Information Available to U.S. Citizens

What immigration information are you interested in? (Choose one below)

Information about U.S. Passports, Traveling Abroad and Returning to the U.S. After a Trip

How to Get Proof of U.S. Citizenship, Determine Citizenship, and What to Show an Employer When Applying for a Job
- Getting Proof of U.S. Citizenship and What to Show an Employer When Being Hired
- Determining if You are a U.S. Citizen

How to Help a Relative Immigrate to the United States and Financially Sponsoring an Immigrating Alien
- Helping a Relative Immigrate to the United States
- Filing for a K-3/K-4 Nonimmigrant
- Financially Sponsoring an Immigrating Alien

Understanding Immigration Processes When Adopting Children and Helping a Fiancé (e) Immigrate to the United States
- Understanding Immigration Processes When Adopting Children
- Helping a Fiancé (e) Immigrate to the United States

When and How to Change Your Address with USCIS

Replacing a Lost, Stolen, or Destroyed Naturalization Certificate or Certificate of Citizenship

Frequently Asked Questions related to U.S. Citizens:

- **Dual Nationality/Citizenship**
- **Renunciation of Citizenship**

Services Available to U.S. Citizens

Information about U.S. Passports, Traveling Abroad and Returning to the U.S. after a trip

OVERVIEW

U.S. citizens need a U.S. passport when traveling to, or returning from, **most** countries. Passport requirements are changing. Effective January 23, 2007, U.S. passports are required for all U.S. Citizens traveling by **air** from Canada, Mexico, Central America, South America, the Caribbean and Bermuda. Effective January 31, 2008, U.S. passports, or a government-issued photo ID, such as a driver's license, plus proof of citizenship, such as a birth certificate, are required for all U.S. Citizens traveling by **land or sea**. And by June 1, 2009, U.S. passports will be required for all U.S. Citizens traveling by land or sea from Canada, Mexico, Central America, South America, the Caribbean and Bermuda. A U.S. citizen must have a passport when traveling to and from any country or area not listed above. For more information, please check with the U.S. Department of Stateby visiting their website is at http://www.state.gov/.
Please note: Due to heightened security, we recommend that U.S. citizens who have a passport take it with them even when traveling to countries where

Frequently AskedQuestions about U.S. Citizens Traveling Abroad

- **Where can I get a U.S. passport?**
- **What is required to reenter the U.S.?**
- **What is required to travel abroad?**
- **What documents are usually accepted as proof of U.S. citizenship?**
- **Where can I get a copy of my birth certificate?**
- **Do I need a Visa before traveling?**
- **What is a "Visa to Enter a Foreign Country"?**
- **What do I do if I lose my passport while traveling abroad?**
- **Do I need immunization records before traveling abroad?**
- **Will I need any immunizations before reentering the U.S.?**
- **Where can I obtain additional information about travel abroad?**

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Where can I get a U.S. passport?

You can apply for a passport at a passport agency or at over 7,000 passport acceptance facilities nationwide, including many federal, state, and probate courts, post offices, many county and municipal offices and some libraries. For more information on obtaining a passport, visit the Department of State's web site at: http://travel.state.gov/ or call the National Passport Information Center at 1-877-487-2778, TDD/TTY: 1-888-874-7793

Note: USCIS does not issue U.S. passports or foreign visas. If you plan on traveling abroad, please check with the U.S. Department of State for more information well before your planned trip.

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What is required to re-enter the U.S.?

A passport or other accepted document that establishes the bearer's identity and nationality is required in order to enter or re-enter the United States.

New Passport Requirements:

As part of U.S. Department of State's Western Hemisphere Travel Initiative, all travelers are required to present a valid passport or other accepted document(s) to enter or re-enter the U.S. (visitors and U.S. residents) from Canada, Mexico, Central and South America, the Caribbean, and Bermuda as follows:

- **January 23, 2007:** All persons, including U.S. citizens, traveling by **air** between the United States and Canada, Mexico, Central and South America, the Caribbean, and Bermuda are required to present a valid passport, Air NEXUS card, or U.S. Coast Guard Merchant Mariner Document (MMDs).

- **January 1, 2008:** All persons, including U.S. citizens, traveling between the U.S. and Canada, Mexico, Central and South America, the Caribbean, and Bermuda by **land** or **sea (including ferries)**, are required to present a valid passport or other documents as determined by the Department of Homeland Security

See U.S Department of State list of New Requirements for Travelers including a "other accepted documents."

Note: This does not affect travel between the U.S. and its territories. U.S. citizens traveling between the U.S. and Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa will continue to be able to use established forms of ID.

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What is required to travel abroad?

In most cases, you will need a valid U.S. passport. However, if you are traveling to or from a country where a U.S. passport is not required, you'll usually need two documents:

- A document to prove your identity, such as a valid U.S. driver's license, military ID, or a valid photo ID; and
- A document to prove your citizenship, such as a notarized copy of your birth certificate issued by a U.S. State.

If you were not born in the U.S., you can use your original naturalization certificate or certificate of citizenship. However, a valid U.S. passport remains the best documentation available to prove your U.S. citizenship. Passport requirements are changing.

Note: Hospital-issued birth certificates, voter registration cards, and affidavits cannot be used.

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What documents are usually accepted as proof of U.S. citizenship?

The most common documents that establish U.S. citizenship are:

- **Birth Certificate,** issued by a U.S. State (if the person was born in the U.S.), or by the U.S. Department of State (if the person was born overseas and the parents registered the child's birth and U.S. citizenship at birth with the U.S. Embassy or Consulate).
- **U.S. Passport,** issued by the U.S. Department of State.
- **Certificate of Citizenship,** issued to a person born outside the U.S. who was still a U.S. citizen at birth, or to a person who later automatically became a U.S. citizen.
- **Naturalization Certificate,** issued to a person who became a U.S. citizen after birth through the naturalization process.

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Where can I get a copy of my birth certificate?

Check with the Bureau of Vital Statistics in the U.S. State in which you were born. For more information, please visit the National Center for Health Statistics web page at www.cdc.gov/nchs/births.htm

Do I need a Visa before traveling?

Many countries require that U.S. citizens have a visa issued by that country in order to enter. For information about whether a country requires a visa, please contact that country's embassy or consulate well in advance of your planned travel. Please see the U.S. State Department web page for more tips for traveling abroad.

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What is a "Visa to Enter a Foreign Country"?

A visa may be a page, an endorsement, or stamp placed by officials of a foreign country in a U.S. passport that allows the bearer to visit that foreign country.

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What do I do if I lose my passport while overseas?

Contact the nearest U.S. embassy or consulate.

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Do I need immunization records before traveling abroad?

Some countries may require International Certificates of Vaccination against yellow fever. Furthermore, many countries have established regulations regarding AIDS testing, especially for long-term visitors. It is recommended that you contact the embassy or consulate of the country that you plan to visit for further information. For more information on health information for international travel, please contact the Centers for Disease Control and Prevention at 1-877-FYI-TRIP (877-394-8747) or visit their web site.

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Will I need any immunizations before reentering the U.S.?

If you are a U.S. Citizen, you are not required to get immunizations to return to the U.S.

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Where can I obtain additional information about travel abroad?

For additional information, please go to the Department of State website.

You may also want to contact the embassy of the country you are planning to visit to find the requirements for that particular country regarding travel and entry.

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Services Available to U.S. Citizens

How to get Proof of U.S. Citizenship, Determine Citizenship, and What to Show an Employer When Applying for a Job

OVERVIEW

Citizenship: In many cases, a person may be a U.S. Citizen and not even know it. There are many ways that a person may derive citizenship from a parent or grandparent.

Employment: Employers must verify the eligibility of each employee to be employed legally in the United States. To meet this requirement, a United States citizen may be able to show an employer a U.S. birth certificate with a photo identification document, a U.S. passport, or other documentation

Getting Proof of U.S. Citizenship and What to Show an Employer When Being Hired

Determining if You are a U.S. Citizen

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Services Available to U.S. Citizens

How to get Proof of U.S. Citizenship, What to Show an Employer When Applying for a Job, and How to Determine Citizenship

Getting Proof of U.S. Citizenship and What to Show an Employer When Being Hired

OVERVIEW

Every employer in the United States must verify the eligibility of each newly hired employee to be legally employed in the United States. A U.S. Citizen may show a variety of evidence to meet this requirement, including but not limited to a U.S. Passport, a U.S. birth certificate along with a government issued photo identification document, or a certificate of citizenship or naturalization.

If you were born in the U.S., you can use your U.S. passport, if you have one, or your birth certificate to prove your citizenship. If you need a copy of your birth certificate, contact the bureau of vital statistics in the State in which you were born. We do not issue any kind of citizenship document to a person who's a citizen by birth in the U.S.

If you were born outside the U.S. but your U.S. citizenship was registered at birth and you need a copy of your evidence of citizenship, apply to the State Department. For more information see their website at www.state.gov. You can also use a U.S. passport to prove your citizenship. To get a U.S. passport, apply to the U.S. Passport Office. For information check their website at www.state.gov or call 1-877-487-2778.

If you are a naturalized citizen or derivative citizen that had a certificate of citizenship or naturalization, you can use your original naturalization certificate or citizenship certificate to prove your citizenship. If you've lost it, you can apply for a replacement using Form N-565. The instructions to the N-565 explain how to file and the process in greater detail. You can read and print the form and instructions right from our website at www.uscis.gov. If you don't have web access at home or work, check with your public library. But if you'd prefer to order a form by telephone, please call the USCIS Forms Request line at 1-800-870-3676.
However, for everyday use, you may find a U.S. passport a better choice because it's both evidence of your citizenship and a travel document. To get a U.S. passport, apply to the U.S. Passport Office. For information, check their website at www.state.gov or call 1-877-487-2778.

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Services Available to U.S. Citizens

How to get Proof of U.S. Citizenship, What to Show an Employer When Applying for a Job, and How to Determine Citizenship

Determining if You are a U.S. Citizen

OVERVIEW

Many times a customer may be a U.S. Citizen because their parent was a citizen at the time the customer was born, but the customer may not know that he/she is a citizen. This is called derivative citizenship.

A citizen of the United States is a native-born, foreign-born, or naturalized person who owes allegiance to the United States and who is entitled to its protection. In addition to the naturalization process, the United States recognizes the U.S. citizenship of individuals according to two fundamental principles: jus soli, or right of birthplace, and jus sanguinis, or right of blood (deriving citizenship through parent's citizenship).

Whether someone born outside the U.S. to a U.S. citizen parent is a U.S. citizen depends on the law in effect when the person was born. These laws have changed over the years, but usually require a combination of at least one parent being a U.S. citizen when the child was born *and* having lived in the U.S. or its possessions for a period of time.

To apply for recognition of citizenship, you have two options. The first is to apply for a U.S. passport. A passport is evidence of citizenship and also serves as a travel document. Apply to the U.S. Passport Office. For information check their website at www.state.gov or call 1-877-487-2778.
If you are already in the U.S., your second option is to apply to us for a certificate of citizenship. Use Form N-600. However, you may find applying for a passport to be more convenient because a passport also serves as a travel document and is often a faster process.

The instructions to the N-600 explain how to file and the process in greater detail. You can read and print the form and instructions right from our website at www.uscis.gov. If you don't have web access at home or work, check with your public library. But if you'd prefer to order a form by telephone, please call the USCIS Forms Request line at 1-800-870-3676.

For help in Determining United States Citizenship, click here.

Frequently Asked Questions Related to Determining Citizenship, click here.

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Were you born in one of the 50 States in the United States, Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, or the Swains Islands?

- Yes
- No

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Were you born in Panama or the Panama Canal Zone?

- Yes
- No

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You were born (choose one):

- In one of the 50 states of the United States
- Outside the 50 states of the United States

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With the exception noted below, if you were born in one of the 50 states of the United States, you were automatically a citizen at the time you were born.

If you were born in the U.S., you can use your U.S. passport or your birth certificate to prove your citizenship. If you need a copy of your birth certificate, contact the bureau of vital statistics in the State in which you were born. We do not issue any kind of citizenship document to a person who is a citizen by birth in the U.S.

> ***Exception:*** If your parents were foreign diplomatic officers when you were born in the U.S., you are not a United States citizen at birth because, by law, you were not subject to United States jurisdiction at birth. However, you may be able to apply for permanent resident status. For more information, go back to the beginning and see the guide entitled, "Nonimmigrant Services." Or click here and read the Instructions to Form I-360.

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You were born:

- **In one of these territories or possessions of the United States (pick one)**
  - Puerto Rico
  - Guam
  - U.S. Virgin Islands
  - American Samoa
  - Swains Islands

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All persons born in Puerto Rico on or after January 13, 1941 are automatically citizens of the United States at the time he/she is born.

For information on how to apply for evidence of citizenship, click here.

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All persons born in Guam on or after August 1, 1950 are automatically U.S. citizens at the time of their birth..

- Born in Guam April 11, 1899 - July 31, 1950 – In general, a person born in Guam during this period was declared a United States citizen as of August 1, 1950 if he or she was also living on Guam on August 1, 1950.

For information on how to apply for evidence of citizenship, click here.

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In general, a person born in the United States Virgin Islands is declared a United States citizen.

For information on how to apply for evidence of citizenship, click here.

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American Samoa became a possession of the U.S. on February 16, 1900.

Swains Island became a possession of the U.S. on March 4, 1925.

In general, a person born in American Samoa or Swains Island is a United States ***NATIONAL,* but *not* a citizen** at birth if he/she:

- Is born in American Samoa and Swains Island after they became possessions of the United States or
- Is born before American Samoa and Swains Island became possessions of the United States but, at the time of birth, at least one parent was a U.S. citizen and had already lived in the United States for a continuous period of at least one year.

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You were born:

- In Panama, including the Canal Zone
- In another foreign country

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You were born:

- In the the Republic of Panama or the Canal Zone on or after February 26, 1904
- In the Republic of Panama or the Canal Zone after October 1, 1979

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In general, you may have been a United States citizen at birth if:

- You were born in the Canal Zone on or after February 26, 1904 and
- Your father or mother, or both, were citizens of the United States when you were born.

For information on how to apply for evidence of citizenship, click here.

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In general, you may have been a United States citizen at birth if:

- You were born in the Republic of Panama, but outside the Canal Zone, on or after February 26, 1904 and

- When you were born:
    - Your father or mother, or both, were United States citizens; and
    - Your father or mother was employed by the Government of the United States, or by the Panama Railroad Company or its successor.

For information on how to apply for evidence of citizenship, click here.

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When you were born, was *at least one* of your parents already a United States Citizen?

- Yes
- No

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It appears you did not derive citizenship from a U.S. citizen parent.

However, if your parent became a U.S. citizen through naturalization or if you were adopted by a U.S. citizen, you may still have acquired citizenship after your birth. For more information about acquisition of U.S. citizenship after your birth, click here.

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When you were born, your parents were:

- Married to each other
- Not married to each other and your mother was a U.S. Citizen
- Not married to each other and your father was a U.S. Citizen

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When you were born:

- Both of your parents were United States Citizens
- One parent was a U.S. Citizen and the other parent was NOT a citizen or national of the U.S.
- One parent was a United States Citizen and one parent was a national of the U.S.

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In general, you may have been a U.S. citizen at birth if both parents were U.S. citizens at the time of your birth and one has had a residence in the United States or one of its outlying possessions before your birth.

If your U.S. citizen parent doesn't have the required residence or physical presence in the United States before you were born, then you did not automatically derive citizenship at birth from your parent.

For information on how to apply for evidence of citizenship, click here.

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In general, you may have been a United States citizen at birth if the United States citizen parent had already lived in the United States for a continuous period of at least one year before you were born.

If your U.S. citizen parent doesn't have the required residence or physical presence in the United States before you were born, then you did not automatically derive citizenship at birth from your parent.

For information on how to apply for evidence of citizenship, click here.

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In this instance, the determination of citizenship also depends on *WHEN* you were born.

You were born:

- **On or after November 14, 1986**
- **Between December 24, 1952 - November 13, 1986**
- **Between January 13, 1941 - December 23, 1952**
- **Between May 24, 1934 – January 12, 1941**
- **Before May 24, 1934**

Back to Determining U.S. Citizenship U.S. Citizen Services

In general, you may have been a U.S. citizen at birth if:

- Before you were born, your citizen parent had already lived in the United States (been physically present) for at least 5 years and at least 2 of which were after the parent turned 14.
- Periods of the parent's honorable U.S. military service, employment with the U.S. government or with certain international organizations, or residence with a parent so employed may count towards the physical presence requirement.

If your U.S. citizen parent doesn't have the required residence or physical presence in the United States before you were born, then you did not automatically derive citizenship at birth from your parent.

For information on how to apply for evidence of citizenship, click here.

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In general, you may have been a U.S. citizen at birth if:

- Before you were born, the citizen parent had already lived (been physically present) in the United States for at least **10** years and at least **5** of which were after the parent turned 14.
- Periods of the parent's honorable U.S. military service, employment with the U.S. government or with certain international organizations, or residence with a parent so employed may count towards the physical presence requirement.

If your U.S. citizen parent doesn't have the required residence or physical presence in the United States before you were born, then you did not automatically derive citizenship at birth from your parent.

For information on how to apply for evidence of citizenship, click here.

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Did your citizen parent honorably serve in the United States military between December 7, 1941 and December 31, 1946; or between January 1, 1947 and December 24, 1952?

Yes

No

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Did your citizen parent live in the United States (been physically present) for 10 years before you were born?

Yes

No

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Were at least 5 of those 10 years after your citizen parent was age 16?

Yes

No

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Did your citizen parent honorably serve in the United States military between December 7, 1941 and December 31, 1946?

Yes

No

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Did your citizen parent live in the United States (been physically present) for 10 years before you were born?

Yes

No

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Were at least 5 of those 10 years after your citizen parent was age 12?

Yes

No

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Did your citizen parent honorably serve in the United States military between January 1, 1947 and December 24, 1952?

Yes

No

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Did your citizen parent live in the United States for 10 years before you were born?

Yes

No

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Were at least 5 of those 10 years after your citizen parent was age 14?

Yes

No

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Did your **non-citizen** parent naturalize before you turned 18?

Yes

No

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Did you begin to live in the United States (been physically present) before you turned 18?

Yes

No

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Were you born between October 10, 1952, and December 23, 1952?

Yes

No

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Did you continuously live in the United States (been physically present) before October 27, 1972?

Yes

No

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Did you continuously live in the United States (been physically present) for 5 years between the ages of 14 and 28?

Yes

No

Back to Determining U.S. Citizenship U.S. Citizen Services

Did you continuously live in the United States (been physically present) for 2 years between the ages of 14 and 28?

Yes

No

Back to Determining U.S. Citizenship U.S. Citizen Services

Based on the information you provided, it appears you may have been a U.S.citizen at birth.

For information on how to apply for evidence of citizenship, click here.

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If your U.S. citizen parent does not have the required residence or physical presence in the United States before you were born, then you did not automatically derive citizenship at birth from your parent.

For information on how to apply for evidence of citizenship, click here.

Back to Determining U.S. Citizenship U.S. Citizen Services

It appears you did not derive citizenship at birth from a U.S. citizen parent.

If you still want to become a U.S. citizen, you will need to obtain permanent resident status and, generally, be at least 18 years old and a permanent resident for five years, and then apply for naturalization.

At that time, all the normal standards and procedures of naturalization would apply. For more information about naturalization, please go back to the beginning and see the guide entitled "Services Available to Permanent Residents".

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Did your citizen parent live in the United States (been physically present) for any length of time before you were born?

Yes

No

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Did your **non-citizen** parent naturalize before you turned 18?

Yes

No

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Did you begin living in the United States prior to turning 18?

Yes

No

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Were either of your parents employed by the United States government, or by certain American or international institutions abroad?

Yes

No

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In order to have retained your citizenship, you must have continuously lived in the United States for certain periods of time based on when your residence in the United States began.

Have you ever been physically present and resided in the United States?

Yes

No

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Choose one:

Your residence began before December 24, 1952.

Your residence began before October 27, 1972.

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Did you reside in the United States for 5 years between the ages of 13 and 21?

Yes

No

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Did you live in the United States for 5 years between the ages of 14 and 28?

Yes

No

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In general, you may have been a U.S. citizen at birth if:

- Your parents were married when you were born, and
- The U.S. Citizen parent had lived in the United States for any length of time before you were born.

For information on how to apply for evidence of citizenship, click here.

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You have stated that you were born to a U.S. citizen mother, who was not married to your father at the time of your birth.

You were born:

- **On or after December 24, 1952**
- **Between May 24, 1934 and December 23, 1952**
- **Before May 24, 1934**

Back to Determining U.S. Citizenship U.S. Citizen Services

In general, you may have been a U.S. citizen at birth if your mother had already lived in United States (been physically present) for a continuous period of 1 year before you were born.

If your U.S. citizen parent doesn't have the required residence or physical presence in the United States before you were born, then you did not automatically derive citizenship at birth from your parent.

For information on how to apply for evidence of citizenship, click here.

Back to Determining U.S. Citizenship U.S. Citizen Services

In general, you may have been a U.S. citizen at birth if your mother had already lived in United States for any length of time before you were born.

For information on how to apply for evidence of citizenship, click here.

