimmigrant status and seeks to demonstrate that their absence from the United States was necessary to assist in the investigation or prosecution of the acts trafficking[19] must submit:

- A statement from law enforcement;
- A personal statement; or
- Any other documentation that establishes the departure was necessary to assist in the investigation or prosecution.

Alternatively, where an applicant traveled outside of the United States for a single period in excess of 90 days or 180 days in the aggregate while in T nonimmigrant status, and they seek to establish that an absence was otherwise justified,[20] they must submit documentation from a law enforcement official who was involved in the investigation or prosecution of the acts of trafficking. If the letter is authentic, USCIS generally does not question the law enforcement official's conclusions in the letter. However, USCIS may request additional information if needed to confirm this eligibility requirement is met.

Evidence of Completed Investigation or Prosecution

Applicants seeking to meet the alternative continuous physical presence requirement (less than 3 years while in T-1 nonimmigrant status if the investigation or prosecution is complete) must submit a document signed by the Attorney General, or their designee, stating that an investigation or prosecution occurred and that the investigation or prosecution is complete. The signed document must be from the U.S. Department of Justice (DOJ) or the U.S. Attorney's Office.[21]

USCIS generally defers to DOJ's determination that the investigation or prosecution is complete; however, the letters must state that an investigation or prosecution occurred, and in the opinion of the Attorney General, the investigation or prosecution is complete.[22]

T nonimmigrants who qualified for an age exemption or trauma exception[23] to the cooperation requirement at the T nonimmigrant application stage may nonetheless qualify for early adjustment of status[24] so long as they can establish that an investigation or prosecution occurred, and that such investigation or prosecution is now complete. They must still submit a document signed by the Attorney General, or their designee, stating that an investigation or prosecution occurred and is complete, as discussed above.

2. Good Moral Character

For a T-1 nonimmigrant applicant for adjustment of status to establish that they have been a person of good moral character (GMC) since they were first admitted as a T-1 nonimmigrant and through the time that USCIS completes the adjudication of their application for adjustment, the applicant must provide the following evidence:

- Affidavit attesting to their good moral character; and
- Police clearance letter or a state-issued criminal background check from each locality or state in the United States in which the applicant has resided for 6 months or more since being admitted as a T-1 nonimmigrant.[25]

If police clearances, criminal background checks, or similar reports are not available for some or all locations, the applicant may submit a detailed statement explaining the reasons they could not obtain the clearances

and why the absence of a police clearance does not adversely reflect upon their GMC.[26] The applicant may also submit other evidence with their affidavit, including credible evidence of GMC, such as affidavits from responsible persons who can knowledgeably attest to the applicant's GMC.[27]

Criminal History

If a T-1 nonimmigrant applying for adjustment of status has ever been arrested, charged with, or convicted of a crime or offense, the applicant must submit police and court records as outlined in the instructions for Form I-485.

If a T-1 nonimmigrant applying for adjustment has committed acts that would otherwise prevent USCIS from making a finding of GMC, and the acts were caused by or incident to the acts of trafficking, the applicant may submit an affirmative statement or other evidence explaining the relationship between the acts that reflect adversely on their moral character and the acts of trafficking.

Special Considerations due to Age

USCIS generally presumes that an applicant who is under 14 years of age is a person of GMC and is not required to submit evidence of GMC. However, if there is reason to believe that an applicant who is under 14 years of age may lack GMC, USCIS may require the applicant to submit evidence of GMC.[28]

3. Compliance with Reasonable Law Enforcement Requests

To establish their compliance with any reasonable requests for assistance in the investigation or prosecution of acts of trafficking, the T-1 nonimmigrant applicant must submit one of the following types of evidence:

- A statement, letter, or newly signed Declaration for Trafficking Victim (Form I-914, Supplement B) from law enforcement;
- A signed personal statement detailing how the applicant meets the eligibility requirement; or
- Any other documentation that establishes compliance with any reasonable request for assistance since their last admission as a T-1 nonimmigrant.

Alternatively, an applicant may instead submit evidence that they qualify for an age-based exemption or trauma-based exception to the requirement to comply with reasonable requests for assistance from law enforcement, or that they would suffer extreme hardship involving unusual and severe harm if removed from the United States.[29]

Extreme Hardship

A T-1 nonimmigrant applicant for adjustment of status who seeks to establish that they will suffer extreme hardship involving unusual and severe harm if removed from the United States, as an alternative to the reasonable request for assistance requirement, may provide evidence related to traditional extreme hardship factors or factors associated with having been a victim of a severe form of trafficking in persons.[30] Such evidence may include:

- A signed personal statement detailing how the applicant will suffer extreme hardship involving unusual and severe harm if removed from the United States;
- Evidence from relevant country condition reports; and

- Any other public or private sources of information such as letters from service providers, medical professionals, or affidavits of persons with knowledge of the applicant's circumstances.

When the basis for the hardship claim represents a continuation of the hardship claimed in the previously approved application for T nonimmigrant status, the applicant does not need to resubmit the previously submitted documentation. Instead, the applicant may submit evidence demonstrating that the previously established hardship is ongoing.[31] However, USCIS is not bound by its previous hardship determination made on the initial T nonimmigrant application.[32]

Under Age 18 at Time of Victimization

An applicant who is under the age of 18 at the time of victimization[33] does not need to submit evidence to establish compliance with any reasonable request for assistance or that they would suffer extreme hardship upon removal.[34] The applicant instead must submit evidence of their age.

