

What is an I-751 waiver?

People who apply for permanent residency based on a marriage to a U.S. citizen or permanent resident spouse that is less than two years old at the time their residence is granted receive green cards that are only valid for two years called a “Conditional Permanent Residents.” Before their conditional residence expires, they must file an additional application, called a “Petition to Remove Conditions on Residence” (Form I-751) in order to extend their status to indefinite Lawful Permanent Residence.

If you are still married, then file Form I-751 jointly with your spouse through whom you obtained conditional status. However, you may file Form I-751 without your spouse if:

- You entered the marriage in good faith, but your spouse subsequently died;
- You entered the marriage in good faith, but the marriage was later terminated due to divorce or annulment;
- You entered the marriage in good faith, but you have been battered or subject to extreme cruelty by your petitioning spouse; or
- Your conditional resident parent entered the marriage in good faith, but you have been battered or subject to extreme cruelty by your parent’s U.S. citizen or lawful permanent resident spouse or by your conditional resident parent; or
- The termination of your status and removal from the United States would result in extreme hardship.
- Having been arrested, charged, or convicted of any crime or having any immigration violations may impact your eligibility.
- You **can** apply for an I-751 waiver based on multiple grounds if you meet multiple criteria.

You may potentially be able to include certain family members:

- If you have dependent children who acquired conditional resident status on the same day as you or within 90 days thereafter, you can include them on the same application on Form I-751 in order to request that the conditions on their status be removed as well.
- If you have dependent children who did not acquire conditional resident status on the same day as you or within 90 days thereafter, or if the conditional resident parent is deceased, then those dependent children must each file Form I-751 separately to have the conditions on their status removed.

Generally joint I-751 filed with a spouse **must** be filed within 90 days of the date that the conditional residence expires. Failing to file your I-751 before your conditional residency expires could result in you becoming deportable under INA § 237(a)(1)(D) and could result in being placed in removal proceedings.

For those who meet the requirements to file an I-751 waiver listed above you may file the I-751 waiver **at any time** before, during, or after the 90-day window including after the expiration date of your conditional residency status. However, you should file as soon as is reasonably possible to avoid having your conditional residence expire which could result in being placed in removal proceedings. Generally conditional residence status is automatically extended following a timely I-751 filing, until there is a decision on the I-75 application. The conditional resident with a pending I-751 is entitled to an “I-551 stamp” in her passport, or an I-94 if no passport, indicating their conditional resident status has been extended for one year (and can be further extended if adjudication takes longer than one year). You can find more information on this relief on the U.S. Citizenship and Immigration Service’s website using this link here: <https://www.uscis.gov/i-751>