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In general, you may have been a U.S. citizen at birth if your mother had already lived in United States for any length of time before you were born.

There is one exception:

- If, before you turned 21 and before January 13, 1941, you were legitimated by a father who was not a United States citizen or national, you would not be considered a United States citizen.

For information on how to apply for evidence of citizenship, click here.

Back to Determining U.S. Citizenship U.S. Citizen Services

You have stated that you were born to a U.S. citizen father, who was not married to your mother at the time of your birth.

You were born:

- **On or after November 14, 1986**
- **Between November 15, 1971 – November 13, 1986**
- **Between November 15, 1968 – November 14, 1971**
- **Between December 24, 1952 – November 14, 1968**
- **Between January 13, 1941 – December 23, 1952**
- **Between noon on May 24, 1934 and January 13, 1941**
- **Before noon on May 24, 1934**

Back to Determining U.S. Citizenship U.S. Citizen Services

In general, you may have been a United States citizen at birth if biological parentage has been established; **and**

- Your father had lived in the United States (been physically present) for at least 5 years, of which at least 2 were after age 14, before you were born - honorable military service and employment by United States government or with certain other organizations may be included;

AND

- Before you turned 18:
  - You were legitimated under the laws where you resided, or
  - Your father acknowledged paternity in writing under oath; or
  - Paternity was established by court order;

AND

- If you are still under 18, your father, unless deceased, must have also agreed to support you financially until you turn 18.

If your U.S. citizen parent doesn't have the required residence or physical presence in the United States before you were born, then you did not automatically derive citizenship at birth from your parent.

For information on how to apply for evidence of citizenship, click here.

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In general, you may have been a United States citizen at birth if biological parentage has been established; **and**

- Your Father had lived in the United States (been physically present) for at least 10 years, of which at least 5 were after age 14, before you were born - honorable military service and employment by the United States government or with certain other organizations may be included;

AND

- Before you turned 18:
  - You were legitimated under the laws where you resided, or
  - Your father acknowledged paternity in writing under oath; or
  - Paternity was established by court order;

If your U.S. citizen parent doesn't have the required residence or physical presence in the United States before you were born, then you did not automatically derive citizenship at birth from your parent.

For information on how to apply for evidence of citizenship, click here.

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In general, you may have been a United States citizen at birth if biological parentage has been established; **and**

- Your father had lived in the United States (been physically present) for at least 10 years, of which at least 5 were after age 14, before you were born - honorable military service and employment by the United States government or with certain other organizations may be included; **and**

- Before you turned 21, you were legitimated under the laws where you or your father resided, **or**,

- Before you turned 18:

  - Your father acknowledged paternity in writing under oath; or
  - Paternity was established by court order.

If your U.S. citizen parent doesn't have the required residence or physical presence in the United States before you were born, then you did not automatically derive citizenship at birth from your parent.

For information on how to apply for evidence of citizenship, click here.

Back to Determining U.S. Citizenship U.S. Citizen Services

In general, you were a United States citizen at birth if biological parentage has been established; **and**

- Your father had lived in the United States (been physically present) for at least 10 years, of which at least 5 were after age 14, before you were born - honorable military service and employment by the United States government or with certain other organizations may be included; **and**

- You were legitimated before you turned 21 under the law where you or your father resided.

If your U.S. citizen parent doesn't have the required residence or physical presence in the United States before you were born, then you did not automatically derive citizenship at birth from your parent.

For information on how to apply for evidence of citizenship, click here.

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In general, you may have been a United States citizen at birth if biological parentage has been established; **and**

- Your father had either:
  - Lived in the United States (been physically present) for at least 10 years, of which at least 5 were after age 14, before you were born, and you were legitimated before you turned 21 under the law where you or your father resided; **or**
  - Lived in the United States (been physically present) for at least 10 years, of which at least 5 were after age 16, before you were born, and you were legitimated by your father or the court before December 24, 1952; **and**

- You met or meet the applicable retention requirements as follows:
  - If the non-citizen parent naturalized before you turned 18, and you began to live in the United States before turning 18, there are no retention requirements;
  - If either parent was employed by the United States government, or by certain American or international institutions, there are no retention requirements;
  - If you were born between October 10, 1952 and December 23, 1952, there are no retention requirements;
  - Otherwise, to have retained citizenship, you must have continuously lived in the United States (been physically present) for either:
    - 2 years between ages 14 – 18; or
    - 5 years between ages 14 – 28 if the residence began before October 27, 1972.

If your U.S. citizen parent doesn't have the required residence or physical presence in the United States before you were born, then you did not automatically derive citizenship at birth from your parent.

For information on how to apply for evidence of citizenship, click here.

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In general, you may have been a United States citizen at birth if biological parentage has been established; **and**

- Your father had lived in the United States for any length of time before you were born; **and**
- You were legitimated when you were born under the law where your father lived; **and**
- You met or meet the applicable retention requirements as follows:
  - If the non-citizen parent naturalized before you turned 18, and you began to live in the United States before turning 18, there are no retention requirements;
  - If either parent was employed by the United States government, or by certain American or international institutions, there are no retention requirements;
  - Otherwise, to have retained citizenship, you must have continuously lived in the United States (been physically present) for either:
    - 5 years between ages 13 – 21 if residence began before December 24, 1952; or
    - 5 years between ages 14 – 28 if residence began before October 27, 1972; or
    - 2 years between ages 14 – 28.

For information on how to apply for evidence of citizenship, click here.

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In general, you may have been a United States citizen at birth if:

- Biological parentage has been established; **and**
- Your father had lived in the United States for any length of time before you were born; and
- You were legitimated when you were born under the law where your father lived at the time of your birth.

For information on how to apply for evidence of citizenship, click here.

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Biological Parentage**:** Birth certificate of the child showing the name of the child's natural father or natural mother.

Physical Presence: The residence or physical presence requirement includes periods spent abroad while employed by the U.S. government or a specified U.S. international organization or as the dependent unmarried son or daughter member of the household of such employee.

Legitimate/Legitimated: A child can be legitimated through the marriage of his or her natural parents, by the laws of the country or state of the child's residence or domicile, or by the laws of the country or state of the father's residence or domicile.

Court Order: An order issuing from a competent court that requires a party to do or abstain from doing a specified act.

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ACQUISITION OF CITIZENSHIP AFTER YOUR BIRTH

You were born outside the United States and neither of your birth parents were U.S. citizens at the time of your birth.

You are now

- Under age 18
- Over age 18

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Is at least one of your parents a U.S. citizen now or, if deceased, was the parent from whom you are claiming acquisition a U.S. citizen at the time of his/her death?

- Yes
- No

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The information you have provided indicates you may not have acquired citizenship from a U.S. citizen parent.

In order to acquire citizenship, you must be a permanent resident before you turn 18 and at least one of your parents must be a U.S. citizen before you turn 18.

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Did at least one parent (whether living or now deceased) become a U.S. citizen before you turned 18?

- Yes
- No

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Are you a permanent resident?

- Yes
- No

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Are you a permanent resident?

- Yes
- No

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The information you have provided indicates that you may not have automatically acquired citizenship from your U.S. citizen parent.

To automatically acquire citizenship under Section 320 of the Immigration and Nationality Act, you must be or have been under the age of 18 at the time at least one parent is or becomes a U.S. citizen and you must be or have been a permanent resident of the U.S. before you turn/turned age 18.

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Were you under age 18 when you became a permanent resident?

- Yes
- No

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The information you have provided indicates that you may not have acquired citizenship. To acquire citizenship under Section 320 of the Immigration and Nationality Act you must be a permanent resident and at least one parent must be a U.S. citizen before you turn 18.

However, because you are a permanent resident, you may be interested in applying for citizenship through naturalization for yourself. For more information about naturalization, please go back to the beginning and see the guide entitled, “Services Available to Permanent Residents.”

Back to Determining U.S. Citizenship U.S. Citizen Services

On February 27, 2001, (the effective date of the Child Citizenship Act), you were:

- Under age 18
- Over age 18

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To acquire citizenship, you must have been under age 18 at the time the Child Citizenship Act became effective. You have indicated that you were over age 18 on February 27, 2001. Therefore, it appears you did not acquire citizenship from your U.S. citizen parent.

However, because you have indicated that you are a permanent resident over the age of 18, you may be interested in applying for citizenship through naturalization for yourself. For more information about naturalization, please go back to the beginning and see the guide entitled, “Services Available to Permanent Residents.”

Back to Determining U.S. Citizenship U.S. Citizen Services

To acquire citizenship based upon citizenship of a U.S. citizen parent, you must meet or have met the definition of a child under the Immigration and Nationality Act. Please note stepchildren cannot acquire citizenship from a U.S. citizen stepparent.

To see if you may meet or may have met the definition of a child under immigration law, click here.

Back to Determining U.S. Citizenship U.S. Citizen Services

Your parent who is the U.S. citizen is your:

- Father
- Mother

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Your mother is your:

- Natural Mother (this person gave birth to you and you have not been adopted by another mother)
- Adoptive mother
- Stepmother

Back to Determining U.S. Citizenship U.S. Citizen Services

Does your father's name appear on your birth certificate as the natural father?

- Yes
- No

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Was your father married to your mother when you were born?

- Yes
- No

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Do you or did you have evidence (financial support, letters to and from your father, etc.) that your father has maintained a valid parent-child relationship with you?

- Yes (You'll need to prove this if you apply for proof of citizenship.)
- No

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Is your father your stepfather?

- No
- Yes

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Are you an adopted child?

- No
- Yes

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It appears that you do not meet the definition of child for immigration purposes. For more information about the definition of child, click here.

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Has your father legitimated you through a court or other legal procedure under the law of his residence or domicile, or under the law of your residence or domicile?

- Yes
- No

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Did this legitimation take place before you turned 18 years old?

- Yes
- No

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Were you in the legal custody of this parent (father) at the time of such legitimation?

- Yes
- No

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Was the adoption finalized before you turned 16?

- Yes
- No

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Were/Are you the brother or sister of another child previously adopted by this same adoptive parent and was your brother or sister adopted before he/she turned 16?

- No. Stop. It appears that you do not meet definition of child. For more information about the definition of a child, click here.
- Yes

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Was your adoption finalized before you turned 18?

- No Stop. It appears that you do not meet the definition of child. For more information about the definition of a child, click here.
- Yes

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Have you been/Were you in the legal custody of this parent for at least two years?

- No
- Yes

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Have you/Did you reside with this parent in this parent's physical custody for two years?

- No
- Yes

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The information you have provided indicates that you do not/did not meet the definition of a child under immigration law for immigration purposes. Therefore, you could not acquire citizenship from your U.S. citizen parent.

For a definition of child under immigration law, click here.

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The information you have provided indicates that you are the step-child of a U.S. citizen. Stepchildren cannot acquire or otherwise derive citizenship from a U.S. citizen stepparent.

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The information provided indicates that you may have acquired citizenship from your U.S. citizen parent. For more information about how to get evidence of citizenship, click here.

For the law concerning acquisition of citizenship, see our website at www.uscis.gov under the “laws and regulations” link; the Immigration and Nationality Act, Section 322.

Back to Determining U.S. Citizenship U.S. Citizen Services

From the information you have provided, it appears you may not have automatically acquired citizenship from a U.S. citizen parent. However, your U.S. citizen parent (or, if the citizen parent has died during the preceding 5 years, a citizen grandparent or citizen legal guardian) may still be able to apply for a certificate of citizenship on your behalf if

1. You currently and normally reside outside the United States in the physical and legal custody of your U.S. citizen parent (or, if the citizen parent is deceased, an individual who does not object to the application) and
2. All of the below requirements are met before you turn 18:
   A. Your parent is, was, or becomes a U.S. citizen, and
   B. The United States citizen parent
      (i) has (or, at the time of his or her death, had) been physically present in the United States or its outlying possessions for a period or periods totaling not less than 5 years, at least two of which were after attaining the age of fourteen years; or
      (ii) has (or, at the time of his or her death, had) a citizen parent who has been physically present in the United States or its outlying possessions for a period or periods totaling not less than 5 years, at least two of which were after attaining the age of 14, and
   C. You enter the United States in a legal status and maintain that status while in the U.S. (not necessarily permanent resident status, simply a “legal status”, and
   D. Your parent (or,if the citizen parent has died during the preceding 5 years, a citizen grandparent or citizen legal guardian) submits an application for a certificate of citizenship on your behalf.

To take the self-guided tour to see if your parent may be able to apply for a certificate of citizenship on your behalf, click here.

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Do you currently, normally reside outside the U.S. in the legal and physical custody of your U.S. citizen parent?

- Yes
- No

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From the information provided it appears you do not meet the requirements, which would allow your parent to apply for a certificate of citizenship on your behalf.

For more information about the Child Citizenship Act, see our website at www.uscis.gov.

Back to Determining U.S. Citizenship U.S. Citizen Services

Has your U.S. citizen parent been physically present in the United States or its outlying possessions for at least 5 years, at least 2 of which were after he/she was 14 years of age?

- Yes
- No

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For your U.S. citizen parent to be able to apply for a certificate of citizenship on your behalf, you must also meet or have met the definition of a child under the Immigration and Nationality Act. Please note stepchildren cannot acquire citizenship from a U.S. citizen stepparent.

To see if you may meet or may have met the definition of a child under law, click here.

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Your parent who is the U.S. citizen is your:

- Father
- Mother

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Your mother is your:

- Natural Mother (this person gave birth to you and you have not been adopted by another mother)
- Adoptive mother
- Stepmother

Back to Determining U.S. Citizenship U.S. Citizen Services

Does your father's name appear on your birth certificate as the natural father?

- Yes
- No

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Was your father married to your mother when you were born?

- Yes
- No

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Do you or did you have evidence (financial support, letters to and from your father, etc.) that your father has maintained a valid parent-child relationship with you?

- Yes You'll need to prove this if your parent applies on your behalf.
- No

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Is your father your stepfather?

- No
- Yes

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Are you an adopted child?

- No
- Yes

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Has your father legitimated you through a court or other legal procedure under the law of his residence or domicile, or under the law of your residence or domicile?

- Yes
- No

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Did this legitimation take place before you turned 18 years old?

- Yes
- No

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Were you in the legal custody of this parent (father) at the time of such legitimation?

- Yes
- No

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Was the adoption finalized before you turned 16?

- Yes
- No

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Were/Are you the brother or sister of another child previously adopted by this same adoptive parent and was your brother/sister adopted before he/she turned 16?

- No
- Yes

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Was your adoption finalized before you turned 18?

- No
- Yes

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Have you been/Were you in the legal custody of this parent for at least two years?

- No
- Yes

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Have you/did you reside with this parent in this parent's physical custody for two years?

- No
- Yes

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The information you have provided indicates that you do not/did not meet the definition of a child under immigration law for immigration purposes. Therefore, your parent may not be able to file an application on your behalf to obtain a certificate of citizenship for you.

For a definition of child under immigration law, click here.

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The information you have provided indicates that you are the stepchild of a U.S citizen. Stepchildren cannot acquire or otherwise derive citizenship from a U.S. citizen stepparent.

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Are you currently in the United States in a lawful temporary status?

- Yes
- No

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Based on the information you have provided, it appears your U.S. citizen parent may want to file a Form N-600 (N-600K if you were adopted) in order to apply for a certificate of citizenship on your behalf by virtue of acquisition.

Please note that both your U.S. citizen parent and you must appear in person before a Service officer for examination on the application for certificate of citizenship and that both the application and the decision on that application must be made before you turn 18 years of age.

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Based on the information you have provided, it appears you may meet the requirements for acquisition of a certificate of citizenship if you come to the U.S. in a temporary status while under age 18. If you choose to come to the United States and do so while under the age of 18, your U.S. citizen parent may wish to pursue the filing of a Form N-600 (N-600K if the child was adopted) in order to apply for a certificate of citizenship on your behalf by virtue of acquisition.

Please note both your U.S. citizen parent and you must both appear in person before a Service officer for examination on the application for certificate of citizenship and that both the application and the decision on that application must be made before you turn 18.

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Does/Did your U.S. citizen parent have a U. S. citizen parent (a grandparent of your U.S. citizen parents side of the family) who has/had been physically present in the United States or its outlying possessions for at least 5 years, at least 2 of which were after the age of 14?

- Yes
- No

Back to Determining U.S. Citizenship U.S. Citizen Services

Unfortunately, from the information you have provided, it appears that neither your parent nor grandparent resided in the United States long enough for the required period(s) of time to confer citizenship upon you.

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How do I apply to have my citizenship recognized?

You have two options:

- You can apply to the U.S. Department of State for a U.S. passport. A passport is evidence of citizenship and also serves as a travel document if you need to travel. For information about applying for a U.S. Passport, see the U.S. Department of State website at www.state.gov.
- If you are already in the U.S. you also have the option of applying to us using Form N-600, *Application for Certificate of Citizenship*, However, you may find applying for a passport to be more convenient because it also serves as a travel document and is often a faster process.

To download the Form N-600 so you can complete and file it, click here

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Determining Citizenship-Related FAQs

I am a U.S. citizen. My child will be born abroad, or recently was born abroad. How do I register his or her birth and U.S. citizenship?

I was born overseas. My birth and U.S. citizenship were registered with the U.S. Embassy or Consulate. I need a copy of the evidence of my citizenship. Whom should I contact?

I was born overseas. I believe I was a U.S. citizen at birth because one or both of my parents were U.S. citizens when I was born. But my birth and citizenship were not registered with the U.S. Embassy when I was born. Can I apply to have my citizenship recognized?

I was born overseas. After I was born, my parent(s) became naturalized U.S. citizens. Could I have derived U.S. citizenship?

What is meant by a "national but not a citizen"?

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I am a U.S. citizen. My child will be born abroad, or recently was born abroad. How do I register his or her birth and U.S. citizenship?

Please contact the U.S. State Department or the U.S. Embassy/Consulate in the county where your child will be born for more information about eligibility requirements and how to register your child's U.S. citizenship.

Back to Determining U.S. Citizenship U.S. Citizen Services

I was born overseas. My birth and U.S. citizenship were registered with the U.S. Embassy or Consulate. I need a copy of the evidence of my citizenship. Whom should I contact?

Contact the U.S. State Department. For more information, please see their website at www.travel.state.gov.

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I was born overseas. I believe I was a U.S. citizen at birth because one or both of my parents were U.S. citizens when I was born. But my birth and citizenship were not registered with the U.S. Embassy when I was born. Can I apply to have my citizenship recognized?

Yes. But please note—whether or not someone born outside the U.S. to a U.S. citizen parent is a U.S. citizen depends on the law in effect when the person was born. These laws have changed over the years, but usually require a combination of the parent being a U.S. citizen when the child was born, and having lived in the U.S. or its possessions for a period of time. Derivative citizenship can be quite complex and may require careful legal analysis.

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I was born overseas. After I was born, my parent(s) became naturalized U.S. citizens. Could I have derived U.S. citizenship?

If one of your parents naturalized after February 27, 2001, and you were a permanent resident and under 18 at the time, then you may have automatically acquired U.S. citizenship. Before that date, you may have automatically acquired U.S. citizenship if you were a permanent resident and under 18 when both parents naturalized, or if you had only one parent when that parent naturalized. However, if your parent(s) naturalized after you were 18, then you will need to apply for naturalization on your own after you have been a permanent resident for at least 5 years.

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Nationals who are not citizens

According to Title 8 U.S.Code, Section #1408, it is possible to be a U.S. national without being a U.S. citizen. A person whose only connection to the U.S. is through birth in an outlying possession, (which as of 2005 is limited to American Samoa and Swains Island) or through descent from a person so born acquires U.S. nationality but not U.S. citizenship. This was formerly the case in only four other current or former U.S. overseas possessions.

Nationals who are not citizens cannot vote or hold elected office. However, they may reside and work in the United States without restrictions and apply for citizenship under the same rules as other resident aliens.

Note: Not all U.S. nationals are U.S. citizens; however, all U.S. citizens are U.S. nationals. Actually, U.S. passports normally make no distinction between the two, mentioning only the bearer's nationality, not his/her citizenship.

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Services Available to U.S. Citizens

Helping a Relative Immigrate and Financially Sponsoring an Immigrating Alien

OVERVIEW

One of the most common ways people immigrate is based on being the relative of a U.S. citizen. The process starts when the U.S. citizen files a relative petition, which is Form I-130. U.S. citizens can file for their husband or wife, and children of any age, whether unmarried or married. U.S. citizens 21 or older can also file for their parents and for sisters and brothers. File a separate petition for each of these relatives that you want to sponsor. You can't directly file for other relatives. But when your relative immigrates, his or her husband or wife and unmarried children under the age of 21 can usually apply as dependents if they don't otherwise qualify. Approval of a relative petition establishes your relative's eligibility to immigrate, but does not guarantee their admission to the United States. Your husband, wife, unmarried children under 21 and parents will be invited to apply for an immigrant visa once we approve your petition. In fact if they're already here, they may be able to apply for permanent residence at the same time you file the relative petition. For other relatives, the combination of high demand and the limits set by law on how many people can immigrate each year means they may have to wait in line for several years behind others already in line to immigrate. Your relative's place in line will be based on when you file your petition, so there's an advantage to filing as soon as you're ready. When your relative reaches the head of the line, the State Department will contact them and invite them to apply for an immigrant visa. Please understand that we can't give people waiting in line permission to live here until they can become permanent residents. Further, entering or staying illegally can affect a person's eligibility to become a permanent resident even when we reach their place in line. One last point: while sponsoring a relative's immigration starts with your relative petition, it will also involve accepting some financial responsibility and filing an affidavit of support when the time comes for your relative to immigrate. The instructions to the Form I-130 relative petition explain how to file and the process in greater detail.

