Information Available to U.S. Citizens

WHAT INFORMATION ARE YOU SEEKING? (PLEASE CHOOSE ONE BELOW)

Information about U.S. Passports, Traveling Abroad and Returning to the US 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
- Information about the USCIS Immigrant Fee

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

Information about Same-sex Marriage

Other FAQs related to U.S. Citizens:

Dual Nationality/Citizenship and Renunciation of Citizenship (Select the “Citizenship and Nationality” link from this webpage.)

Read Disclaimer

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

OVERVIEW

Effective June 1, 2009, U.S. passports are required for all U.S. Citizens traveling by air, 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 State. Their website is at www.state.gov.

To obtain a U.S. passport, apply with the U.S. Passport Office. For information check their website at www.state.gov or call 1-877-487-2778.

FAQs about U.S. Citizens Traveling Abroad

- Where can I get a U.S. passport?
- What is required to reenter the U.S.?
- What are the new passport requirements 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

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

All U.S. citizens, including children, must present a passport or other approved travel document when entering the U.S. by air. U.S. citizens can present a passport, a NEXUS card at airports with a NEXUS kiosk, a U.S. military ID with travel orders, or a U.S. Merchant Mariner Document when on official business.

U.S. citizens entering the U.S. at sea or land ports of entry are required to have documents that comply with the Western Hemisphere Travel Initiative, which are a U.S. passport, a passport card, a trusted traveler card such as NEXUS, SENTRI, or FAST, or an enhanced driver's license.

What are the new passport requirements to travel abroad?

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

WHTI-Compliant Travel Documents include:

- Trusted Traveler Cards (NEXUS, SENTRI, or FAST)
- State issued Enhanced Driver's License (when available)
- Enhanced Tribal Cards (when available)
- U.S. Military Identification with Military Travel Orders
- U.S. Merchant Mariner Document when traveling due to official maritime business
- Native American Tribal Photo Identification Card
- Form I-872 American Indian Card

All U.S. citizens including children traveling by air are required to present a valid passport, Air NEXUS card, or U.S. Coast Guard Merchant Mariner Document. Military personnel traveling under orders may present photos ID and travel orders, but military dependents must present a passport.

All U.S. citizens who are 16 years of age and older and traveling by land or sea (including ferries), will be required to present a valid passport, passport card, Frequent Traveler card (NEXUS, SENTRI, or FAST), enhanced driver's license (for residents in states that issue them), or a Military ID with travel orders. Children under 16 may present an original or copy of his/her birth certificate, a Consular Report of Birth Abroad, or a Naturalization Certificate.

For information about travel documentation required by a specific country, please see the U.S. Department of State's travel information web-page. http://www.state.gov/travel/

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 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.

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. For more "Tips for Traveling Abroad," please see the U.S. State Department web page at www.travel.state.gov.

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.

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 at http://www.cdc.gov/travel/.

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.

Where can I obtain additional information about travel abroad?

For additional information, please go to the Department of State website at: http://travel.state.gov.

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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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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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

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 or a U.S. birth certificate along with a government issued photo identification document.

Born in the U.S. –- 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.

Born outside the U.S. but citizenship registered at birth – If your U.S. citizenship was registered at birth and you need a copy of your evidence of citizenship, apply to the State Department.

Naturalized or derivative citizen – If you have a certificate of citizenship or naturalization, you may use the original naturalization certificate, citizenship certificate or a U.S. passport to prove citizenship.

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 can apply to USCIS for a Certificate of Citizenship using Form N-600, *Application for Certificate of Citizenship*. However, a certificate of citizenship does not serve as a travel document.

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

Determining if You are a U.S. Citizen

OVERVIEW

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 with 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 for a certificate of citizenship by filing Form N-600. You print the form and instructions right from our website at www.uscis.gov.

Please choose one of the following:

For a self-guided tour to help in Determining United States Citizenship

For Frequently Asked Questions related to Determining Citizenship

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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. See the information about the nonimmigrant category "A" in the Guide titled "Nonimmigrant Services" on the main page for more information.

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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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A person is automatically a citizen at the time he/she is born if he/she is born in Puerto Rico.

Information on how to apply for evidence of citizenship

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A Person is automatically a citizen at the time he/she is born if he/she is born in Guam.

- Born in Guam on or after August 1, 1950 – As of August 1, 1950 Guam is considered a part of the United States for the purpose of immigration law.
- 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.

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

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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.

A naturalization applicant who is a national of the United States is eligible to file for naturalization if:

- The applicant becomes a resident of any U.S. state; and
- Are at least 18 years of age; and
- Must be a person of good moral character; and
- Must have the required knowledge of Civics and English; and
- Must support in the Constitution of the United States and be willing to take an oath of allegiance.
- Meet the Continuous residence requirement; and
- Have resided 3 months in a State or Service district where the naturalization will take place to meet physical presence requirement.
- Provide any required evidences as indicated on the Form N-400.