Unable to Cooperate Based on Trauma

An applicant who established they were unable to cooperate with a reasonable request for assistance at the time of adjudication of their application for T-1 nonimmigrant status based on physical or psychological trauma[35] does not have to submit evidence to establish compliance with any reasonable request for assistance or that they would suffer extreme hardship upon removal at the adjustment stage.[36]

The applicant may include an affidavit or personal statement explaining that they were unable to cooperate due to trauma at the time of adjudication of their Application for T Nonimmigrant Status (Form I-914).

Footnotes

[^ 1] See 8 CFR 103.2(b)(1). If any initial evidence is missing, USCIS generally issues a Request for Evidence (RFE) or Notice of Intent to Deny (NOID). For further discussion on USCIS' procedures regarding evidence and decision making, see Volume 1, General Policies and Procedures, Part E, Adjudications, Chapter 6, Evidence [1 USCIS-PM E.6] and Chapter 9, Rendering a Decision [1 USCIS-PM E.9].

[^ 2] The stamp should clearly show the applicant's date, duration, and class of admission.

[^ 3] For further discussion of this requirement, see Part A, Adjustment of Status Policies and Procedures, Chapter 4, Documentation, Section A, Initial Evidence, Subsection 4, Evidence of Admission or Parole [7 USCIS-PM A.4(A)(4)].

[^ 4] For photograph requirements, see Part A, Adjustment of Status Policies and Procedures, Chapter 4, Documentation, Section A, Initial Evidence, Subsection 1, Photographs [7 USCIS-PM A.4(A)(1)].

[^ 5] There are two distinct passport requirements applicable for T nonimmigrant applicants for adjustment of status. The first is found at 8 CFR 245.23(e)(1)(iii), which applies to both principal and derivative T nonimmigrants, and requires submission of all pages of the most recent passport, or an explanation of why the individual does not have a passport. The second is found at 8 CFR 245.23(e)(2)(i), which applies to principal T nonimmigrants only, and is used to evaluate whether the continuous physical presence requirement is met. Under this second passport requirement, the applicant must submit copies of all pages of all passports valid during the required continuous physical presence period, or a valid explanation of why the applicant does not have a passport.

[^ 6] See 8 CFR 245.5. See Part A, Adjustment of Status Policies and Procedures, Chapter 4, Documentation, Section A, Initial Evidence, Subsection 6, Report of Immigration Medical Examination and Vaccination Record (Form I-693) [7 USCIS-PM A.4(A)(6)].

[^ 7] See 8 CFR 245.23(e)(3).

[^ 8] See 8 CFR 245.23(e)(3).

[^ 9] See 8 CFR 245.23(e)(2)(i).

[^ 10] A valid explanation must reasonably describe why the applicant does not have a passport.

[^ 11] See 8 CFR 245.23(e)(2)(i).

[^ 12] See 8 CFR 245.23(e)(2)(i)(a).

[^ 13] See 8 CFR 245.22.

[^ 14] If an applicant is using evidence of their children's school attendance as proof of the applicant's physical presence, the record must make it clear that the applicant was also physically present in the United States. For example, the record should contain evidence that the applicant is the custodial parent, and the documentation indicates that the applicant enrolled their child or children in school. Evidence of the child's attendance alone, without evidence of the applicant's presence, will not suffice.

[^ 15] See 8 CFR 245.22.

[^ 16] See 73 FR 75540, 75543 (PDF) (Dec. 12, 2008) (discussion of evidence of physical presence).

[^ 17] See 8 CFR 245.23(e)(2)(i).

[^ 18] See U.S. Customs and Border Protection's Contact Us webpage for more information.

[^ 19] See INA 245(l)(3)(A).

[^ 20] See INA 245(l)(3)(B).

[^ 21] For more information about requesting a letter, see the Green Card for a Victim of Trafficking (T Nonimmigrant) webpage.

[^ 22] See INA 245(l)(1)(A). See 8 CFR 245.23(a)(4).

[^ 23] See Chapter 2, Eligibility Requirements, Section A, Principal Applicants, Subsection 4, Reasonable Requests for Assistance [7 USCIS-PM J.2(A)(4)].

[^ 24] See 8 CFR 245.23(a)(4) and 8 CFR 245.23(a)(3).

[^ 25] See 8 CFR 245.23(g)(1).

[^ 26] See 8 CFR 245.23(g)(2).

[^ 27] See 8 CFR 245.23(g)(3).

[^ 28] See 8 CFR 245.23(g)(4).

[^ 29] See Chapter 2, Eligibility Requirements, Section A, Principal Applicants, Subsection 4, Reasonable Requests for Assistance [7 USCIS-PM J.2(A)(4)].

[^ 30] For a discussion of the factors, see Volume 3, Humanitarian Protection and Parole, Part B, Victims of Trafficking, Chapter 2, Eligibility Requirements, Section E, Extreme Hardship [3 USCIS-PM B.2(E)].

[^ 31] See 8 CFR 245.23(f)(2).

[^ 32] For additional information about extreme hardship in the context of the T nonimmigrant application, see Volume 3, Humanitarian Protection and Parole, Part B, Victims of Trafficking, Chapter 2, Eligibility Requirements, Section E, Extreme Hardship [3 USCIS-PM B.2(E)].

[^ 33] See INA 245(l)(1)(C)(iii).

[^ 34] See Chapter 2, Eligibility Requirements, Section A, Principal Applicants, Subsection 4, Reasonable Requests for Assistance [7 USCIS-PM J.2(A)(4)].

[^ 35] See 8 CFR 245.23(a)(7)(iv).

[^ 36] See Chapter 2, Eligibility Requirements, Section A, Principal Applicants, Subsection 4, Reasonable Requests for Assistance [7 USCIS-PM J.2(A)(4)].

Current as of September 26, 2025