For guided information in helping a family member immigrate, click here.

Frequently Asked Questions concerning helping a family member immigrate, click here.

Frequently Asked Questions about financial sponsorship, click here.

Back to Helping a Relative Immigrate U.S. Citizen Services

Frequently Asked Questions about eligibility

- **Who are the relatives that I may file for?**
- **What does the petition do for my relative?**
- **What about other relatives?**
- **What about my relative's family?**
- **After I file, how long will it be before my relative can immigrate?**
- **Can my relative wait in the United States until becoming a permanent resident?**
- **Does filing a relative petition commit me to anything?**
- **How do I file?**
- **Where do I file?**
- **What happens after I file?**
- **How long will it take USCIS to process my petition?**
- **What if I filed a petition for a relative when I was a permanent resident, but I am now a U.S. citizen?**
- **What is the filing fee for the Form I-130?**
- **How do I know if my relative and I qualify?**
- **What are priority dates and how do they work?**
- **What is the Child Status Protection Act (CSPA) and what does it mean for my child?**

Back to Helping a Relative Immigrate U.S. Citizen Services

Services Available to U.S. Citizens

Helping a Relative Immigrate and Financially Sponsoring an Immigrating Alien

Helping a Relative Immigrate to the United States

Who are the relatives that I may file for?

Click on the relative you would like more information about helping to become a permanent resident in the chart below.

Any U.S. citizen can file for the following relatives -

- Husband or wife
- Unmarried Children Under Age 21
- Unmarried Son or Daughters over age 21
- Married Sons and Daughters

A U.S. citizen who is 21 or older can **also** file for the following relatives -

- Parents
- Brothers and Sisters

In any petition you may file, you will have to prove your relationship to the person for whom you are filing.

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What does the petition do for my relative?

Filing a relative petition and proving a qualifying relationship registers that person for immigration and gives them a place in line among others waiting to immigrate based on the same kind of relationship.

For example: You file for your sister. When we approve it, your petition gives her a place in the line of people from the same country who are also brothers and sisters of U.S. citizens.

Your relative's place in line will be based on the date you file your petition. So there is an advantage to filing as soon as possible. There is no waiting line for a U.S. citizen's parent, spouse, or unmarried child under age 21.

Back to Helping a Relative Immigrate U.S. Citizen Services

What about other relatives?

The law limits eligibility to the relatives listed above. We cannot approve your relative petition for anyone else.

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What about my relative's family?

In most cases, when your relative's place in line is reached and he/she applies to immigrate, his or her husband or wife and unmarried children under 21 can apply as dependents.

For example: You file a petition for your sister. You cannot directly petition for her husband and children. However, they can apply for immigrant visas with her, when her place in line is reached.

On the other hand, a separate petition must be filed on behalf of each person who qualifies as your direct relative, including your children.

For example: To sponsor your mother and father, file a separate petition for each. If they have other children—your brothers and sisters—also file separate petitions for each of them.

For example: You marry a woman with a child. The child will usually qualify as your stepchild if he/she was unmarried and less than 18 when you married the mother. That means you would need to file one petition for your wife, and another for the child.

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After I file, how long will it be before my relative can immigrate?

The law gives special standing to a U.S. citizen's husband or wife, unmarried children under 21 and parents.

- The State Department will invite them to apply for an immigrant visa once we approve your petition.
- If they are already in the U.S. and entered legally, they may actually be able to file an application for permanent residence along with your relative petition.

For other relatives, the combination of high demand and the limits set by law on how many people can immigrate each year means your relative may have to wait several years while petitions that were filed before theirs are processed. When your relative reaches the head of the line, the Department of State will contact them and invite them to apply for an immigrant visa. If you are interested in current wait times for visa numbers, see "Visa Bulletins" on the State Department's website at www.travel.state.gov/visa.

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Can my relative wait in the U.S. until they can become a permanent resident?

Your approved relative petition gives your relative a place in line among those waiting to immigrate. It does not let him/her come to the U.S. or remain here until he/she can apply for permanent residence. He/she should wait outside the U.S. to immigrate legally. If he/she comes or stays without legal status, it will affect his/her eligibility to become a permanent resident when his/her place in line for a visa is reached.

However, if your husband or wife, unmarried child under 21, or parent is already in the U.S. after having entered legally and applies for permanent residence when you file your petition, then he/she may, with certain exceptions, remain in the U.S. while we process his or her application for permanent residence.

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Does filing a relative petition commit me to anything?

Under the law, every person who immigrates based on a relative petition must have a financial sponsor. If you choose to sponsor your relative by filing a relative petition, then when the time comes you must agree to be their financial sponsor and file an affidavit of support. If you do not meet the financial qualifications, then other individuals must also make this commitment.

For more information about the affidavit of support, click here.

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How do I file?

Follow the I-130 relative petition instructions and check our website at www.uscis.gov and click on the "Forms and Fees" link for any updates on instructions or fees. Make sure your petition is complete. You will need to submit evidence of your U.S. citizenship, and evidence proving your qualifying relationship to each person for whom you are filing.

Please note: If you are going to file for your husband or wife, your unmarried child(ren) under 21, or your parent, and they are already in the U.S. and entered legally, then they may be able to file an application for permanent residence with your relative petition at the same time and place. Petitions filed with residence applications may need to be filed in a different place than a petition filed alone. We will communicate directly with your relative about the residence application.

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Where do I file?

A petitioner residing in the United States should file Form I-130 in accordance with the instructions on the Form I-130.

A petitioner who is living abroad should file Form I-130 with a nearby USCIS international office. A list of offices and the countries they serve is on the USCIS website at www.uscis.gov. From the homepage, click on the "No, I haven't filed" link on the left-hand side. From there, click on the "Field Office" link on the right. Next, click on the "Filed Office Locator" link. Scroll down to the section titled "Office Locator" and click on the "Overseas Office" link.

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What happens after I file?

If you filed by mail, we will mail you a receipt so you know we have your petition. If your petition is incomplete, we may have to reject it or ask you for more evidence or information, which will delay processing. Please send all required documents the first time to avoid delay.

We will notify you when we make a decision. Normally when we approve the petition, we will send it to the U.S. State Department's National Visa Center (NVC). Once your relative's place in line for a visa number is reached, the NVC will notify you and your relative, inviting him or her and qualifying dependents to apply for immigrant visas. You can get more information about immigrant visa processing from the State Department's website at **www.travel.state.gov**.
For information on NVC fee and document collection, please click here.

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How long will it take USCIS to process my petition?

Processing time depends on a number of factors. You can check our current processing times on our website by clicking here. Once you file a relative petition, we will post an updated estimate of the processing time on the USCIS website. If you need assistance checking processing times, please call the USCIS Customer Service toll-free number at 1-800-375-5283.

Note: To better ascertain which processing times to check:
1) With which service center was the petition filed?
2) Did you receive a transfer notice?

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What if I filed a petition for a relative when I was a permanent resident, but I am now a U.S. citizen?

If you become a U.S. citizen while your relative is waiting for a visa, you can upgrade your relative's visa classification by upgrading your petition. Husbands/wives and unmarried children under age 21 of U.S. citizens have visas immediately available to them.

- If you become a U.S. citizen after your petition is already approved and sent to the State Department, you should notify the NVC that you have become a U.S. citizen by sending a copy of your naturalization certificate to the NVC. Please include a letter with information regarding your relative and a copy of the petition approval.
- If you become a U.S. citizen and your relative's petition has not yet been approved by USCIS, check our website or call customer service for information.

If your relative is your spouse and he/she has children who are your stepchildren or adopted, and you did not file separate petitions for them, you must file separate petitions for them now with evidence of your U.S. citizenship.

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How do I know if my relative and I qualify?

While we cannot tell you whether you are eligible for a benefit and cannot advise you whether or not to file for a benefit, we can ask you some questions to help you determine basic filing requirements. We can also give you some definitions in immigration law about certain relationships.

Which relative are you interested in helping to become a permanent resident:

- For help related to filing for a SPOUSE, click here
- For help related to filing for an UNMARRIED CHILD *UNDER* AGE 21, click here
- For help related to filing for an UNMARRIED SON/DAUGHTER *OVER* AGE 21, click here
- For help related to filing for a MARRIED SON/DAUGHTER, click here
- For help related to filing for a BROTHER/SISTER, click here
- For help related to filing for a PARENT, click here

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What are priority dates and how do they work?

Priority dates are the dates alien relative petitions are filed, which establish a person's place in line to otain an immigrant visa in accordance with the numerical limitations on each preference category. This is solely due to the maximum number of visas issued per fiscal year that are divided into family sponsored, employment based, and diversity immigration.

> **Note:** the term "fiscal year" is from October 1 through September 30.

In most immigrant categories, the law limits how many people can immigrate each year. Often the demand to immigrate is greater than the limit allowed per year. Priority dates are used to make sure that each eligible person within an immigrant category is considered in chronological order. In other words, a priority date is the person's place in line to immigrate.

If your immigrant visa category is that of an immediate relative, then your case and priority date are automatically current.

If your immigrant visa category is one of the family sponsored or employment based categories, a waiting list has been established based on your priority date. To determine when a petition will be next in line for continued processing, the Department of State visa office has established priority cut-off dates. The petition can only become current and thus ready for further processing when the priority cut-off date for your category has advanced up to your priority date.

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What is the Child Status Protection Act (CSPA) and What Does it Mean for my Child?

The CSPA changes who can be considered a "child" for the purpose of the issuance of visas by the Department of State and for the purpose of adjustment of status to that of permanent resident by USCIS. The Act provides that if you are a U.S. citizen and you file a **Form I-**130, *Petition for Alien Relative*, on behalf of your child before he or she turns 21, your child will continue to be considered a child for immigration purposes even if USCIS does not act on the petition before your child turns 21. Children of lawful permanent residents also benefit if a Form I-130 is filed on behalf of their children.

Unmarried sons and daughters of U.S. citizens

> **What advantage(s) does the Child Status Protection Act provide to unmarried sons and daughters of U.S. citizens that are eligible?**
>
> **What are the eligibility requirements unmarried sons and daughters of U.S. citizens must meet in order to qualify for the Child Status Protection Act?**

Unmarried sons and daughters of permanent residents who later become U.S. citizens

> **What benefit does the Child Status Protection Act have for the unmarried sons and daughters of permanent residents who later become U.S. citizens?**
>
> **Why would the unmarried sons and daughters of permanent residents who later become U.S. citizens elect not to have such a conversion?**

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Unmarried sons and daughters of U.S. citizens

What advantage(s) does the Child Status Protection Act provide to unmarried sons and daughters of U.S. citizens that are eligible?

The new law allows unmarried sons and daughters of U.S. citizens to remain as the immediate relatives of a U.S. citizen rather than being converted to a first preference category, when they reach age 21.

They remain eligible immediate relatives and do not "age out" or have to wait for a visa to become available in another preference category to adjust status in the U.S. since they are not subject to visa availability. Therefore, they are eligible to apply for adjustment of status or an immigrant visa almost immediately upon approval of an immigrant petition, even though they reached age 21 after the petition was filed.

What are the eligibility requirements unmarried sons and daughters of U.S. citizens must meet in order to qualify for the Child Status Protection Act?

In order to qualify for this benefit as unmarried sons and daughters of U.S. citizens, The U.S. citizen petitioner must:

- Be a U.S. citizen prior to the child's 21st birthday *and*
- Have filed an immigrant petition on behalf of the son or daughter before the son or daughter turned 21.

In addition, the son or daughter must:

- Have been under 21 at the time the immigrant visa was filed,
- Have met the definition of a child at the time the immigrant visa petition was filed, and
- Remain unmarried throughout the visa process.

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Unmarried sons and daughters of permanent residents who later become U.S. citizens

What benefit does the Child Status Protection Act have for the unmarried sons and daughters of permanent residents who later become U.S. citizens?

The unmarried son or daughter of a permanent resident who later becomes a U.S. citizen may now elect not to have their preference category converted from second preference to first preference. If the son or daughter elects to do this, he or she will maintain the second preference category of an unmarried son or daughter of a permanent resident as long as they remain unmarried.

Why would the unmarried sons and daughters of permanent residents who later become U.S. citizens elect not to have such a conversion?

When a permanent resident parent becomes a U.S. citizen after the unmarried son or daughter turns 21 years of age, the son or daughter would automatically become the unmarried son or daughter, over age 21, of a U.S. citizen. The category of the son or daughter would automatically be converted from second preference to that of first preference, accordingly.

Generally, this automatic conversion would make a visa available much quicker due to the higher preference category. However, due to visa limitations on some countries with high levels of immigration, this has the opposite effect. The reason they may choose not to have this conversion occur is because the visa would take much longer to become available in the first preference category than the second preference category. This means the unmarried son or daughter of a U.S. citizen would take longer to immigrate to the U.S. or to adjust status than had he or she remained in the category of an unmarried son or daughter of a permanent resident.

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Your spouse is currently:

- Inside the U.S.
- Outside the U.S.

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He/she entered the United States:

- Legally
- Illegally

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Your spouse entered the U.S. in what nonimmigrant category? (choose one status below)

Nonimmigrant Categories			
Diplomats and Government Representatives, and their staffs		**Nonimmigrant Workers and their dependents**	
A	Diplomatic Personnel	D	Crewmembers
C2	Representative in transit to or from the United Nations Headquarters District	E	Treaty Traders and Treaty Investors based on a bilateral treaty, and dependents
C3	Government Representatives in transit through the	H1B	Temporary Workers in Specialty Occupations
G	Other Government Representatives	H1C	Registered Nurses
NATO	NATO personnel on assignment to the U.S.	H2A	Temporary Agricultural Workers
Tourists and Visitors on business		H2B	Temporary skilled and unskilled workers
B	Tourists and Visitors on Business including citizens of Canada entering without a visa	H3	Trainees
WB	Visitors coming temporarily on business admitted under the Visa Waiver Program	H4	Dependents of H1-3 workers and trainees
		I	Representatives of Foreign Information Media
WT	Tourists admitted under the Visa Waiver program	L	Intra-Company Transferees
Guam Visa Waiver	Tourists Admitted only to Guam under Special Visa Waiver	O	Persons with Extraordinary Ability and their support personnel
Students and Exchange Visitors, and their dependents			
F	Academic Students	P1	Internationally recognized Athletes and Entertainers
J	Exchange Program Visitors	P2	Artists and Entertainers pursuant to Exchange Agreements
M	Vocational Students	P3	Culturally Unique Artists and Entertainers
Fiancé(e)s and certain relatives of U.S. citizens and Permanent Residents		P4	Dependents of 'P' athletes, artists and entertainers
K1 K2	Fiancé(e)s of U.S. citizens and their dependent children (also see U.S. citizen services)	Q1	International Cultural Exchange Visitors
		Q2, Q3	Irish Peace Process cultural training program participants
K3 K4	Certain Husbands and Wives of U.S. citizens, and their dependent children	R	Religious Workers
V	Certain Relatives of a Permanent Resident (LIFE Act)	TN1, TD	Canadian professionals under NAFTA (North American Free Trade Agreement)
Others		TN2, TD	Mexican professionals under NAFTA (North American Free Trade Agreement)
C1, TWOV	Persons transiting the U.S.		
S U	Certain Informants and victims of criminal activity in the U.S.		
T	Victims of Trafficking		
Parolee	Person paroled into U.S. temporarily		

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Were you the petitioner on the I-129F from which your spouse obtained his/her K-1 or K-3 visa?

- Yes
- No

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Since you were the petitioner on the I-129F from which your spouse obtained his/her K1 or K3 status, your spouse may be able to file for permanent resident status now.

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If your spouse was subject to the two-year foreign residence requirement, has he/she obtained a waiver of the two-year foreign residence requirement through approval by USCIS? (If your spouse was not subject to this requirement, please select “yes” below.)

- Yes
- No

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Has your spouse obtained a certification from the Department of State or NATO on Form I-566?

- Yes
- No

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Is your relative currently in immigration proceedings (deportation, removal, etc.)?

- Yes
- No

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From the information you have provided, it appears that you may want to file the Form I-130 for your relative. However, the Immigration Judge will determine if your relative is eligible to adjust status in the United States.

Please be advised that if your relative is your spouse and you were married after the proceedings were started against him/her, there is a general prohibition against approval of that visa petition. If you file an I-130, you must request an exemption from that prohibition. No application or fee is required to request an exemption. The request must be made in writing and submitted with the Form I-130. The request must state the reason for seeking the exemption and must be supported by documentary evidence establishing that the marriage was entered into in good faith and not for to evade the immigration laws..

To download Form I-130 to complete and file it, click here

Please be aware that if your spouse has a child or children who would meet the definition of your child, step-child or adopted child under immigration law, then your spouse's child cannot "ride" on the I-130 that you file for your spouse. To help your spouse's child to become a permanent resident, you will need to file a separate Form I-130 for each child. Please use this link for more information if your spouse has a child or children.

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Based on the information you have provided, it appears that you may want to file a Form I-130 and your relative may wish to file the Form I-485, Application to Register Permanent Residence and to Adjust Status in the U.S., at the same time, along with your I-130. Even if your relative is now out of status, as long as they entered legally, they may be able to file for adjustment of status concurrently at the same time you file your Form I-130 petition.

If you choose to file these forms, you will need what is called the "Adjustment Packet," which includes Forms I-130, G-325A, I-485, I-864, I-765 and I-131. These forms can be downloaded from our website at www.uscis.gov. The adjustment package also includes an application for employment authorization. Your relative may apply for employment authorization when he/she files the Form I-485. If you decide to file, you will also need to include all appropriate fees.

To download the Form I-130 to complete and file it, click here

To download the Form I-485 to complete and file it, click here

Please be aware if your spouse has a child or children that would meet the definition of your child, step-child or adopted child under immigration law, then your spouse's child cannot "ride" on the I-130 that you file for your spouse. To help your spouse's child to become a permanent resident, you will need to file a separate Form I-130 for each child separately. Please use this link for more information if your spouse has a child or children.

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Based on the information you have provided, it appears that you may want to file a Form I-130 for your spouse. Unfortunately, because your spouse did not enter the United States legally or entered in a status that is barred from applying for permanent resident status in the United States, he/she may not be eligibile to file to adjust his/her status to permanent resident in the United States. Please understand that if your spouse remains in the United States unlawfully, he/she may be apprehended and placed in removal proceedings, which may have a negative impact on his/her eligibility for an immigrant visa. Therefore, he/she will need to depart the U.S. in order to apply for the immigrant visa at the U.S. Consulate.

If the Form I-130 is approved it, will be sent to the State Department's National Visa Center (NVC). The NVC will pre-process it and forward it to the U.S. Consulate nearest your spouse's country of origin. At that time, both you and your spouse will be notified and your spouse will be invited to apply for his/her immigrant visa outside the United States at a U.S. Consulate. For information on NVC fee and document collection, please click here.

You can download the necessary forms from our website at www.uscis.gov.

If you decide to file, you'll also need to include all appropriate fees.

To download the Form I-130 so you can complete and file it, click here

Visa processing times vary depending upon the visa category and country of origin of the relative. For more information about visa processing and availability, please see the visa availability list at the State Department's web site at www.state.gov.

Please be aware that if your spouse has a child or children who would meet the definition of your child, step-child or adopted child under immigration law, then your spouse's child cannot "ride" on the I-130 that you file for your spouse. To help your spouse's child to become a permanent resident, you will need to file a separate Form I-130 for each child. Please use this link for more information if your spouse has a child or children.

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Based on the information you have provided, it appears you may want to file a Form I-130 for your relative. After the Form I-130 is approved, it will be sent to the State department's National Visa Center, which will prepare it for the Consulate nearest your relative's place of residence. At that time, you and your relative will be contacted and your relative may be invited to apply for his/her immigrant visa outside the United States at the U.S. Consulate. For information on National Visa Center fee and document collection, please click here.

NOTE: U.S. Citizens who live abroad may continue to file new petitions with a nearby USCIS international office. A list of offices and the countries they serve is on the USCIS website at www.uscis.gov. From the homepage, click on the "No, I haven't filed" link on the left-hand side. From there, click on the "Field Office" link on the right. Next, click on the "Field Office Locator" link. Scroll down to the section titled "Office Locator" and click on the "Overseas Office" link.

You can download the necessary forms, including a Form I-130 and G-325A (for Biographic Information) from our website at www.uscis.gov.

Visa processing times vary depending upon the visa category and country of origin of the relative. For more information about visa processing and availability, please see the visa availability list at the State Department's web site at www.state.gov.

After you file the Form I-130, your spouse may be able to get a K-3 visa to enter the United States while the I-130 is pending with USCIS. If he/she has any children, they may be able to get a K-4 visa as well.

Would you like more information about the K-3 or K-4 visa at this time?

