

The following USCIS response was received as part of a collective response to several recommendations submitted by the CIS Ombudsman. The following response has been extracted from the original document received by the CIS Ombudsman for display and readability purposes.

USCIS Response to Ombudsman  
December 17, 2004

**Recommendation to USCIS to Correct a Naturalization Policy Memorandum in order to fully comply with Section 319(a) of the Immigration and Nationality Act, as amended by Public Law 106-386.**

USCIS agrees with the Ombudsman that Section 319(a) treatment should be afforded to applicants who obtained permanent residence through a petition to waive the joint petition requirement for removal of conditions of permanent residence (I-751 waiver) on the basis of abuse. The 2002 policy memo that omitted that ground of 319(a) eligibility will be amended and will be published on the USCIS web site.

It appears that USCIS and the Ombudsman agree that, contrary to the arguments of some plaintiffs in recent litigation, 319(a) does not extend to applicants who did not obtain or remove conditions on permanent residence by virtue of a finding of abuse but who now are not living in marital union with a U.S. citizen spouse and claim abuse in connection with a naturalization application filed less than 5 years after acquiring permanent residence. USCIS is currently defending litigation on this issue.