- Yes
- No

Please be aware that if your spouse has a child or children that would meet the definition of your child, step-child or adopted child under immigration law, then your spouse's child cannot "ride" on the I-130 that you file for your spouse. To help your spouse's child to become a permanent resident, you will need to file a separate Form I-130 for each child. Please use this link for more information if your spouse has a child or children.

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Let me ask you some other important questions; click here.

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Does your husband/wife have any children?

If No: Stop

If Yes: Continue below

Is the child married?

If Yes: Click here

If No: Continue below

How old is this child?

If Over 21: Click here

If Under 21: Click here

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Definitions

How is “spouse” defined in accordance with immigration law?

Before you file any documents, it is helpful to understand that “spouse” means lawful husband or wife. In order to successfully petition for an immigrant visa for your spouse, your relationship with your spouse must be established and your spouse must be admissible to the United States under immigration law. Your marriage must be recognized by a civil authority.

A religious ceremony by itself is not sufficient for immigration purposes. Common-law marriages may be recognized for immigration purposes if the civil authority in the state of residence recognizes them as legal marriages.

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What is the definition of "child" under immigration law?

Immigration law defines a "child" as a person who is:

1. Unmarried; AND

2. Under age 21 AND

3. One of the below:

- BORN TO MARRIED PARENTS (Born to parents who are married to each other (born in wedlock)) OR
- BORN OUT OF WEDLOCK (A child born out of wedlock (the parents were not married at the time the child was born)). Note: If the father is filing the petition, proof of a bona fide (real and established) relationship with the father must be supplied. OR
- STEPCHILDREN (A stepchild if the marriage creating the step-relationship took place before the child reached the age of 18). OR
- ADOPTED BUT WAS NOT AN ORPHAN OR DID NOT USE SPECIAL ORPHAN PETITION PROCESS (An adopted child if the child was adopted before the age of 16 and has lived with the adoptive parent(s) in their legal custody for at least two years). OR
- ORPHANS:
  - A child adopted who is under the age of 18 and the natural sibling of an orphan or adopted child under the age of 16, if adopted with or after the sibling. OR
  - An orphan under the age of 16 when an adoptive or prospective adoptive parent files a visa petition on his or her behalf, who has been adopted abroad by a U.S. citizen or is coming to the U.S. for adoption by a U.S. citizen.

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A U.S. citizen can petition for his or her unmarried child under the age of 21. First, let's determine if the child meets the definition of a child under immigration law so you can help the child become a permanent resident.

You, the petitioner, are the:

- Father
- Mother

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NOTE: If an unmarried child under age 21 of a U.S. citizen has a petition filed in his/her behalf while under the age of 21, he/she is considered a child even if he/she turns 21 after the petition is filed. See the Child Status Protection Act for more information.

You are the:

- Natural Mother
- Adoptive mother
- Stepmother

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Did you marry the child's mother/father before the child turned 18?

- Yes
- No. Stop. Child does not meet definition of child. For more information about the definition of a child, click here.

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Father

Does your name appear on the birth certificate of this child as the natural father?

- Yes
- No

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Were you married to this child's mother when the child was born?

- No
- Yes

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Do you or did you have evidence that you have maintained a valid parent-child relationship with the child?

- Yes You'll need to prove this if you file a petition for the child.
- No

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Is this child your stepchild?

- No
- Yes

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Is this child your adopted child?

- Yes
- No. Stop. Child does not meet definition of child. For more information about the definition of child, click here.

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Have you legitimated this child under the law of the child's residence or domicile, or under the law of your residence or domicile?

- Yes
- No. Stop. Child does not meet definition of child. For more information about the definition of a child, click here.

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Did this legitimation take place before the child reached the age of eighteen years?

- Yes
- No. Child does not meet definition of child. For more information about the definition of a child, click here.

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Was the child in your legal custody at the time of such legitimation?

- Yes
- No. Stop. Child does not meet definition of child. For more information about the definition of a child, click here.

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Adoptive parent continued

Was the adoption finalized before the child turned 16?

- Yes
- No

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Was this child the brother or sister of another child you previously adopted while the first child was under 16?

- Yes
- No. Stop. Child does not meet definition of child. For more information about the definition of a child, click here.

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Was the adoption of this brother or sister of the first adopted child finalized before this sibling turned 18?

- Yes.
- No. Stop. Child does not meet definition of child. For more information about the definition of a child, click here.

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Has the child been in your legal custody for two years?

- Yes.
- No. Stop. Child does not meet definition of child. For more information about the definition of a child, click here.

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Has the child resided with you in your physical custody for two years?

- Yes
- No. Stop. Child does not meet definition of child. For more information about the definition of an adopted child, click here.

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In order to help a brother or sister become a permanent resident, you must first be a U.S. citizen and be 21 years or older.

You have indicated that you are a U.S. Citizen, correct?

- Yes
- No. Stop. You cannot help your brother/sister become a permanent resident unless you are a U.S. citizen

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Are you age 21 or older?

- Yes
- No. Stop. You cannot help your brother/sister become a permanent resident unless you are a U.S. citizen age 21 or older.

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In order to help a brother/sister get permanent resident status, both you and your brother/sister must have, at one time, met the definition of a “child” under immigration law of at least one common parent. This means that at least one parent, either your father or mother, must have been the father or mother of your brother/sister as well as being your father or mother under immigration law.

Now, let’s determine if your brother/sister met or meets the definition of a child under immigration law so you can help your brother/sister become a permanent resident.

You want to petition for your:

- Natural Brother/Sister (you have the same birth mother or birth father and neither of you has been adopted)
- Stepbrother/Stepsister (your father married your brother’s/sister’s mother or your mother married your brother’s/sister’s father)
- Adopted brother/sister (you and/or your brother/sister were adopted by the same adoptive parent(s))

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Did your brother's/sister's parent marry your mother/father before you turned 18?

- Yes
- No. Stop. It appears that you do not meet definition of stepbrother/sister. For more information about the definition of a child or stepchild, click here.

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Are you or your brother/sister an adopted child?

- Yes
- No. Stop. It appears that you or your brother/sister do not meet definition of child for immigration purposes. For more information about the definition of child, click here.

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Was the adoption finalized before the adopted child turned 16?

- Yes
- No

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Are you the brother or sister of another child previously adopted by this same adoptive parent, and was your brother/sister adopted before he/she turned 16?

- Yes
- No. Stop. It appears that you do not meet definition of child. For more information about the definition of a child, click here.

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Was your adoption finalized before you turned 18?

- Yes
- No. Stop. It appears that you do not meet definition of child. For more information about the definition of a child, click here.

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Was the adopted child in the legal custody of this parent for at least two years?

- Yes
- No. Stop. It appears you do not meet definition of child. For more information about the definition of a child, click here.

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Did the adopted child reside with the adoptive parent in this parent's physical custody for two years?

- Yes
- No. Stop. You do not meet definition of child. For more information about the definition of an adopted child, click here.

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In order to help a parent become a permanent resident, you must first be a U.S. citizen and be age 21 or older.

You have indicated that you are a U.S. Citizen, correct?

- Yes
- No. Stop. You cannot help your parent become a permanent resident unless you are a U.S. citizen.

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Are you age 21 or older?

- Yes
- No. Stop. You cannot help your parent become a permanent resident unless you are a U.S. citizen age 21 or older.

Back to Helping a Relative Immigrate U.S. Citizen Services

First, let's determine if you met or meet the definition of a child under immigration law so you can help your parent become a permanent resident.

You want to petition for your:

- Father
- Mother

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Your mother is your:

- Natural Mother (this person gave birth to you and you have not been adopted by another mother)
- Adoptive mother
- Stepmother

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Did this step-parent marry your biological mother/father before you turned 18?

- Yes
- No

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Father

Does the name of the person you are trying to help become a permanent resident appear on your birth certificate as your natural father?

- Yes
- No

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Was your father married to your mother when you were born?

- Yes
- No

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Do you or did you have evidence (financial support, letters to and from your father, etc.) that your father has maintained a valid parent-child relationship with you?

- Yes (You'll need to prove this if you file a petition for your parent.)
- No

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Is the person your step-parent?

- No
- Yes

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Are you an adopted child?

- Yes
- No

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Has your father legitimated you under the law of his residence or domicile, or under the law of your residence or domicile?

- No
- Yes

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Stop. It appears that you do not meet the definition of a child for immigration purposes. For more information about the definition of a child, click here.

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Did this legitimation take place before the child reached the age of 18 years?

- No
- Yes

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Were you in the legal custody of this parent (father) at the time of such legitimation?

- Yes
- No

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Was the adoption finalized before you turned 16?

- Yes
- No

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Were/Are you the brother or sister of another child previously adopted by this same adoptive parent and was your brother/sister adopted before he/she turned 16?

- Yes
- No

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Was your adoption finalized before you turned 18?

- Yes
- No

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Have you been/Were you in the legal custody of this parent for at least two years?

- Yes
- No

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Have you/Did you reside with this parent in this parent's physical custody for two years?

- Yes
- No

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Your relative is currently:

- Inside the U.S.
- Outside the U.S.

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He/she entered the United States:

- Legally
- Illegally

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Under what visa category or other legal status did your relative enter the U.S.? (choose one below)

Nonimmigrant Categories			
Diplomats and Government Representatives, and their staffs		**Nonimmigrant Workers and their dependents**	
A	Diplomatic Personnel	D	Crewmembers
C2	Representative in transit to or from the United Nations Headquarters District	E	Treaty Traders and Treaty Investors based on a bilateral treaty, and dependents
C3	Government Representatives in transit through the	H1B	Temporary Workers in Specialty Occupations
G	Other Government Representatives	H1C	Registered Nurses
NATO	NATO personnel on assignment to the U.S.	H2A	Temporary Agricultural Workers
Tourists and Visitors on business		H2B	Temporary skilled and unskilled workers
B	Tourists and Visitors on Business including citizens of Canada entering without a visa	H3	Trainees
WB	Visitors coming temporarily on business admitted under the Visa Waiver Program	H4	Dependents of H1-3 workers and trainees
		I	Representatives of Foreign Information Media
WT	Tourists admitted under the Visa Waiver program	L	Intra-Company Transferees
Guam Visa Waiver	Tourists Admitted only to Guam under Special Visa Waiver	O	Persons with Extraordinary Ability and their support personnel
Students and Exchange Visitors, and their dependents			
F	Academic Students	P1	Internationally recognized Athletes and Entertainers
J	Exchange Program Visitors	P2	Artists and Entertainers pursuant to Exchange Agreements
M	Vocational Students	P3	Culturally Unique Artists and Entertainers
Certain relatives of Permanent Residents		P4	Dependents of 'P' athletes, artists and entertainers
V	Certain Relatives of a Permanent Resident (LIFE Act)		
Others		TN2, TD	Mexican professionals under NAFTA (North American Free Trade Agreement)
C1, TWOV	Persons transiting the U.S.		
S U	Certain Informants and victims of criminal activity in the U.S.		
T	Victims of Trafficking		
Parolee	Person paroled into U.S. temporarily		

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Has your relative obtained a waiver of the two-year foreign residence requirement through approval by USCIS on a Form I-612?

- Yes
- No

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Has your relative obtained a certification from the Department of State or NATO on Form I-566?

- Yes
- No

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Has your relative received a waiver to waive the 2-year foreign residence requirement?

- Yes
- No

Based on the information you have provided, it appears you may want to file Form I-130 on behalf for your relative. In order for your relative to be eligible to apply for permanent resident status in the United States, he/she must first file for and receive a waiver of the 2-year foreign residence requirement. If your relative wants to apply for this waiver, he/she should file the Form I-612.

Once he/she receives the approved waiver, he/she may be able to file Form I-485, Application to Register Permanent Residence or Adjust Status, in the United States.

If you are interested in petitioning for a SPOUSE, continue below:

IF BENEFICIARY IS SPOUSE, Please be aware that if your spouse has a child or children who would meet the definition of your child, step-child or adopted child under immigration law, then your spouse's child cannot "ride" on the Form I-130 that you file for your spouse. To help your spouse's child to become a permanent resident, you will need to file a separate Form I-130 for each child. Please use this link for more information if your spouse has a child or children.

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Has your relative received a waiver from the Department of State, allowing them to apply for permanent resident status?

- Yes
- No

Based on the information you have provided, it appears you may want to file the Form I-130 on behalf of your relative. Please note that in order for your relative to be eligible to apply for permanent resident status here in the U.S., your relative must first request and receive a waiver from the State Department by filing a Form I-566 with the Department of State. Once your relative receives the approved waiver, he/she may file Form I-485, Application to Register Permanent Residence or Adjust Status.

If you are interested in petitioning for a SPOUSE, continue below:

IF BENEFICIARY IS SPOUSE, please be aware that if your spouse has a child or children who would meet the definition of your child, step-child or adopted child under immigration law, then your spouse's child cannot "ride" on the Form I-130 that you file for your spouse. To help your spouse's child to become a permanent resident, you will need to file a separate Form I-130 for each child. Please use this link for more information if your spouse has a child or children.

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Is this relative your spouse?

- Yes
- No

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Is your parent currently in immigration proceedings (deportation, removal, etc.)?

- Yes
- No

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From the information you have provided, it appears that you may want to file the Form I-130 for your relative. However, the Immigration Judge will determine if your relative is eligible to adjust status in the United States.

Please be advised that if your relative is your spouse and you were married after the proceedings were started against him/her, there is a general prohibition against approval of that visa petition. If you file a Form I-130, you must request an exemption from that prohibition. No application or fee is required to request an exemption. The request must be made in writing and submitted with the Form I-130. The request must state the reason for seeking the exemption and must be supported by documentary evidence establishing that the marriage was entered into in good faith and not entered into for the purpose of evading the immigration laws.

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Based on the information you have provided, it appears that you may want to file a Form I-130 and your relative may wish to file the Form I-485, Application to Register Permanent Residence or Adjust Status, in the U.S. at the same time, along with your Form I-130. Even if your relative is now out of status, as long as they entered legally, they may be able to file for adjustment of status, at the same time you file your Form I-130 petition.

If you choose to file these forms, you will need what is called the "Adjustment Packet," which will include Forms I-130, G-325A, I-485, I-765, I-864 and I-131. These forms can be downloaded from our website at www.uscis.gov. The adjustment package also includes an application for employment authorization. Your relative may apply for employment authorization when he/she files the Form I-485.

If you decide to file, you'll also need to include all appropriate fees.

The current processing times can be checked at: https://egov.uscis.gov/cris/jsps/ptimes.jsp. If you need help ascertaining processing times, please call the USCIS Customer Service toll free number at 1-800-375-5283.

Back to Helping a Relative Immigrate U.S. Citizen Services

Based on the information you have provided, it appears you may want to file a Form I-130 for your relative.

NOTE: U.S. Citizens who live abroad may continue to file new petitions with a nearby USCIS international office. A list of offices and the countries they serve is on the USCIS website at www.uscis.gov. From the homepage, click on the “No, I haven’t filed” link on the left-hand side. From there, click on the “Field Office” link on the right. Next, click on the “Field Office Locator” link. Scroll down to the section titled “Office Locator” and click on the “Overseas Office” link.

If the Form I-130 is approved, it will be sent to the National Visa Center (NVC). The NVC will pre-process it and forward it to the appropriate U.S. Consulate. For information on National Visa Center fee and document collection, please click here.

The priority date (the filing date of the I-130) must be current before your relative will be eligible to file for an immigrant visa. Visa processing times vary depending upon the visa category and country of origin of the relative. For more information about visa processing and availability, please see the visa bulletin at the State Department’s web site at www.state.gov. Once the visa is available, both you and your relative will be notified and your relative will be invited to apply for his/her immigrant visa outside the United States at a U.S. Consulate.

You can download the necessary Form I-130 from our website at www.uscis.gov.

For general FAQs about a U.S. Citizen helping a family member become a permanent resident, click here.

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You can file a Form I-130 for your relative. After the Form I-130 is approved and sent to the U.S. Consulate nearest your relative's place of residence, your relative may apply for his/her immigrant visa outside the United States at a U.S. Consulate. However, he/she may be eligible for a K-3 visa to enter the United States while the Form I-130 is pending with USCIS. For more information about the K-3 visa, click here.

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Based on the information you have provided, it appears that you may want to file a Form I-130 for your relative. Unfortunately, because your relative did not enter the United States legally or entered in a status that is barred from applying for permanent resident status in the United States, he/she cannot file to adjust his/her status to permanent resident in the United States. Therefore, he/she will need to depart the U.S. in order to apply for the immigrant visa at the U.S. Consulate. Please understand that if your relative remains in the United States unlawfully, he/she may be apprehended and placed in removal proceedings, which may have a negative impact on his/her eligibility for an immigrant visa.

If the Form I-130 is approved, it will be sent to the National Visa Center (NVC). The NVC will pre-process it and forward it to the appropriate U.S. Consulate. For information on NVC fee and document collection, please click here.

The priority date (the filing date of the I-130) must be current before your relative will be eligible to file for an immigrant visa. Visa processing times vary depending upon the visa category and country of origin of the relative. For more information about visa processing and availability, please see the visa bulletin at the State Department's web site at www.state.gov. Once the visa is available, both you and your relative will be notified and your relative will be invited to apply for his/her immigrant visa outside the United States at a U.S. Consulate.

You can download the necessary Form I-130 from our website at www.uscis.gov.

For other general FAQs about a U.S. Citizen helping a family member become a permanent resident, **click here**.

Back to Helping a Relative Immigrate U.S. Citizen Services

Based on the information you have provided, it appears you may want to file a Form I-130 for your relative. Unfortunately, because your relative did not enter the United States legally or entered in a status that is barred from applying for permanent resident status in the United States, he/she cannot file to adjust his/her status to permanent resident in the United States.

After the Form I-130 is approved and sent to the Consulate nearest your relative's place of residence, your relative may apply for his/her immigrant visa outside the United States at a U.S. Consulate. However, he/she may be eligible for a K-3 visa to enter the United States while the Form I-130 is pending with USCIS. For more information about the K-3 visa, click here.

Understand that, if your relative was in the United States unlawfully for 6 months or longer, he/she will be inadmissible once he/she departs the U.S. and will be barred from re-entering the U.S. for 3 to 10 years, depending upon how long he/she had remained in the U.S. in unlawful status prior to his/her departure. While this is unfortunate, the law is very specific on these requirements.

However, your relative may be able to request a waiver of the bar to admission by filing a Form I-601, Waiver of Inadmissibility, with the U.S. Consulate at the time of the visa interview.

If your relative was removed by an order of an Immigration Judge, he/she must also file a Form I-212 with the District Office from where he/she was removed (deported). Your relative will not be able to speak with a Consular Officer until the I-212 has been approved.

If you are interested in petitioning for a SPOUSE, continue below:

IF BENEFICIARY IS SPOUSE, please be aware that if your spouse has a child or children who would meet the definition of your child, step-child or adopted child under immigration law, then your spouse's child cannot "ride" on the Form I-130 that you file for your spouse. To help your spouse's child to become a permanent resident, you will need to file a separate Form I-130 for each child. Please use this link for more information if your spouse has a child or children.

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Because he/she is in a category that has a limited amount of visas available, he or she may have to wait years before becoming eligible for the visa. The State Department will contact you when the date that your relative may apply for an immigrant visa draws near. If your relative is outside the United States at that time or is in the U.S. but not in a legal status, your relative will be required to apply for a visa outside the United States at a U.S. Consulate. If your relative is in the United States in a legal status at the time his/her immigrant visa becomes available, he/she may be able to file for permanent resident status in the U.S.

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It appears you may wish to file the Form I-130 with the Service Center.

Your family member is not eligible to apply for permanent resident status at the same time you file Form I-130, whether he/she is inside or outside the U.S. Even if in the U.S., regardless of how he/she entered or his/her present status in the U.S., he/she would be in a visa category that has limited amounts of visas available. His/Her priority date (the filing date of the I-130) must be current as indicated by the State Department's Visa bulletin before he/she will be eligible to file for an immigrant visa.

Also, understand that your son/daughter must have, at one time, met the definition of child under immigration law in order for you to help them immigrate. To see if your son or daughter may have met the definition of child, click here.

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From the information provided, it appears you cannot file an immigrant or fiancé (e) visa petition at this time.

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Overview

In addition to filing a relative petition for their spouse, a U.S. citizen also has the option to file a separate petition for their husband or wife to come to the U.S. as a K-3 nonimmigrant. We understand that it can take some time to process the I-130 and then for the Department of State to issue an immigrant visa, so this option allows the family to be together in the U.S. while they go through the process. The K-3 visa classification allows the spouse of a U.S. citizen to enter the U.S. in order to apply for adjustment of status to permanent resident instead of waiting for the U.S. Consulate to process and issue them an immigrant visa abroad. The unmarried child of a U.S. citizen can also benefit from a K-4 nonimmigrant visa as a derivative of the K-3.

Frequently Asked Questions about filing for a K-3/K-4 nonimmigrant

- **How do I file for my spouse/ child to obtain a K-3/K-4 visa?**
- **What is the process once the I-129F is approved?**
- **Does the child who will be the K-4 need to have separate petitions filed for them?**
- **Can I file for a K-3 for my spouse if they are already in the U.S.?**
- **Once my spouse is in the U.S. with a K-3 visa, what will be the next step towards permanent residence?**
- **Will my spouse's K-4 child be eligible to apply for adjustment of status once in the U.S.?**
- **Once the K-3 becomes a permanent resident can they file for their K-4 child?**

How do I file for my spouse/child to obtain a K-3/K-4 visa?

To begin, the U.S. citizen must first petition for the spouse by filing Form I-130, Petition for Alien Relative.

After Form I-130 is filed, the U.S. citizen must also file a Form I-129F, Petition for Alien Fiance(e), for the spouse. The U.S. citizen must submit evidence that the Form I-130 is pending (the receipt notice for the I-130). Any unmarried child under 21 of the spouse should be included on Form I-129F so that they may be eligible for the derivative K-4 visa.

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What is the process once the I-129F is approved?

Once Form I-129F is approved, it will be forwarded to the U.S. Department of State's National Visa Center. The spouse (and child(ren)) will be eligible to apply for a K-3/K-4 visa at the U.S. Consulate/ Embassy, as long as the Form I-130 for the spouse is still pending**.**

The U.S. Consulate/Embassy where the spouse of the U.S. citizen will apply for a K-3 visa must be the country where the marriage took place**.**

The spouse/child will be required to complete a medical exam as per the instructions of the U.S. Consulate/Embassy.

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Does the child who will be the K-4 need to have separate petitions filed for them?

To be eligible for the K-4 nonimmigrant visa, the child does **not** need a separate Form I-130, Petition for Alien Relative, or Form I-129F filed on his/her behalf. The child should be listed on the Form I-129F.

However, to be eligible for the K-4 the child must:

- Be an unmarried child under 21 years of the qualified K-3 visa applicant.
- Be free to travel with the K-3 (have any child custody issues resolved).
- Complete a medical examination per the instructions of the U.S. Consulate/ Embassy

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Can I file for a K-3 for my spouse if they are already in the U.S?

No. The K-3 visa classification is only available for a spouse of a U.S. citizen who is outside of the U.S. and has had a relative petition filed on his or her behalf.

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Once my spouse enters the U.S. with a K-3 visa, what will be the next step towards permanent residence?

Once the K-3 spouse enters the U.S., he or she can file for adjustment of status by submitting Form I-485 and accompanying forms with the receipt notice for the pending Form I-130 or with the approval, if applicable.

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Will my spouse's K-4 child be eligible to apply for adjustment of status once in the U.S.?

While the U.S. citizen must file a Form I-130 petition for their spouse, there is no requirement to file a Form I-130 immigrant visa petition on behalf of the spouse's children seeking K-4 nonimmigrant status, since a K-4 is a derivative nonimmigrant classification.

In some instances, a child may be eligible to obtain a K-4 visa as the derivative of a K-3, but will not meet the definition of a child of a U.S. citizen.

If the child meets the definition of a child, step-child, or adopted child of the U.S. citizen under immigration law, it would be prudent and beneficial to the child if the U.S. citizen parent/ step-parent files a Form I-130 on their behalf to help them become a permanent resident. The Form I-130 can be filed along with the adjustment of status package once the K-4 is in the U.S**.** The child **cannot** "ride" on the I-130 that was filed for the K-3.

Please use this link for more information if your spouse has a child or children.

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Once the K-3 becomes a permanent resident, can they file for their K-4 child?

The immigrant parent may petition for their child once he/she has obtained legal permanent residence; however, the child will then need to wait for an immigrant visa number to be available.

If the K-4 child is planning to remain in the U.S., it is important to note that once the immigrating parent becomes a permanent resident he or she will no longer hold K-3 status and, therefore, the child will no longer have derivative K-4 status. If the child falls out of status and he or she remains in the U.S., the child will begin to accrue unlawful presence and will be ineligible for adjustment of status when the child's immigrant visa number becomes available.

If the child meets the definition of a child, step-child, or adopted child of the U.S. citizen under immigration law, it would be prudent and beneficial to the child if the U.S. citizen parent/ step-parent files a Form I-130 on their behalf to become a permanent resident.
The Form I-130 can be filed along with the adjustment of status package once the K-4 child is in the U.S**.** The child **cannot** "ride" on the I-130 that was filed for the K-3.

Please use this link for more information if your spouse has a child or children.

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Your parent is currently:

- Inside the U.S.
- Outside the U.S.

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He/she entered the United States:

- Legally
- Illegally

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Under what visa category or other legal status did your parent enter the U.S.? (choose one below)

Nonimmigrant Categories			
Diplomats and Government Representatives, and their staffs		**Nonimmigrant Workers and their dependents**	
A	Diplomatic Personnel	D	Crewmembers
C2	Representative in transit to or from the United Nations Headquarters District	E	Treaty Traders and Treaty Investors based on a bilateral treaty, and dependents
C3	Government Representatives in transit through the	H1B	Temporary Workers in Specialty Occupations
G	Other Government Representatives	H1C	Registered Nurses
NATO	NATO personnel on assignment to the U.S.	H2A	Temporary Agricultural Workers
Tourists and Visitors on business		H2B	Temporary skilled and unskilled workers
B	Tourists and Visitors on Business including citizens of Canada entering without a visa	H3	Trainees
WB	Visitors coming temporarily on business admitted under the Visa Waiver Program	H4	Dependents of H1-3 workers and trainees
		I	Representatives of Foreign Information Media
WT	Tourists admitted under the Visa Waiver program	L	Intra-Company Transferees
Guam Visa Waiver	Tourists Admitted only to Guam under Special Visa Waiver	O	Persons with Extraordinary Ability and their support personnel
Students and Exchange Visitors, and their dependents			
F	Academic Students	P1	Internationally recognized Athletes and Entertainers
J	Exchange Program Visitors	P2	Artists and Entertainers pursuant to Exchange Agreements
M	Vocational Students	P3	Culturally Unique Artists and Entertainers
Fiancé(e)s and certain relatives of U.S. citizens and Permanent Residents		P4	Dependents of 'P' athletes, artists and entertainers
K1 K2	Fiancé(e)s of U.S. citizens and their dependent children (also see U.S. citizen services)	Q1	International Cultural Exchange Visitors
		Q2, Q3	Irish Peace Process cultural training program participants
K3 K4	Certain Husbands and Wives of U.S. citizens, and their dependent children	R	Religious Workers
V	Certain Relatives of a Permanent Resident (LIFE Act)	TN1, TD	Canadian professionals under NAFTA (North American Free Trade Agreement)
Others		TN2, TD	Mexican professionals under NAFTA (North American Free Trade Agreement)
C1, TWOV	Persons transiting the U.S.		
S U	Certain Informants and victims of criminal activity in the U.S.		
T	Victims of Trafficking		
Parolee	Person paroled into U.S. temporarily		

Has your parent obtained a certification from the Department of State or NATO on Form I-566?

- Yes
- No

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Is your parent currently in immigration proceedings (deportation, removal, etc.)?

- Yes
- No

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If your parent was subject to the two-year foreign residence requirement, has he/she obtained a waiver of the two-year foreign residence requirement through approval by USCIS? (If your parent was not subject to this requirement, please select "yes" below.)

- Yes
- No

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Based on the information you have provided, it appears that you may want to file a Form I-130 and your relative may wish to file the Form I-485, Application to Register Permanent Residence or Adjust Status, in the U.S. at the same time, along with your Form I-130. Even if your relative is now out of status, as long as they entered legally, they may be able to file for adjustment of status concurrently at the same time you file your Form I-130 petition.

If you choose to file these forms, you will need what is called the "Adjustment Packet," which will include the Forms I-130, I-485, I-765, I-131, I-693 and I-864. These forms can be downloaded from our website at www.uscis.gov. The adjustment package also includes an application for employment authorization. Your relative may apply for employment authorization when he/she files the Form I-485. If you decide to file, you'll also need to include all appropriate fees.

To download the Form I-130 so you can complete and file it, click here

To download the Form I-485 so you can complete and file it, click here

Please be aware that if your parent has a spouse and he/she also meets the definition of your parent OR if your parent has a child that would meet the definition of your brother/sister, then your other parent and/or your brother/sister cannot "ride" on the I-130 that you file for this parent. You will need to file a separate Form I-130 for each one of these relatives. The wait time for brothers and sisters can be quite lengthy because they are not considered your immediate relative under immigration law and cannot "ride" on the petition of a parent who is the immediate relative of a U.S. Citizen.

Use this link if you have another parent who you would like to help become a permanent resident.

Use this link if you have a brother or sister you would like to help become a permamnent resident.

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Services Available to U.S. Citizens

Helping a Relative Immigrate and Financially Sponsoring an Immigrating Alien

Financially Sponsoring an Immigrant Alien

Overview

By law, every person who immigrates based on a relative petition must have a financial sponsor. If you choose to sponsor your relative's immigration by filing a **Form I-130**, *Petition for Alien Relative*, then when the time comes for actual immigration you must agree to be the financial sponsor and file an affidavit of support. If you do not meet the financial qualifications at that time, you must still file a **Form I-864**, *Affidavit of Support,* and accept responsibility, but you and your relative must also find other individuals who meet the requirements and are willing to make this commitment and also file affidavits of support.

The Form I-864 is the Affidavit of Support.

Frequently Asked Questions

- **What is the purpose of the affidavit of support?**
- **Who has to have an affidavit of support in order to immigrate?**
- **What are the financial qualifications for an Affidavit of Support?**
- **I filed the Immigrant Petition for my Relative but I do not meet the minimum income requirement. Can anyone else be a financial sponsor?**
- **When and how do I file the Affidavit of Support?**
- **Do I need to notify USCIS if I move?**
- **What if a person I financially sponsor only gets public benefits after becoming a permanent resident?**
- **When does my financial responsibility end?**

For further information concerning what supporting evidence to submit to satisfy the minimum income requirements, please see the instructions to Form I-864.

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What is the purpose of the affidavit of support?

The affidavit of support helps ensure that new immigrants will not need to rely on public benefits such as Food Stamps, Medicaid, Supplemental Security Income (SSI), and Temporary Assistance to Needy Families. If a person for whom you file an affidavit of support becomes a permanent resident and is later given certain public benefits, the agency that gave the benefits can require that you repay that money.

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Who has to have an affidavit of support in order to immigrate?

Anyone applying to become a permanent resident through a family member must have a sponsor. A sponsor is also required for a family member coming to work for a relative, or for a company in which a relative owns 5 percent or more of the company.

The person filing the petition sponsoring the person's immigration must file an affidavit of support. If he/she does not, then his or her sponsorship is not complete, and the person will not be given permission to immigrate based on that petition.

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What are the financial qualifications for an Affidavit of Support?

The law requires a sponsor to prove an income level at or above 125% of the federal poverty level. (For active duty military personnel, the income requirement is 100% of the poverty level when sponsoring his/her husband, wife or children.) If your income does not meet the requirement, your assets, such as checking and savings accounts, stocks, bonds, or property, may be considered in determining your financial ability.

Federal poverty levels are updated each year by the Department of Health and Human Services. You can check current minimums at the HHS website at www.aspe.hhs.gov.

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I filed the Immigrant Petition for my relative, but I do not meet the minimum income requirement. Can anyone else be a financial sponsor?

If you do not meet the financial qualifications, the income of certain other household members can be added to your income level if they sign a contract on **Form I-864A**, *Affidavit of Support Contract Between Sponsor and Household Member*, agreeing to make their income and/or assets available for the support of the relative applying for permanent residence.

If you still cannot meet the financial qualifications, another person must complete a separate affidavit of support to become a joint financial sponsor of the person's immigration. The joint sponsor must meet all sponsorship requirements separately, including the minimum income requirements for his/her household, and must be willing to assume, along with you, financial liability for the sponsored immigrant(s).

All sponsors must be U.S. citizens or permanent residents, be at least 18, and be living in the U.S. (including territories and possessions) when they file the affidavit of support.

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When and how do I file the Affidavit of Support?

You do *not* need to file it with your petition. When the person reaches the head of the line to immigrate based on your I-130 petition (which often will be years after the petition was filed), he or she will have to submit the affidavit of support with an application for an immigrant visa or permanent residence. Just follow the instructions for the affidavit and submit all the necessary supporting documents with the visa or residence application at that time. For information on National Visa Center fee and document collection, please click here.

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Do I need to notify USCIS if I move?

If you financially sponsor someone, you are legally required to keep USCIS informed of your address until your financial responsibility ends. If you change your address, you will need to file a **Form I-865**, *Sponsor's Notice of Change of Address*, within 30 days after the date you move. Please read the instructions on the form carefully.

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What if a person I financially sponsor only gets public benefits after becoming a permanent resident?

If a sponsor does not provide basic support to the immigrants they sponsor, the sponsored immigrants, or the Federal or State agency that gave the benefits to the family members, can seek reimbursement of the funds through legal action against the sponsor.

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When does my financial responsibility end?

An Affidavit of Support is enforceable against the sponsor until the person they sponsored either:

- Becomes a U.S. citizen;
- Is credited with 40 quarters of work in the U.S. (usually 10 years);
- Leaves the United States permanently; or
- Passes away.

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Services Available to U.S. Citizens

How to Understand the Immigration Process When Adopting Children and How to Help a Fiancé (e) Immigrate to the United States

Understanding the Immigration Process When Adopting Children

How to Help a Fiancé(e) Immigrate to the United States

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Services Available to U.S. Citizens

How to Understand the Immigration Process When Adopting Children and How to Help a Fiancé(e) Immigrate to the United States

Understanding the Immigration Process When Adopting Children

OVERVIEW

If you are a U.S. citizen who is interested in adopting a child from another country, it is important first to decide on a specific country for adoption. There are two inter-country adoption processes: the Orphan process and the Hague Adoption Convention process. Both programs include measures to determine the suitability of prospective adoptive parents, such as background and criminal checks, as well as a home study. Once your eligibility to adopt has been established, both the Orphan process and the Hague Adoption Convention process have specific procedures to determine whether the child is eligible for immigration to the U.S. To view a list of the countries that participate in the Hague Adoption Convention, please visit www.travel.state.gov

Choose one of the following options

You want information about inter-country adoptions through the Hague Adoption Convention

You want information about inter-country adoptions through the Orphan program

Overview

Adopting a child is a major decision, and orphaned children have special needs. If you're interested in adopting an orphan, please remember that there are many orphans in the U.S. waiting and hoping to be adopted. But we also have a special orphan program to help U.S. citizens who want to adopt orphaned children from overseas. It is only available to U.S. citizens who are any age if married or, if single, age 25 at the time of filing Form I-600 or age 24 at the time of filing Form I-600A . This program has extensive protections to protect the orphan. These include background and criminal checks of every adult in your household, as well as a home study. If you are married, you and your husband or wife must go through the immigration and adoption process together. But once eligibility is established, it also has special procedures that let the child come to the U.S. much quicker. We have a special manual to help you through this complex process. There are two different applications. One is the I-600, which is the basic orphan petition. The other is an I-600A advance processing petition. If you have not identified a child, the I-600A lets you pre-qualify, so that when you identify a child our review will only have to focus on the child's situation and eligibility as an orphan. The manual and instructions to these two form packages explain the process, and how to file, in greater detail. You can read and print the M-249 manual and the I-600 and I-600A form packages from our website at www.uscis.gov. If you don't have web access at home or work, check with your public library.

For guided information in helping you through the Orphan adoption process, click here.

Frequently Asked Questions about the Orphan adoption process, click here.

For our web page that explains many of the processes involved with adopting orphans from abroad, please click here

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FAQs about the Orphan adoption processes.

Who can use the special orphan adoption program?

How do I apply under the special orphan adoption program?

How old can an orphan be and still be eligible under this program?

What happens after the Form I-600 orphan petition is approved?

How can a child I adopted outside the special orphan adoption program become a U.S. citizen?

Questions and Answers about Filing Qualifications

What is the fee for the I-600A?

What is the fee for the I-600?

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Who can use the special orphan adoption program?

You must be a U.S. citizen and be any age, if you are married. If unmarried, you must be at least age 25 at the time of filing the Form I-600. If you are under age 25, you must be at least age 24 at the time of filing the Form I-600A and you must file the I-600A or wait until you are age 25 or married and file then. If you are married, you and your spouse must go through the immigration and adoption process together. You must meet the extensive requirements of this program that are designed to protect the orphan. For example, every adult member of your household will have to be fingerprinted, and we will conduct background and criminal checks. There will also have to be a home study, just as if you were adopting a child who is already living in the U.S.

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How do I apply under the special orphan adoption program?

We know that once you identify an orphan you want to get the process completed as soon as possible. Speed is important for both you and the orphan. However, a full review of eligibility, and of your fitness to adopt a child, is equally important to the orphan's welfare.

To best balance these needs, we offer you a choice of how to apply.

If the child has not yet been identified, you can get many of the steps out of the way early so that you don't have to start from the beginning once a child is identified. Getting your home study completed, preparing the application, background and criminal checks, and our review of your eligibility are often the things that take the most time. You can get these out of the way early by using our two-step process.

Step one is filing a preliminary **Form I-600A** orphan petition. The Form I-600A focuses on your qualifications, and, if you are married, those of your husband or wife. With the home study and similar reviews out of the way, and your I-600A advance-processing petition is approved, you are ready for when an orphan is identified for you.

When that happens, you take the second step, which is to file the **Form I-600** orphan petition. But with your Form I-600A already approved, our review here will focus on the child's situation and eligibility as an orphan. Once we approve the Form I-600, we will notify the U.S. Consulate/Embassy so it can issue a visa to the child so s/he can come to the U.S.

If you plan to travel abroad to find the orphan you wish to adopt, we strongly recommend you file your Form I-600A and wait for it to be approved before you travel.

Your second option is to wait until a child is identified for you. This sounds simpler because you only file the Form I-600, and do everything in one step. However, that means the procedures that often take the most time, such as the home study, background and criminal checks, and our review, will be done while the child waits overseas. Once we approve the Form I-600, we will notify the U.S. Consulate/ Embassy so it can issue a visa so the child can come to the U.S.

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How old can an orphan, be and still be eligible under this program?

Adoptions, whether done through the special orphan program or not, must be completed before the child is 16 years old in order for the child to get any benefits as a child under immigration law.

The only exception to this is if the child being adopted is the biological brother or sister of a child who has already been adopted, or is in the process of being adopted or is soon be adopted. In this case, the adoption of the sibling must be completed before that child turns 18.

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What happens after the Form I-600 orphan petition is approved?

Once the Form I-600 is approved, we will notify the U.S. Consulate/Embassy so it can issue the proper visa so the child can enter the U.S. With the Form I-600 approved, you can either go overseas to complete the adoption there, or you can bring the orphan to the U.S. and complete the adoption here. However, be sure your Form I-600 is approved before you finalize the adoption. Whether you complete the adoption overseas or wait to do it here, the U.S. Embassy or Consulate will issue the child an immigrant visa, and he or she will enter the U.S. as a permanent resident.

If you complete the adoption after the Form I-600 is approved but before the child enters the U.S., then he or she will automatically become a U.S. citizen when admitted with the immigrant visa. He or she will then be processed to receive a certificate of citizenship instead of a permanent resident card.

If you wait to complete the adoption in the U.S., the child will become a permanent resident. He or she will automatically become a U.S. citizen when you finalize the adoption so long as you finalize the adoption before he or she turns 16. After you finalize the adoption, you can apply for a certificate of citizenship for your newly adopted child on **Form N-600**.

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How can a child I adopted outside the special orphan adoption program become a U.S. citizen?

You cannot use the special orphan program for a child you have already adopted because that program is designed to determine your eligibility to adopt an orphan. However, once your adopted child qualifies as your child for immigration purposes (see the prior page for more information) you can file a **Form I-130** relative petition. Click here for more information about the relative petition. Your adopted child will automatically become a U.S. citizen if, before he/she turns 18, he/she becomes a permanent resident and also has been in your legal and physical custody for 2 years. If he/she does not meet these requirements before turning 18, after he/she reaches 18 and has been a permanent resident for five years he/she can choose to apply for naturalization.

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For more information about our special orphan adoption program and about adopting orphans, please see our manual, *The Immigration of Adopted and Prospective Adoptive Children*, (M-249). It is available on our website at **www.uscis.gov**, or by calling customer service. Many state and local government social service agencies also provide information and assistance for anyone interested in adopting a child.

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You:

- Want to adopt a foreign-born child
- Have already adopted a foreign born child

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Is this child an orphan (click here for definition of orphan)?

- Yes
- No

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Are you a United States citizen?

- ❑ Yes
- ❑ No

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Only United States citizens may use the special orphan adoption program. If you wish to adopt an orphan, we encourage you to do so, but because you are not a United States citizen, the child will have to meet the definition of a child under immigration law before you can help him/her become a permanent resident.

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Have you adopted an orphan before?

- Yes
- No

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Did you use the special orphan program when you previously adopted an orphan?

- Yes
- No

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Was the other orphan you adopted the natural-born brother/sister of the orphan you now wish to adopt?

- Yes
- No

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Is the orphaned child you now wish to adopt under age 18?

- Yes
- No

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Are you married?

- Yes
- No

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Is the orphan you wish to adopt under age 16?

- Yes
- No

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Will the Form I-600 be filed before this child turns 18?

- Yes
- No

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Are you age 25 or older?

- Yes
- No

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To use the orphan adoption program, the orphan must be under the age of 16 when an adoptive or prospective adoptive parent files a visa petition (Form I-600, Petition to Classify Orphan as an Immediate Relative) on his or her behalf.

Will the Form I-600, be filed before this orphaned child turns 16?

- Yes
- No

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Was the adoption completed or will it be completed before this child turned/turns 16?

- Yes
- No

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Has this child been in your legal custody for two years or more?

- Yes
- No

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Has this child been in your physical custody for two years or more?

- Yes
- No

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From the information you have provided, it appears you may be eligible to use our special orphan adoption program.

We know that once you identify an orphan you want to get the process completed as soon as possible. Speed is important, for both you and the orphan. However, a full review of eligibility and of your fitness to adopt a child is equally important to the orphan's welfare.

To best balance these needs, we offer you a choice of how to apply. If you do not know the identity of the orphan you wish to adopt, you may want to file a Form I-600A. By filing this form you can get a lot of the steps out of the way early so that you don't have to start from the beginning once a child is identified. Getting your home study completed, preparing the application, background and criminal checks, and our review of your eligibility are often the things that take the most time. You can get these out of the way early by using our two-step process.

- Step one is filing a preliminary **Form I-600A** orphan petition. The Form I-600A focuses on your qualifications, and, if you are married, those of your husband or wife. With the home study and similar reviews out of the way, and your advanced processing petition approved, you are ready when an orphan is identified for you. When that happens, you take the second step, which is to file the **Form I-600** orphan petition. If you are under age 25 and not married, but at least age 24, you MUST file Form I-600A in order to proceed with the orphan adoption program.

- Your second option is to wait until a child is identified for you. This sounds simpler because you only file the Form I-600, and do everything in one step. However, that means the procedures that often take the most time, such as the home study, background and criminal checks, and our review, will be done while the child waits overseas. Once we approve the Form I-600, we will notify the U.S. Consulate/ Embassy so it can issue a visa so the child can come to the U.S.

To download the Form I-600A so you can complete and file it, click here

To download the Form I-600 so you can complete and file it, click here

For a web page that explains many of the processes involved with adopting orphans from abroad, please click here

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By law, the orphan adoption program requires that you be at least 24 years old at the time you file the advanced processing application, Form I-600A, and at least 25 years old at the time you file the orphan petition, Form I-600.

Even though no prospective parent is required to file the advance processing application, if you are under age 25 and wish to proceed with this orphan adoption program, you must be at least age 24 and must file the advance processing application, or you will need to wait until you are age 25 or married to file the orphan petition

Are you at least age 24?

- ❑ Yes
- ❑ No

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Do you wish to proceed with information concerning the advance processing application?

- ❑ Yes
- ❑ No, I'll wait until I am 25 or married and then proceed with the orphan petition without the advance processing.

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While you may still be able to adopt a child, from the information you have provided it appears that you cannot use our special orphan adoption program.

If you adopt a child but did not use or cannot use the special orphan adoption program, then he or she is considered your child for immigration purposes ***AFTER*** the two of you meet certain requirements:

- The adoption must be finalized before the child turns 16;
- He/she must have lived with you for at least 2 years, either before or after adoption; and
- He/she must have been in your legal custody for at least 2 years, either before or after adoption.

Also, while this option does not have all the rules of the special orphan adoption program, under this option you cannot sponsor the child's immigration until ALL of the requirements are met. When these requirements are met, the child is considered your child for immigration purposes, and you can file a relative petition for him or her. Click here for more information about relative petitions.

You cannot combine these programs. You cannot adopt a child first and then try to use the special orphan program. That program is only available to orphans waiting to be adopted, not to children that have already been adopted.

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From the information you have provided, it appears that you cannot use our special orphan adoption program. However, you might still be able to file a relative petition if you and the child have already met certain requirements.

If you adopted a child, even an orphaned child, but did not use or cannot use the special orphan adoption program, then he or she is considered to be your child for immigration purposes only ***AFTER*** the two of you meet certain requirements:

- The adoption must be finalized before the child turns 16;
- The child must have lived with you for at least 2 years, either before or after adoption; and
- The child must have been in your legal custody for at least 2 years, either before or after adoption.

Also, understand that, while this option does not have all the rules of the special orphan adoption program, under this option you cannot sponsor the child's immigration until ALL of the requirements just noted are met. When these requirements are met, the child is considered your child for immigration purposes, and you can file a relative petition for him or her. Click here for more information about relative petitions.

You cannot combine these programs. You cannot adopt a child first and then try to use the special orphan program. That program is only available to orphans waiting to be adopted, not to children that have already been adopted.

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From the information you have provided, it appears that you will not be able to help this child become a permanent resident. From the answers you have given, one or more of the following items has caused this child not to meet the definition of a child under immigration law at this time:

- The child is already over age 16 (or 18 if the brother/sister of another child already adopted or being adopted)
- The orphan petition, Form I-600, will be filed after the child turns 16 (or 18 if the brother/sister of another child already adopted or being adopted)
- The required time of legal custody has not been met, or
- The required period of physical custody has not been met.

Therefore, the child does not meet the definition of "child" under immigration law.

For more information about the definition of a child for immigration purposes, click here.

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Services Available to U.S. Citizens

How to Understand the Immigration Process When Adopting Children and How to Help a Fiancé(e) Immigrate to the United States

Adopting a Child under the Hague Adoption Convention

OVERVIEW

The Hague Adoption Convention became effective April 1, 2008. The Convention is a multi-national treaty that provides uniform standards for inter-country adoptions and establishes international procedures and safeguards to protect the best interests of children, birth parents, and adoptive parents who are involved in inter-country adoptions. The Hague Adoption Convention affects several aspects of the adoption and immigration process. First, each country that has ratified the Hague Adoption Convention must have an officially designated "Central Authority" to ensure that the adoption process is safeguarded. In the U.S., the Central Authority is the U.S. Department of State. Second, in a Hague Convention adoption, prospective adoptive parent(s) must use the services of an authorized "adoption service provider". Third, USCIS has introduced two new forms for this program. Interested parties must submit Form I-800A to USCIS in order to establish their eligibility and suitability as prospective adoptive parents under the Hague Adoption Convention. If USCIS approves Form I-800A, then the prospective adoptive parents must submit Form I-800 to USCIS in order to determine the child's eligibility as a Convention adoptee.
For more information about the Hague Adoption Convention and Convention countries, please visit www.travel.state.gov.
To download Form I-800A and Form I-800, please visit uscis.gov.
You can also order Form I-800A and Form I-800 by telephone. To do so, please call theUSCIS Forms Request line at 1-800-870-3676.
If you have additional questions about this topic, or if you would like to speak to a representative from USCIS about your case, please call the USCIS

FAQs on the Hague Adoption Convention

What is the Hague Adoption Convention?
When does the Convention become effective for the United States?
Does the Convention apply to all intercountry adoptions?
What is a Convention country?
What is a "Central Authority?"
What is an "adoption service provider?"
What forms need to be filed with USCIS for a Convention adoption?
How will this new Convention adoption procedure be different from the current orphan adoption process?
What is the overall adoption process under the Hague Adoption Convention?
How can I get more information about Convention adoptions?

FAQs continue on next page

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Convention adoption versus non-Convention orphan adoption FAQs

If I have already filed Form I-600A or Form I-600 with USCIS for an intercountry adoption, do the new Convention adoption rules apply to my case?
If I adopted a child before April 1, 2008, but have not filed a Form I-600A or Form I-600, do the new Convention adoption rules apply to my case?
What happens if I am seeking to adopt a child from a non-Convention country?
I obtained temporary or legal custody of a child in a Convention country before April 1, 2008 and I plan to adopt a child on or after April 1, 2008. May I still seek a Convention adoption?
I obtained legal custody of a child in a Convention country after April 1, 2008, but before the provisional approval of Form I-800. May I still seek a Covention adoption?
I adopted or obtained custody of a child after April 1, 2008, but before the provisional approval of Form I-800, and I cannot void or vacate the adoption or custody order. May I still seek a Covention adoption?
May I foster a child from a Covention country prior to the approval of Form I-800A?
May a prospective adoptive parent with an approved (grandfathered) Form I-600A indicating that they intend to adopt from a non-convention country change to a Covention country and still continue an orphan adoption?
May a prospective adoptive parent with an approved Form I-600A who filed after April 1, 2008 indicating that they intend to adopt from a non-convention country, change to a Convention country and still continue with an orphan adoption?
My Form I-600A was filed before April 1, 2008. Is it possible to extend the I-600A approval?
If my request for an extension of Form I-600A is granted, what will be the start date of the new extension?
What will the immigrant visa classification be for Convention Adoptees?
Will USCIS provide me with documentation of my child's citizenship (IH-3)?
Will USCIS provide me with proof of my child's lawful permanent resident status (I-H-4)?

National Benefits Center (NBC) Processing FAQs

Which USCIS office adjudicates and approves Forms I-800A and I-800?
How long does it take for a USCIS field office to send Forms I-800A , I-800, and other required documents to NBC?
Are Forms I-800A being forwarded from NBC to the National Visa Center (NVC), or are I-800As going directly from NBC to an overseas Embassy/Consulate?
What is the NBC's timeframe for processing Form I-800A applications?
What is the NBC's intended timeframe for processing Form I-800 petitions?
Has the direct mail program been implemented for the receipt of Forms I-800A and I-800?
What is the procedure for expeditious processing of special needs children?

FAQs Continue on next page

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Home Study FAQs

If the home study agency/preparer is conducting two home studies at the same time, does this have to be stated in the home study?
If I receive a raise at work, am I required to submit a home study amendment?
How much time can lapse between the visit to the home and the completion of the home study?
What if the home study preparer is not able to determine whether a foreign country has a child abuse registry?
Are home study preparers required to list each state in which a child abuse registry was checked, or should the documented checks by included in the home study?
Regarding the definition of an "adult member of the household", when must a home study preparer include an assessment of a household member who has not yet reached his or her 18th birthday or an assessment of someone who does not actually live in the home but whose presence is relevant to the issue of suitability to adopt?
If a child from a Convention country is already in the U.S., can the child be deemed to be "habitually resident" in the U.S. so that the child can be adopted without complying with the Convention and USCIS interim rule?

FAQs about the Filing Process for 'Grandfathered' Forms I-600A

What is a "grandfathered" Form I-600A?
When can I file my "grandfathered" Form I-600A?
What does "properly filed" mean?
What about filing the home study?
When does the approval validity date start?
Where can I file a "grandfathered" Form I-600A?
If I moved after approval of the Form I-600A and my extension is about to expire, where should I file the "grandfathered" Form I-600A?
Can I use a Form I-600A approved for one child to apply for a second or third child?
Does the new home study need to be compliant with the Hague Adoption Convention?
Will I be able to use a one-time, no fee extension on this "grandfathered" Form I-600A?
Can the number of children authorized increase when the "grandfathered" Form I-600A is filed?
Does this policy affect the rules of other countries?

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What is the Hague Adoption Convention?

The Hague Adoption Convention is an international treaty. The Convention provides uniform standards for adoptions between countries that have a treaty relationship under the Convention. The Convention establishes international procedures and safeguards to protect the best interests of the children, birth parents, and adoptive parents involved in adoptions between Convention countries.

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When does the Convention become effective for the United States?

The Convention became effective for the U.S. on April 1, 2008.

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Does the Convention apply to all intercountry adoptions?

For USCIS purposes, the Convention applies only if a child who is a habitual resident in one Convention country is going to immigrate to the United States as a result of an adoption by a U.S. citizen habitually residing in the United States.

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What is a Convention country?

A Convention country is any country that is a party to the Hague Adoption Convention, *unless* the U.S. Department of State has determined that the Convention is not in force between the United States and that other country. A list of countries that are currently parties to the Convention can be seen at the following Department of State website.

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What is a “Central Authority?”

Each country that is a party to the Convention has an officially designated “Central Authority.” The Central Authority in each country ensures that the Convention adoption process is followed and provides one authoritative source of information and point of contact. In the U.S., the Central Authority is the Department of State. USCIS has been delegated Central Authority functions to adjudicate Hague adoption applications and petitions.

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What is an "adoption service provider?"

An "adoption service provider" can be an individual or an organization that must be authorized to provide adoption services in connection with a Convention adoption. The adoption service provider must be accredited or approved or otherwise authorized under Department of State regulations. Adoption service providers are responsible for providing the following services:

- Identifying a child for adoption and arranging an adoption;
- Securing the necessary consent to termination of parental rights and to adoption;
- Performing a home study and reporting on prospective adoptive parents or a background study and report on a child;
- Making non-judicial determinations of the best interests of the child and the appropriateness of an adoptive placement;
- Monitoring a case after a child has been placed with prospective adoptive parent(s) until final adoption; and
- Assuming custody of a child and providing child care or any other social service, pending alternative placement, when necessary, because of a disruption before final adoption.

The Department of State maintains a list of authorized adoption service providers on its website at www.travel.state.gov

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What forms need to be filed with USCIS for a Convention adoption?

As part of the Convention adoption process, two new USCIS forms have been introduced: **Form I-800A**, *Application for Determination of Suitability to Adopt a Child from a Convention Country*, and **Form I-800**, *Petition to Classify Convention Adoptee as an Immediate Relative*. Please follow the instructions to the forms.

A prospective adoptive parent files Form I-800A to start the immigration process when the prospective adoptive parent is a U.S. citizen who intends to adopt a child who resides in a Convention country. Form I-800A and supporting documentation are filed with USCIS to determine the eligibility and suitability of the prospective adoptive parent(s) to adopt a Convention adoptee.

After approval of Form I-800A, and after an adoption placement has been proposed, the prospective adoptive parent files Form I-800. Form I-800 and supporting documentation are filed with USCIS to determine the eligibility of a specific child for a Convention adoption.

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How will this new Convention adoption procedure be different from the current orphan adoption process?

There are some similarities between the way Convention adoptions and orphan adoptions are processed. Both involve two basic determinations: 1) whether the U.S. citizen and spouse (if married) are suitable as adoptive parents, and 2) whether the child's adoption meets the eligibility requirements in order for the child to immigrate to the U.S. In an orphan adoption case, it is possible for the parents to adopt the child before USCIS makes either of these determinations. By contrast, in a Convention adoption case:

- USCIS must determine that the parents are eligible and suitable as adoptive parents **before** the Central Authority in the other country proposes the placement of a child with the prospective adoptive parent(s) for adoption.
- The Central Authority of the child's country must determine that intercountry adoption is in the child's best interest, and that any necessary consents have been freely given.
- The Department of State as the U.S. Central Authority must certify, ***before*** the adoption can take place, that: 1) the parents have been found eligible and suitable as adoptive parent(s), 2) certain counseling requirements have been met and 3) the child is able to permanently reside in the U.S.
- In a Convention adoption, prospective adoptive parent(s) must use the services of an authorized "adoption service provider."
- As part of the Convention adoption process, two new USCIS forms have been introduced: Form I-800A, *Application for Determination of Suitability to Adopt a Child from a Convention Country*, and Form I-800, *Petition to Classify Convention Adoptee as an Immediate Relative*.
- Under the Hague Adoption Convention, an adoption may not be completed unless both countries agree that the adoption should take place and that the child will be able to immigrate to the U.S.

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What is the overall adoption process under the Hague Adoption Convention?

Generally speaking, the process is as follows:
1) The prospective adoptive parent(s) file Form I-800A with supporting documentation with USCIS, including a Home Study, that has been recommended by an authorized adoption service provider.
2) Once Form I-800A is approved, the adoption service provider forwards the approval and same home study to the Central Authority of the child's country.
3) The Central Authority of the child's country, upon acceptance of the prospective adoptive parent(s), proposes a placement of a child for adoption. The Central Authority then sends a complete report on the child to the prospective adoptive parents.
4) The prospective adoptive parents file Form I-800 with supporting documentation to USCIS.
5) Form I-800 is "provisionally approved" if the child appears eligible as a Convention adoptee.
6) Once the U.S. Central Authority (Department of State) reviews the child's visa application and notifies the child's country that the adoption may proceed, the prospective adoptive parent(s) may then complete the adoption or obtain custody of the child in the child's country.
7) The adoptive parents (or someone working on their behalf) and the child attend the visa application interview at the Department of State consulate abroad with the adoption or custody order.
8) The Department of State issues the "Hague Adoption/Custody Certificate" and grants the final approval of Form I-800 and the visa application for the child to come to the U.S.

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How can I get more information about Convention adoptions?

For further information on adoptions from Hague Convention countries, please call 1-877-424-8374

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If I have already filed Form I-600A or Form I-600 with USCIS for an intercountry adoption, do the new Convention adoption rules apply to my case?

If you filed Form I-600A or Form I-600 with USCIS before April 1, 2008, the new Convention adoption rules do not apply to your case, *provided* the laws of the child's country allow for continuation under U.S. orphan regulations. However, some Convention countries may require processing under Hague Adoption Convention rules regardless of when the processing with USCIS was initiated.

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If I adopted a child before April 1, 2008, but have not filed Form I-600A or Form I-600, do the new Convention adoption rules apply to my case?

No. Full and final adoptions completed before April 1, 2008 are not Convention adoptions. Therefore, parents who adopted a child before April 1, 2008, are still eligible to file under the orphan process, even if they did not file a Form I-600A or Form I-600 prior to April 1, 2008. For information on this process, click here.

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What happens if I am seeking to adopt a child from a non-Convention country?

If the child to be adopted is from a non-Convention country, the Convention adoption process does not apply. Instead, you will follow the intercountry adoption process under existing orphan regulations. For information on this process, click here.

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I obtained temporary or legal custody of a child in a Convention country before April 1, 2008 and I plan to adopt the child on or after April 1, 2008. May I still seek a Convention adoption?

The Hague Adoption Convention and the USCIS Hague interim Rule apply to any adoption, on or after April 1, 2008, of a child from a Convention country *unless* a Form I-600A or Form I-600 was filed before April 1, 2008. However, the Hague interim rule requires denial of a Form I-800 (*Petition to Classify Convention Adoptee as an Immediate Relative)* if the prospective adoptive parents adopted the child, or acquired custody for purposes of adoption, before the provisional approval of the Form I-800. This provision, however, was not in force before April 1, 2008. Therefore, a prospective adoptive parent who obtained custody before this date would not have been under any obligation to defer the acquisition of custody. If it can be established that the prospective adoptive parents obtained custody for purposes of adoption *before* April 1, 2008, USCIS will not deny the Form I-800 based solely on the basis of legal custody which was obtained before a Form I-800 had been provisionally approved, since the Hague Convention was not in force at the time of the grant of custody.

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I obtained legal custody of a child in a Convention country after April 1, 2008, but before the provisional approval of Form I-800. May I still seek a Convention adoption?

The Hague Adoption Convention and USCIS Hague interim rule provides that a Form I-800 cannot generally be provisionally approved if the prospective adoptive parents adopted a child or obtained custody for purposes of emigration and adoption before the provisional approval of a Form I-800. In these circumstances, for prospective adoptive parents to file Form I-800 and be eligible for a provisional approval, they will typically need to show that a legal custody order was voided, vacated, annulled, or otherwise terminated. The Form I-800 may generally be approved only if a new adoption or custody order is granted *after* the first custody order was voided, annulled, or otherwise terminated, *and* after USCIS has provisionally approved Form I-800.

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I adopted or obtained custody of a child after April 1, 2008, but before the provisional approval of Form I-800, and I cannot void or vacate the adoption or custody order. May I still seek a Convention adoption?

Adopting or obtaining custody of a child before provisional approval of a Form I-800 is not consistent with the principles of the Hague Adoption Convention, and may complicate the adjudication of the child's Form I-800. The child's eligibility to immigrate to the prospective adoptive parent's country should be resolved before completion of the proposed adoption. This minimizes the risk that a child will not be able to join his or her prospective adoptive family in their home country. As clearly stated in the instructions to Forms I-800A and Form I-800, prospective adoptive parents are cautioned not to accept a proposed adoption placement, or complete an adoption that is subject to the Convention, until after USCIS has provisionally approved Form I-800 and the Department of State has issued the article 5 notice.

The prospective adoptive parent should make every effort, under the law of the sending country, to have the premature adoption or custody order voided, vacated, annulled, or otherwise terminated, before filing the Form I-800. If the prospective adoptive parent presents evidence from the Central Authority of the country of the child's habitual residence establishing that the law of that country does not permit the adoption to be voided, vacated, annulled, or otherwise terminated, USCIS will notify the prospective adoptive parent of any additional evidence that may need to be presented in order to support provisional approval of the Form I-800. Prospective adoptive parents should keep in mind that, in at least some cases, adopting the child before provisional approval of the Form I-800 may require USCIS to determine that the adoption does not comply with the Convention and, consequently, cannot be the basis for approval of a Form I-800.

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May I foster a child from a Convention country prior to the approval of Form I-800A?

Typically, accepting a foster care arrangement before completing the Convention adoption process would not be consistent with the general purpose of the Convention, which promotes placing the child in the care of prospective adoptive parents only if both the sending country and the receiving country have determined that an intercountry adoption is permitted. Whether a foster care arrangement would actually be contrary to the Hague Adoption Convention and regulations, however, will have to be reviewed on a case-by-case basis. Note that, even if a foster care arrangement is not "custody for purposes of emigration and adoption," the steps taken to obtain a foster care arrangement may well involve "contact" with the child's birth parent(s) or other caregiver. The Convention restricts the ability to have contact with the birth parent(s) or other caregivers.

USCIS strongly recommends that prospective adoptive parent(s) apply for intercountry adoption through the Hague Adoption Convention process by using Forms I-800A and I-800, and obtaining approval of their Form I-800A, and a provisional approval of their Form I-800, before assuming responsibility for providing foster care for a child. Carefully following the Hague Adoption Convention process serves the child's best interest by ensuring that all of the steps designed for protection of the child are completed before placement.

If there is an emergency that appears to warrant taking responsibility for a child before the filing and approval of Forms I-800A and I-800, the prospective adoptive parent(s) should work through the Central Authority of the sending country to arrange foster care, to ensure that any contact with the child, the birth parent(s), or other caregivers that occurs in this process, is permissible under the Hague Adoption Convention and the USCIS Hague interim rule.

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May a prospective adoptive parent with an approved (grandfathered) Form I-600A indicating that they intend to adopt from a non-Convention country change to a Convention country and still continue an orphan adoption?

Yes. The Hague interim rule allows prospective adoptive parent(s) who filed an I-600A or I-600 prior to April 1, 2008, to be grandfathered under U.S. law. Included in this grandfathering provision is the ability for a prospective adoptive parent to change his/her Form I-600A approval from a non-Convention country to a Convention country, as long as the Form I-600A was filed prior to April 1, 2008, and continues to be valid at the time the request for change of overseas site notification is submitted. For a prospective adoptive parent who filed Form I-600A before April 1, 2008, but did not designate a specific country at the time of filing Form I-600A, he/she may designate a Convention country at a later time.

NOTE: It is important that families who filed an I-600A prior to April 1, 2008 and desire to change to a Convention country understand that while their case is grandfathered under U.S. law, this does not mean that the other Convention country must permit the adoption to take place under U.S. orphan regulations. The other country could require that the case proceed as a Hague adoption, which would require the filing of Forms I-800A and I-800.

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May a prospective adoptive parent with an approved Form I-600A who filed after April 1, 2008 indicating that they intend to adopt from a non-Convention country, change to a Convention country and still continue with an orphan adoption?

No. A prospective adoptive parent with an approved I-600A, who filed after April 1, 2008 indicating that they intend to adopt from a non-Convention country may not change to a Convention country. If the prospective adoptive parent wants to adopt from a Convention country, forms I-800A and I-800 must be filed.

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My Form I-600A was filed before April 1, 2008. Is it possible to extend the I-600A approval?

Yes. An approved I-600A is valid for 18 months. A prospective adoptive parent may request a one-time, no-charge extension of your I-600A. To request this extension, submit a request in writing for an extension of your approved I-600A to the USCIS office that approved your I-600A. There is no specific form to fill out – simply submit a written request for a one-time, no-charge extension of your valid, approved Form I-600A. An updated or amended home study must accompany this request. Apply prior to 90 days before the expiration of the I-600A. If your request for extension is approved, your I-600A approval will be extended 18 months from the expiration date of the original I-600A.

After this one-time, no charge extension, it is also possible to file a new Form I-600A before the one-time extension expires. A prospective adoptive parent who has filed Form I-600A before April 1, 2008, and who has received the one-time, no charge extension, may file one additional Form I-600A and continue to proceed with their intercountry adoption through the orphan process. The new Form I-600A must be filed before the current approval expires and only if the prospective adoptive parent has not yet filed the corresponding Form I-600. If Form I-600A is no longer valid, the prospective adoptive parent must file Form I-800A.

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If my request for an extension of Form I-600A approval is granted, what will be the start date of the new extension?

The new approval will be effective as of the expiration date of the original approval, rather than the date of the decision to extend the approval. For example, if the original approval expired January 1, 2008, the extension will expire July 1, 2009.

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What will the immigrant visa classification be for Convention Adoptees?

Upon final approval of the I-800 petition, a child may be issued an IH-3, IH-4, or B-2 visa. An IH-3 is a Convention Child adopted abroad and who automatically acquires U.S. citizenship upon entry to the U.S. An IH-4 is a Convention Child coming to be adopted in the U.S. IH-4 children do not automatically acquire U.S. citizenship, but are lawful permanent residents until the adoption is full and final. Children entering as a B-2 temporary visitor for pleasure are admitted under Section 322 interview, naturalization, and then depart the country.

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Will USCIS provide me with documentation of my child's citizenship (IH-3)?

Yes. USCIS will issue a Certificate of Citizenship from our Buffalo District Office within 45 days of receipt of the visa packet.

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Will USCIS provide me with proof of my child's lawful permanent resident status (IH-4)?

Yes. USCIS will issue a lawful permanent resident card, Form I-551 within days of receipt of the visa packet.

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Which USCIS office adjudicates and approves Forms I-800A and I-800?

The National Benefits Center (NBC) is the only USCIS office that fully adjudicates forms I-800A and I-800 to completion.

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How long does it take for a USCIS field office to send Forms I-800A, I-800, and other required documents to NBC?

USCIS field offices generally mail forms I-800A, I-800, and other required documents within 24 hours of receipt.

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Are Forms I-800A being forwarded from NBC to the National Visa Center (NVC), or are I-800As going directly from NBC to an overseas Embassy/Consulate?

Approved I-800A applications are sent from the NBC to the NVC.

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What is the NBC's timeframe for processing Form I-800A applications?

Cases are targeted for completion within 90 days of receipt. Cases that are properly filed and submitted with complete home studies may be processed without delay.

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What is the NBC's intended timeframe for processing Form I-800 petitions?

All cases are targeted for completion within 90 days of receipt. Cases that are properly filed and submitted with a complete Hague Convention Article 16 report on the child, may be processed without delay.

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Has the direct mail program been implemented for the receipt of Forms I-800A and I-800?

Yes. On August 26, 2008 USCIS issued an Update announcing the expansion of USCIS' Direct Mail program to include Forms I-800A and I-800. Beginning on September 25, 2008, applicants must submit Forms I-800, I-800A, and all related supplements and forms to the USCIS Chicago Lockbox facility for initial processing, using the following address:

U.S. Citizenship and Immigration Services
P.O. Box 805695
Chicago, IL 60680-4118

If you are filing Hague-related Forms I-601, Application for Waiver of Ground of Inadmissibility; I-864, Affidavit of Support Under Section 213A of the Act; I-864EZ, Affidavit of Support Under Section 213A of the Act; or I-864W, Intending Immigrant's Affidavit of Support Exemption; with Form I-800, you must also send these forms to the Lockbox address. For more information on this processing change, please visit www.uscis.gov/pressroom.

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What is the procedure for expeditious processing of special needs children?

At this time, a significant majority of all pending cases are for special needs children. While there is no procedure for expeditious processing, all cases are targeted for completion within 90 days of receipt. Cases that are properly filed and submitted with complete home studies may be processed without delay.

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If the home study agency/preparer is conducting two home studies at the same time, does this have to be stated in the home study?

Yes. In this situation we may consider the additional home study as a prior home study. Consistent with regulatory requirements the home study preparer should:

1) Identify the agency involved in each prior or terminated home study
2) State when the prior home study process began
3) Include the date the prior home study was completed
4) Explain whether the prior home study recommended for or against finding the applicant or additional adult member of the household suitable for adoption, foster care, or other custodial care of a child. If a prior home study was terminated without completion, the current home study must indicate when the prior home study began, the date of termination, and the reason for the termination.

If the other home study has not yet been completed, please note that in the home study.

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If I receive a raise at work, am I required to submit a home study amendment?

No. However, if your income decreases a home study amendment is required.

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How much time can lapse between the visit to the home and the completion of the home study?

At least one home visit must be completed during the course of the home study process. The home study must not be more than 6 months old at the time it is submitted to USCIS. There is no requirement regarding the timeliness of when, during the home study process, the home visit must occur.

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What if the home study preparer is not able to determine whether a foreign country has a child abuse registry?

The process ensures that USCIS has access to any readily available evidence that may relate to the applicant's suitability as an adoptive parent. There is no obligation, of course, to provide information that simply is not available. If a country does not have a child abuse registry, it is enough for the home study preparer to make this fact clear in the home study.

USCIS has sought to determine which countries, other than the United States, maintain "child abuse registries". As this information becomes available with respect to a particular country, USCIS will make the information available. Until such time as USCIS is able to verify that a particular country does have such a child abuse registry, USCIS will find that a home study complies with the regulation if the home study preparer states in the home study that the home study preparer has consulted the Central Authority of the foreign country (if it is a Convention country) or other competent authority (for a country that is not a Convention country) and has determined, based on this consultation, that the foreign country does not have a child abuse registry.

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Are home study preparers required to list each state in which a child abuse registry was checked, or should the documented checks be included in the home study?

The home study preparer must ensure that a check of the applicant and of each additional adult household member has been made with available child abuse registries in any State or foreign country that the applicant, or any additional adult member of the household, has resided in since that person's 18th birthday. The home study must include results of the checks conducted, including when no record was found to exist, that the State or foreign country will not release information to the home study preparer or anyone in the household, or that the State or foreign country does not have a child abuse registry.

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Regarding the definition of an "adult member of the household", when must a home study preparer include an assessment of a household member who has not yet reached his or her 18th birthday or an assessment of someone who does not actually live in the home but whose presence is relevant to the issue of suitability to adopt?

The home study preparer is not required to include an assessment of these persons as an adult member of the household unless USCIS specifically asks the home study preparer to do so. As a matter of practice, the home study preparer needs only to assess the prospective adoptive parents and any other adult members of the household.

In a given case, the home study preparer may be aware of facts about another person that, in the home study preparer's considered professional judgment, could be relevant to the issue of the applicant(s) suitability to adopt. For example, a child who is not yet 18 could have a criminal history, or a history of drug or alcohol abuse. In such cases, if it is apparent that this person's history could impact the applicant's suitability to adopt, it may be prudent for the home study preparer to include this information in the home study and provide an appropriate recommendation. Similarly, if the home study preparer's reasoned professional judgment is that there is some other person who does not live with the applicant(s) "whose presence in the home is relevant to the issue of suitability to adopt," such as an extended family member who spends a lot of time at the applicant's residence, it would be prudent to include information about this person in the home study, so that USCIS can make an informed decision on the case. The USCIS adjudicator reviewing such a home study would then be able to determine whether to request an additional Form I-800A, Supplement 1, with the applicable biometrics fee. Once USCIS determines that an I-800A, Supplement 1 is necessary for another person, Supplement 1 will be sent to the prospective adoptive parent with instructions for that other person and the prospective adoptive parent to complete and submit Supplement 1 to USCIS. The person then must be evaluated by the home study preparer.

However, the home study preparer may limit his or her assessment to the prospective adoptive parents and need not include anyone else unless USCIS asks for this additional evaluation.

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If a child from a Convention country is already in the U.S., can the child be deemed to be "habitually resident" in the U.S. so that the child can be adopted without complying with the Convention and USCIS interim rule?

A child who is present in the United States, but whose habitual residence was in a Convention country other than the United States immediately before the child came to the United States, is still deemed to be habitually resident in the other Convention country for purposes of the filing and approval of a visa petition based on the child's adoption by a citizen who is habitually resident in the United States. Thus, USCIS will presume that the child's adoption and immigration are governed by the Convention.

Since a child is still deemed to be habitually resident in the other Convention country, a U.S. citizen who is habitually resident in the United States and who wants to adopt a child from a Convention country must, generally, follow the Convention adoption process, even if the child is already in the United States. Forms I-800A and I-800 can be filed, even if the child is in the United States, if the other Convention country is willing to complete the Convention adoption process with respect to the child.

In most cases, adoption under the Convention would be in the child's best interests, even if the child is present in the United States. The child may be able to immigrate and acquire citizenship by automatic naturalization, as a direct result of the adoption under the Convention. If the child is adopted without compliance with the Convention, the parent must have legal custody of the child and live with the child for 2 years before the child can acquire permanent residence as the child of the U.S. citizen adoptive parent.

There may be situations, however, when the adopting parent is not able to complete a Convention adoption, because the Central Authority of the child's country has determined that, from its perspective, the Convention no longer applies to the child. The purpose of USCIS regulations is to prevent the circumvention of the Convention process. Thus, USCIS regulations must be read in light of the Convention. Therefore, USCIS may conclude that there is a sufficient basis for saying that the Convention and the implementing regulations no longer apply to a child who came to the United States from another Convention country.

USCIS regulations provide the principles for determining whether the child is habitually resident in a country other than the country of citizenship. This regulation does not explicitly apply to children in the United States, but USCIS has determined that it can be interpreted to permit a finding that a child who is presumed to be habitually resident in another Convention country can be found to no longer be habitually resident in that country, but to be habitually resident, now, in the United States. USCIS will determine that regulations no longer preclude approval of a Form I-130 if the adoption order that is submitted with the Form I-130 expressly states that the Central Authority of the other Convention country has filed with the court a written statement indicating that the Central Authority is aware of the child's presence in the United States, and of the proposed adoption, and that the Central Authority has determined that the child is not habitually resident in that country. A copy of the written statement from the Central Authority must also be submitted with the Form I-130 and the adoption order.

If the adoption order shows that the Central Authority of the other Convention country had determined that the child was no longer habitually resident in that other Convention country, USCIS will accept that determination and, if all the other requirements are met, the Form I-130 may be approved.

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What is a “grandfathered” Form I-600A?

Department of Homeland Security regulations allow only one extension of the approval of a Form I-600A. If that extension is also scheduled to expire, the only alternative is to file a new Form I-600A, with a new filing fee. Generally, a Form I-600A may not be filed after April 1, 2008, for the adoption of a child from a Hague Convention country. However, a case may continue as an orphan case if a Form I-600A was filed before April 1, 2008. USCIS interprets this provision as permitting prospective adoptive parents whose Form I-600A approval is still in effect, but is about to expire, to file a new Form I-600A, as long as they file the new Form I-600A *before* the current approval expires. A new Form I-600A that is filed after April 1, 2008, will be considered *grandfathered* only if the following criteria apply:

- the new Form I-600A is filed before expiration of a previous period of approval of the extension of Form I-600A; **AND**
- the previous extension of approval of Form I-600A, that is about to expire was for a Form I-600A which itself was filed before April 1, 2008; **AND**
- no Form I-600 has been filed on the basis of the previous Form I-600A.

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When can I file my “granfathered” Form I-600A?

USCIS must receive the properly filed application no more than 90 days before the expiration date of the approval of the one-time, no fee “extension” of the original, approved Form I-600A, but before the approval expires. For example, if the “extension” approval is valid until December 31, a *grandfathered* application may be filed from October 2 until December 31. If the application is filed after December 31, a Form I-800A, *Application for Determination of Suitability to Adopt a Child from a Convention Country*, must be filed and the case must be processed through the Hague Adoption Convention procedures.

Note: The approval expiration date of a Form I-600A or its “extension” is calculated by adding 18 months to the date found in the “date of completion of advance processing” located in the upper right corner of the Form I-171H or Form I-797c.

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What does “properly filed” mean?

The term “properly filed” means that the application is submitted to USCIS with the proper signature(s) and fee(s) as required by the instructions of the Form I-600A. At the time of filing, the applicant must also submit all required documentation, and evidence that his/her application meets the requirements for grandfathering an application as outlined in the second question of this document. Evidence that can be submitted to demonstrate eligibility includes, but is not limited to, a copy of the:

- Form I-600A Extension Approval Notice for I-600A filed prior to April 1, 2008 Form I-171H, or Form I-797c,
- the Acknowledgement Notice for Form I-600A filed prior to April 1, 2008, and/or
- the fee receipt that was received from USCIS for a Form I-600A filed prior to April 1, 2008

It is also necessary for the applicant to submit a written statement, signed under penalty of perjury, attesting that a Form I-600 has not been filed on the application. Where original approval of Form I-600A (filed prior to April 1, 2008) has been issued for more than one child, the prospective adoptive parent would attest that the corresponding number of Forms I-600 had not yet been filed.

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What about filing the home study?

A home study may be submitted up to one year after the date of the filing of a Form I-600A. No action can be taken on a Form I-600A, however, until the home study is filed. If the applicant does not file a home study with the new Form I-600A, the new Form I-600A will still be *grandfathered*, if the applicant files the new Form I-600A before the approval of the prior Form I-600A expires. The new Form I-600A will not be approved, however, until after USCIS has received and reviewed the home study. To avoid delays, the applicant should always submit the new home study with the new Form I-600A. The applicant may, of course, submit a copy of the original home study, so long as it has been updated or amended so that it is current (not more than six months old) when it is submitted.

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When does the approval validity date start?

Because the intent of grandfathering the Form I-600A is to maintain validity of an approval in order to continue a transitional case that is already in progress for an adoption, the validity period is *not* governed by when the home study is submitted to USCIS. The 18 month validity period will begin on the date of expiration of the approval of the original Form I-600A extension. For example, if the validity of approval of the original application expired on May 15, 2008, the "extension" validity of the application began on May 16, 2008. The validity of the *grandfathered* Form I-600A would, therefore, begin on Nov. 15, 2009 (upon expiration of the extension) and expire 18 months later.

Since the new 18-month approval period will extend from the date the earlier approval expired, and not from the date of the decision approving the new Form I-600A, applicants are encouraged to submit all the necessary evidence, including the home study, with the new Form I-600A. Even if the decision is delayed because the home study or other evidence has not yet been submitted, the approval period will still expire 18 months after the earlier approval period. For example, if a Form I-600A approval will expire on Nov. 30, 2008, and an applicant files a new Form I-600A on Sept. 30, 2008, but does not submit the home study until September 30, 2009, the new approval will still expire May 30, 2010.

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Where can I file a "grandfathered" Form I-600A?

Grandfathered Forms I-600A are filed at the field office having jurisdiction over the applicant's current residence. If the applicant has moved to the jurisdiction of a new USCIS office since the approval of the extension of the original application, it is helpful if he/she notifies the previous office of the move. The two offices may then coordinate the transfer of any necessary information concerning the case.

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If I moved after approval of the Form I-600A and the extension is about to expire, where should I file the "grandfathered" Form I-600A?

Grandfathered Forms I-600A are filed at the field office having jurisdiction over the applicant's current residence. If the field office jurisdiction has changed, it is best to let the previous office know that there has been a change of address because this will save time consolidating the information from both offices.

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Can I use a Form I-600A approved for one child to apply for the adoption of a second or third child?

If the approval of the original I-600A was for more than one child, then a new Form I-600A will be "*grandfathered*" only for the total number of children for which the original Form I-600A was approved, minus the number of children for whom a Form I-600 has already been filed. For example, if the original Form I-600A was approved for three children, and two Forms I-600 have been filed, the new Form I-600A will be *grandfathered* only for one additional child. If you ask to be approved for more children than the number approved with the original Form I-600A, and the request is granted, any additional children will have to be from non-Hague countries.

The only exception to this limit is if the applicant seeks to adopt a birth sibling of a child who the applicant has already adopted, and seeks to adopt the birth sibling at the same time as the adoption of a child whose Form I-600A is *grandfathered*. If a birth sibling is located after the total number of children on the *grandfathered* Forms I-600A have actually immigrated, the birth sibling's immigration would be governed by the Hague Adoption Convention.

> Example 1: Applicant was approved to adopt three children on a *grandfathered* Form I-600A. Applicant has filed Forms I-600 for two children, Anna and Ben, and they have immigrated. Applicant then files a new Form I-600A to grandfather the one remaining child covered by the earlier Form I-600A. Applicant goes abroad to adopt Chris, whose case is *grandfathered*. While abroad, David is located. David is Chris's birth sibling, and Applicant wants to adopt David and Chris on the same trip. Because David is Chris' birth sibling, and will be adopted on the same trip, Applicant may have the Form I-600A approval amended to allow one additional child.
>
> Example 2: Applicant was approved to adopt three children on a *grandfathered* Form I-600A. Applicant has filed Forms I-600 for two children, Anna and Ben, and they have immigrated. Applicant then files a new Form I-600A to grandfather the one remaining child covered by the earlier Form I-600A. Applicant goes abroad to adopt Chris, whose case is *grandfathered*. While abroad, David is located. David is not related to Chris, but is Anna's birth sibling, and Applicant wants to adopt David and Chris on the same trip. Because David is Anna's birth sibling, and will be adopted on the same trip, Applicant may have the Form I-600A approval amended to allow one additional child.
>
> Example 3: Applicant was approved to adopt three children on a *grandfathered* Form I-600A. Applicant has filed Forms I-600 for two children, Anna and Ben, and they have immigrated. Applicant then files a new Form I-600A to grandfather the one remaining child covered by the earlier Form I-600A. Applicant goes abroad to adopt Chris, whose case is *grandfathered*. Chris immigrates. After all three children have immigrated, David is located. David is a birth sibling of one of the children already adopted. Applicant has already filed the total number of Forms I-600 permitted, and all of those cases are completed. For this reason, David's adoption and immigration are governed by the Hague Adoption Convention and the Hague Adoption Convention procedures must be followed in David's case.

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Does the new home study need to be compliant with the Hague Adoption Convention?

No. Because the application is "*grandfathered*" into the Orphan Process, it is also "*grandfathered*" into all regulations relating to that process. This includes all parts of the Orphan Process. In other words, the home study should comply with the Orphan regulations which can be found in the Code of Federal Regulations at 8 CFR 204.3.

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Will I be able to use a one-time, no fee extension on this “grandfathered” Form I-600A?

Yes. To request an extension, prospective adoptive parent(s) must submit a written request to USCIS. The written request must explicitly request a one-time, no fee extension to the current approved Form I-600A. Applicants must also submit an amended/updated home study and any other supporting documentation of any changes in the household. The home study must also address any changes to answers submitted with the initial Form I-600A and must say whether approval is still recommended.

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Can the number of children authorized increase when the “grandfathered” Form I-600A is filed?

You may ask for and receive an increase of the number of children that you are approved for. As stated previously, however, the total number of adoptions to which “grandfathering” will apply cannot be increased after April 1, 2008. A new Form I-600A will be *grandfathered* only for the number of children specified in the original Form I-600A, minus the number of children for which a Form I-600 has already been filed. The only exception, as noted earlier, is for birth siblings who are adopted at the same time as a child whose case is *grandfathered*. For example, if you were approved for two children before April 1, 2008, and you are approved for five children under a new Form I-600A, and have not filed *any* Form I-600, the Form I-600A will be grandfathered for two children, but not grandfathered for the other three. The result is that you will be able to file up to two Forms I-600 for children from a Hague Convention country (plus any birth siblings adopted at the same time), but any additional Forms I-600 will have to be for children from a non-Hague Convention country.

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Does this policy affect the rules of other countries?

No. This guidance pertains only to the United States transition case rules. It does not address what the country of the prospective adoptive child’s origin may consider to be an appropriate application for its own intercountry adoption processes. Prospective adoptive parents remain subject to the requirements of the child’s country of origin, should that country require that the intercountry adoption be completed under the Hague Adoption Convention.

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Services Available to U.S. Citizens

How to Understand the Immigration Process When Adopting Children and How to Help a Fiancé(e) Immigrate to the United States

How to Help a Fiancé(e) Immigrate to the United States

OVERVIEW

A U.S. citizen who decides to marry a person who is outside the United States can take different paths to help their fiancé (e) get permanent residence.

The first option – if your fiancé(e) is overseas and you want to get married in the U.S – is the fiancé(e) visa. This visa acts as a bridge to permanent residence for your fiancé(e) – it lets him or her enter the U.S. for 90 days so your marriage ceremony can take place here. Once you are married, he or she can apply for permanent residence and remain in the U.S. while we process the application. If you choose this option, you will need to file a **Form I-129F** fiancé(e) petition. The I-129F is available from our website at www.uscis.gov. If you choose this option and if we approve the I-129F, we will send it to the U.S. Embassy or Consulate nearest your relative's foreign place of residence. The Consulate will then invite your fiancé(e) to apply for the actual fiancé(e) visa.

Another option is to marry overseas. If you marry overseas, you can file a **Form I-130** relative petition for your new husband or wife after you marry. If you choose this option, when the petition is approved your new husband or wife will be processed for an immigrant visa by the U.S. Embassy or Consulate, and will then enter the U.S. as a permanent resident.

The final option is if your fiancé(e) is already in the United States already in another lawful temporary status and you want to get married in the U.S. While you may marry and file the Form I-130 for him/her, there may be additional requirements that he/she will have to meet before being able to adjust status to permanent resident.

The instructions to Form I-129F or to Form I-130 explain how to file, and the process, in greater detail. You can read and print the forms and instructions right from our website at www.uscis.gov. If you don't have web access at home or work, check with your public library. But if you'd prefer to have them mailed to you, please call the USCIS Customer Service toll free number at 1-800-375-5283.

To guide customer through the fiancé(e) process, click here.

Frequently Asked Questions concerning the Fiancé(e) process, click here.

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Are you interested in getting married to your fiancé(e) and getting permanent resident status for him/her?

- Yes
- No

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Your fiancé(e) is currently:

- Inside the United States
- Outside the United States

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Your fiancé(e) wants to:

- Depart the United States and return to get married
- Depart the United States and get married outside the United States
- Get married now

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If your fiancé(e) departs the United States and wants to return with the intent to marry you, he/she will need to obtain a K-1 fiancé(e) visa while outside the U.S. in order to return to the United States and marry you.

If your fiancé(e) returns to the United States in almost every other nonimmigrant visa category with the intent to marry you and remain in the United States, he/she may be considered to have committed visa fraud. Commission of visa fraud carries with it many consequences, including the possible denial of other benefits and/or removal from the United States.

For more information about how to obtain the the K-1 fiancé(e) visa outside the U.S., click here

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If you marry your fiancé(e) in the United States, he/she will then become your husband/wife. For more information on how to help a husband/wife become a permanent resident, click here.

Travel Warning if you marry:

It is important to understand that anyone who departs the United States and attempts to re-enter with the intent to remain permanently in the United States must have an immigrant visa or must have received special permission to re-enter before departing or he/she may be barred form entering the United States.

If you marry your fiancé(e) and he/she intends to travel after the marriage, please check with USCIS first.

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You intend to get married:

- Inside the United States
- Outside the United States

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If you choose to get married outside the United States, after you get married you will need to file a Form I-130, Petition for Alien Relative, for your spouse. If you plan on going abroad to get married, please check with the consulate of that country to check on the rules and laws of U.S. Citizens entering and/or getting married in that country before you travel.

For more information on how to help a husband/wife become a permanent resident, click here.

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Have you physically met your fiancé(e) within the last two years?

- Yes
- No

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In most cases, in order for your fiancé(e) to be eligible to receive the fiancé(e) visa, you must physically meet your fiancé within the two years immediately preceding the date of filing Form I-129F, Petition for Alien Fiance(e).

As a matter of discretion, USCIS may exempt the petitioner from this requirement only if it is established that compliance would result in extreme hardship to the petitioner or that compliance would violate strict and long-established customs of the K-1 beneficiary's foreign culture or social practice. Examples include areas where marriages are traditionally arranged by the parents of the contracting parties and the prospective bride and groom are prohibited from meeting subsequent to the arrangement and prior to the wedding day.

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Are you and your fiancé(e) legally free to marry?

- Yes
- No

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In order to be eligible for a K-1 visa, both you the petitioner, and your fiancé(e) must be legally free to marry at the time Form I-129F is filed. This means that if you or your fiancé(e) have any prior marriages, those marriages must have already ended in annulment, divorce, or the death of the former spouse prior to the filing of the I-129F.

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Do you intend to get married within 90 days after your fiancé(e) enters the U.S.?

- Yes
- No

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It appears that the fiancé(e) petition is not the right approach for you. Both you and your fiancé(e) must have the intent to get married within 90 days after his/her entry. You will want to consider marrying your fiancé(e) outside the U.S. and going through the spouse relative petition process instead.

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Based on the information you have provided, it appears that you may want to file a Form I-129F, Fiancé(e) Visa Petition, on behalf of your fiancé(e). If the Form I-129F is approved, it will be sent to the U.S. Consulate or Embassy nearest your fiancé(e)'s foreign place of residence. Your fiancé (e) will then be scheduled for an interview to request a K-1, Fiancé(e) visa so he/she can enter the United States to marry you.

After entering the United States as a K-1 fiancé(e), he/she must marry you within 90 days. If you do not marry within the 90-day period after he/she enters in K-1 status, your fiancé(e) will have to depart the U.S. There is no extension of K-1 status.

Once your fiancé(e) enters the United States in K-1 status, he/she can apply for an employment authorization document. However, if approved, the employment authorization will expire when the K-1 status expires, 90 days after entry. When you consider the time it will take to prepare and file the application for an employment authorization document, the cost, and the time for us to process the application and then deliver the temporary card, your fiancé(e) may want to wait until after the wedding to file for permanent residence and then apply for employment authorization.
To download the Form I-129F so you can complete and file it, click here.

If you decide to file, you'll also need to include all appropriate fees.

Click here for important questions about whether your fiancé(e) has children or not.

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Does your fiancé(e) have any children?

- Yes
- No

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My fiancé(e) has a young child. Can the child come to the United States with the parent?

To be issued a visa to come to the U.S. with your fiancé(e), the child must be unmarried and under age 21. The child must also be included on the original Form I-129F. The child may be able accompany the fiancé(e) parent receiving the visa as long as all custodial issues have been resolved in that child's country.

There are other specific requirements that may have to be met in order to receive the visa. A United States Consular Officer abroad will determine eligibility for the visa.

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FAQs for the I-129F Fiancé (e) Visa Petition

- **What are the basic eligibility requirements for a fiancé(e) petition?**
- **What if my fiancé(e) is already in the U.S. in another status and we decide to get married now?**
- **What if we are engaged but have not yet really decided to marry?**
- **If we choose the fiancé(e) visa option, how does my fiancé(e) get permanent resident status?**
- **What happens if we do not get married within 90 days?**
- **We want to make plans for our wedding. How long will this process take?**
- **My fiancé(e) has a child. Can the child come to the U.S. with my fiancé(e)?**
- **Can my fiancé(e) work in the U.S. while here on a fiancé(e) visa?**
- **What if my fiancé(e) uses a different kind of visa to come here so we can get married?**
- **What is the fee for the I-129F**

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What are the basic eligibility requirements for a fiancé(e) petition?

Only a U.S. citizen can file a fiancé(e) petition. In your petition, you must prove that –

- You are a U.S. citizen; and
- You and your fiancé (e) intend to marry within 90 days of your fiancé(e) entering the U.S.; and
- You are both free to marry; and
- You have met each other in person within two years before you file this petition unless:
  1. The requirement to meet your fiancé(e) in person would violate strict and long-established customs of your or your fiancé(e)'s foreign culture or social practice; or
  2. You prove that the requirement to personally meet your fiancé(e) would result in extreme hardship to you.

NOTE: The law places restrictions on multiple filings of fiancé(e) petitions by the same U.S. citizen. If you meet either of the two situations below, you must apply for and be granted a waiver of the multiple-filing restrictions before your current fiancé(e) petition can be approved.

1) If you have previously filed two or more fiancé(e) petitions; or
2) You filed a fiancé(e) petition that was approved within the last two years.

A waiver may be granted in USCIS' discretion if you demonstrate that justification exists for granting you a waiver. However, no waiver will be granted if you have a record of violent criminal offenses against a person or persons except in extraordinary circumstances or if you have been battered or subjected to extreme cruelty and you were not the primary perpetrator of the domestic violence.

The law also requires USCIS to track multiple filers upon the approval of a second fiancé(e) petition. Upon approval of a third fiancé(e) petition within 10 years of the first fiancé(e) petition, both you and your fiancé(e) will be notified about the number of previous fiancé(e) petitions you have filed. If you have been convicted of certain crimes, information regarding your criminal record may be disclosed to your fiancé(e) prior to issuance of his or her visa to enter the United States. For more information, consult the instructions to Form I-129F.

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What if my fiancé(e) is already in the U.S. in another status and we decide to get married now?

A fiancé(e) visa is only available to someone who is outside the U.S., or will be leaving the U.S. and then returning as a fiancé(e). However, if you marry your fiancé(e) while he/she is here in the U.S. in another status, then you can file a relative petition for him or her as your husband or wife. This does not necessarily mean that he/she will be able to apply for permanent resident status here in the U.S. For more information about spouse relative petitions, and spouses getting permanent resident status, please click here.

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What if we are engaged but have not yet really decided to marry?

The fiancé(e) visa is a temporary visa that simply lets your fiancé(e) enter the U.S. so you can get married here. It is not a way for you to bring a person here so you can get to know one another or spend more time together to decide whether you want to get married.

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If we choose the fiancé(e) visa option, how does my fiancé(e) get permanent resident status?

First, your fiancé(e) will enter the U.S. with a fiancé(e) visa. Next the two of you marry. You will need to get married within the 90 days that his/her status lasts. As soon as you get married, your new husband/wife may apply for permanent residence by filing a Form I-485.

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What happens if we do not get married within 90 days?

Fiancé(e) status automatically expires after 90 days. It cannot be extended for any reason. Your fiancé(e) must leave the U.S. at the end of the 90 days if you don't get married. If he or she does not depart, he/she will be in violation of his or her immigration status. This can affect future eligibility for immigration benefits.

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We want to make plans for our wedding. How long will this process take?

We cannot guarantee a processing time. Every case is different, and the number of cases we receive varies. Please check our website for our current processing time for the Form I-129F. To be fair to all customers, we process fiancé(e) cases in the order we receive them. We cannot pull a case out of order to accommodate individual wedding plans. In addition, once we complete processing, the U.S. Consulate must process your fiancé(e) for a visa; so factor this into your plans. We know this can cause uncertainty as you plan your wedding. That is one reason why we admit a fiancé(e) for 90 days to get married and then file for permanent residence.

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My fiancé(e) has a child. Can the child come to the U.S. with my fiancé(e)?

If the child is less than 21 years old and is not married, a K-2 visa may be available to him/her. Be sure to include the name(s) of your fiancé(e)'s child(ren) on your Form I-129F fiancé(e) petition.

The child may be able to accompany the fiancé(e) parent receiving the visa as long as all custodial issues have been resolved in that child's country.

There are other specific requirements that may have to be met in order to receive the visa. A United States Consular Officer abroad will determine eligibility for the visa.

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Can my fiancé(e) work in the U.S. while here on a fiancé(e) visa?

Your fiancé(e) can apply for an employment authorization document after he or she is admitted to the U.S. based on the fiancé(e) visa. However, it will expire when status expires 90 days after entry. When you consider the time it will take to prepare and file the application for an employment authorization document, the cost, and the time for us to process the application and then deliver the temporary card, he or she may want to wait until after the wedding. That is because as soon as you marry he or she can apply for permanent residence and then apply for employment authorization that will be valid longer.

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What if my fiancé(e) uses a different kind of visa to come here so we can get married?

There could be serious consequences. Attempting to get a visa or enter the U.S. by saying one thing when you intend another may be considered immigration fraud, for which there are severe civil and criminal penalties. Those penalties include restricting a person's ability to get immigration benefits, including permanent residence, as well as a possible fine of up to $10,000 and imprisonment of up to five years. It is not appropriate for your fiancé(e) to enter the U.S. as a visitor with the intent to marry you and remain to try to become a permanent resident.

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Services Available to U.S. Citizens

Changing Your Address with USCIS

OVERVIEW

United States citizens are not required to keep the U.S. Citizenship and Immigration Services (USCIS) informed of their address ***unless*** the U.S. citizen has sponsored an alien for purposes of immigrating to the United States.

However, if you have an application or petition pending with USCIS, for purposes of case processing and notification of decisions or requests for evidence, etc., a United States citizen may wish to keep USCIS office informed of any address changes during the time that the petition or application is

For FAQs concerning changing your address with USCIS, continue below.

- **You Do Not Have any Applications or Petitions Pending with USCIS but Have Filed an Affidavit of Support, Form I-864, to Financially Sponsor Someone Who Became a Permanent Resident**
- **You Do Not Have any Applications or Petitions Pending with USCIS and Have Not Filed an Affidavit of Support on Behalf of Someone Who Became a Permanent Resident**
- **If you have an application or petition pending with USCIS, please see here for pending services.**

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United States citizens who have no applications or petitions pending with USCIS are not required to keep USCIS informed of address changes unless they have filed an affidavit of support, Form I-864, on behalf of an alien to assist that alien to immigrate to the United States.

If a United States citizen sponsors an alien by submitting Form I-864, the U.S. citizen must keep USCIS informed of his/her address during the time the sponsor's support obligation under the affidavit of support remains in effect. If the U.S. citizen sponsor's address changes, he/she must file Form I-865, Sponsor's Notice of Change of Address, with USCIS no later than 30 days after the change of address becomes effective. The Form I-865, Sponsor's Notice of Change of Address, is available on our website.

Failure to submit a Form I-865 when required may result in a civil penalty ranging from $250 to $2,000 unless the sponsor knew that the sponsored immigrant had received means-tested public benefits, in which case the fine will range from $2,000 to $5,000.

Back to Change of Address for U.S. Citizens U.S. Citizen Services

United States citizens are not required to keep USCIS informed of address changes unless they have filed an affidavit of support on behalf of an alien to assist that alien to immigrate to the United States.

For purposes of case processing and notification of decisions or requests for evidence, etc., a United States citizen who has a petition or other application pending with USCIS should keep the USCIS office informed of any address changes during the time that the petition or application is pending.

Therefore, a U.S. citizen who does not have any applications or petitions pending with USCIS and who has not filed an affidavit of support on behalf of an alien does not need to take any action or complete any form to inform USCIS of any change of address.

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Services Available to U.S. Citizens

Replacing a Lost, Stolen, or Destroyed Certificate of Citizenship/Naturalization

OVERVIEW

Sometimes important documents are lost, misplaced, destroyed or stolen. If you are a naturalized citizen or if you have been issued a certificate of citizenship and your naturalization certificate or certificate of citizenship has been lost, stolen, mutilated, or destroyed, you can apply for a replacement certificate by filing an Application for Replacement of Naturalization Citizenship Document, Form N-565, with USCIS.

For FAQs concerning replacing a lost, stolen, or destroyed certificate of citizenship/naturalization, continue below.

- **How do I replace a lost, stolen, or destroyed naturalization certificate or certificate of citizenship?**
- **Do I apply for a new certificate if my name or other information changed?**
- **How can I get the Form N-565?**
- **How should I organize my N-565 application?**
- **How will my N-565 application be processed?**
- **How long will it take USCIS to process my N-565 application?**
- **Will USCIS issue interim documentation while my N-565 application is pending?**
- **Where Do I File the N-565?**

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How do I replace a lost, stolen, or destroyed naturalization certificate or certificate of citizenship?

To apply to replace your naturalization certificate or certificate of citizenship issued by USCIS or by the former U.S. Immigration and Naturalization Service, file a Form N-565, *Application for Replacement Naturalization Citizenship Document.* You can get a Form N-565 from our website at www.uscis.gov.

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Do I apply for a new certificate if my name or other information changed?

If there was an error and information on your certificate was wrong when it was issued, you should apply for a corrected certificate.

If your name has legally changed after your certificate was issued, such as through a marriage, divorce or court order, it is your choice whether to apply for an updated certificate. It is not required. USCIS will not otherwise update a certificate that was correct when issued.

To replace a Naturalization Certificate or Certificate of Citizenship, apply using Form N-565.

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How can I get the Form N-565?

You can get a Form N-565 from our website at www.uscis.gov.

To download the Form N-565 so you can complete and file it, click here

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How should I organize my N-565 application?

Follow the instructions on the application on organizing your application and include the following initial evidence:

- Your N-565 application completely filled out and signed.
- A check or money order for the total filing fee attached to the front of your application.
- If an attorney or accredited representative represents you, include a signed Form G-28, Notice of Entry of Appearance as Attorney or Representative.
- 2 identical passport-style photos.
- Write your name and your USCIS account number, or A#, on the back of each photo in pencil.
- If you are filing to correct your certificate or because it was in error, include your original certificate.
- If you are filing to replace a lost or stolen certificate, include a copy if you have one.
- If you have legally changed your name since your certificate was last issued, include evidence of each name change since that last certificate was issued.

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How will my N-565 application be processed?

USCIS may interview you as part of the N-565 application process to establish your identity. USCIS will notify you of the decision on your application. If the application is approved, an approval notice will be mailed to you.

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How long will it take USCIS to process my N-565 application?

For processing time, click https://egov.uscis.dhs.gov/cris/jsps/ptimes.jsp If you need assistance checking processing times, please call the USCIS Customer Service toll free number at 1-800-375-5283.

If your case is outside the processing times shown in the Local Office's processing times as shown in Case Status Online, you will need to write to the Local Office to request information about your case.

If a processing time is not available in Case Status Online and it is over 6 months from the date that the application was filed, you may contact the Local Office by sending a letter requesting the status of the case and processing time.

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Will USCIS issue interim documentation while my N-565 application is pending?

Evidence of U.S. citizenship cannot be issued until the necessary research is completed. If you have a U.S. passport, you can use that as proof of citizenship.

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SAMPLE U.S. PASSPORT

A UNITED STATES PASSPORT is a document that is issued by the State Department to persons who have established that they are citizens of the United States by birth, naturalization, or derivation of citizenship. The primary purpose of the passport is to facilitate travel to foreign countries by establishing U.S. citizenship and acting as a vehicle to display any appropriate visas and/or entry/exit stamps that may be necessary.

Passports are also very reliable documents that may be used within the United States to establish citizenship, identity, and employment authorization.

NOTE: There are approximately 15 different versions of the U.S. passport that are presently valid and vary from the 1998 illustration above.

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The information contained here is a basic guide to help you become generally familiar with many of our rules and procedures. Immigration law can be complex, and it is impossible to describe every aspect of every process. After using this guide, the conclusion reached, based on your information may not take certain factors such as arrests, convictions, deportations, removals or inadmissibility into consideration.

If you have any such issue, the answer we provide may not fully address your need and may cause the full and correct answer to be significantly different.

We cannot provide legal advice. If you believe you may have an issue such as any described above, it may be beneficial to consider seeking legal advice from a reputable immigration practitioner such as a licensed attorney or nonprofit agency accredited by the Board of Immigration Appeals before seeking this or any immigration benefit.

For more information about immigration law and regulations, please see our website at www.uscis.gov.

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