For U.S. nationals, residence and physical presence in an outlying possession of the United States will count as residence and physical presence in the United States.

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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 Panama Canal Zone between February 26, 1904 and October 1, 1979
- In the Republic of Panama between February 26, 1904 and October 1, 1979
- 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 between February 26, 1904 and October 1, 1979, and
- Your father or mother, or both, were citizens of the United States when you were born.

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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 between February 26, 1904 and October 1, 1979, 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.

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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.

Information about the acquisition of U.S. citizenship after birth

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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 had a residence in the United States or one of its outlying possessions before your birth.

If one of your U.S. citizen parents did not have the required residence in the United States or its outlying possessions before you were born, then you did not automatically become a citizen at birth.

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In general, you may have been a United States citizen at birth if your United States citizen parent had already lived in the United States or its outlying possessions 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 or its outlying possessions before you were born, then you did not automatically become a citizen at birth.

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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

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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 your parent turned 14.

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 become a citizen at birth.

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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.

  NOTE: Service in the military or work with a United States intelligence agency 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 become a citizen at birth.

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

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

- Yes
- No

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

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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 become a citizen at birth.

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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.

For more information about naturalization, please go back to the main page and refer to the Guide titled “Benefits for 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?

- 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.

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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

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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 (been physically present) for a continuous period of 1 year before you were born.

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 become a citizen at birth.

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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.

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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.

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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

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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 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 became legally legitimate or 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 become a United States citizen at birth.

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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 became legally legitimate or 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.

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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 become a citizen at birth.

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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 become a citizen at birth.

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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 your 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 – 28; 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.

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 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 your 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.

Information on how to apply for evidence of citizenship

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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.

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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 issued from a competent court of proper jurisdiction.

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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

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

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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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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Did one of your parents or both of your parents (whether living or now deceased) become a U.S. citizen before you turned 18?

- Both Parents **Note:** If one of the naturalized parents is a stepparent, choose the “one parent” option and answer the questions based on the other parent.
- One Parent
- Neither Parent

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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 have acquired 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 see the Customer Service Reference Guide titled "Benefits for Permanent Residents."

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The information provided indicates that you may have acquired citizenship from your U.S. citizen parents.

Information about how to get evidence of citizenship

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

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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 see the Customer Service Reference Guide titled "Benefits for Permanent Residents."

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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.

Self-guided tour to see if you meet the definition of a child for immigration purposes

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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

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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.

Information about the definition of child

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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. Information about the definition of child
- 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.

  Information about the definition of child

- 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 or 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 did not acquire citizenship from your U.S. citizen parent.

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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.

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

The information provided indicates that you may have acquired citizenship from your U.S. citizen parent.

Information about how to get evidence of citizenship

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

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

It appears that 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 be able to apply for a certificate of citizenship on your behalf. You will need to meet the following conditions:

- You are under the age of 18;
- You parent became a U.S. citizen and -
  - has (or, at the time of his or her death, had) been physically present in the United States or its outlying possessions for more than five years, at least two of which were after the age of 14 years; or
  - has (or, at the time of his or her death, had) a U.S. citizen parent who has been physically present in the United States or its outlying possessions for more than five years, at least two of which were after the age of 14 years;
- You are residing outside the U.S. in the legal and physical custody of the U.S. citizen parent (or, if the citizen parent is deceased, an individual who does not object to the application);
- You enter the United States in a legal status and maintain that status while in the U.S.

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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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It appears that 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.

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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

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

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.

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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

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

Are you an adopted child?

- No
- Yes

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Has your father legitimated you through a court or other 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

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

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.

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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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It appears that your U.S. citizen parent may 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 you having acquired U.S. citizenship.

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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It appears that 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 you having acquired U.S. citizenship.

Please note 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.

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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

It appears that 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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FAQs about Determining Citizenship

- 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”?

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

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 country where your child will be born for more information about eligibility requirements and how to register your child's 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?

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

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.

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 derived 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.

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

The Immigration and Nationality Act (INA) Section 308 provides for noncitizen nationals based on birth or parentage in unincorporated outlying possessions of the United States. Nationals are not citizens of the United States but may apply for naturalization under a special provision covered under INA Section 325.

Nationals who are not citizens cannot vote or hold elected office. Nationals may reside and work in the United States without restrictions. Nationals are also eligible to apply for citizenship if they take up residence in a State.

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Helping a Relative Immigrate and Financially Sponsoring an Immigrating Alien

Helping a Relative Immigrate to the United States

OVERVIEW

One of the most common ways people immigrate is based on being the relative of a U.S. citizen. This process starts when a U.S. citizen files a petition for alien relative, Form I-130. U.S. citizens can file for their husband or wife, parents, married or unmarried children of any age, and brothers and sisters. However a U.S. citizen must be at least 21 years old to petition for his or her parents and for sisters and brothers. A U.S. citizen must file a separate petition for each of these relatives that they seek to sponsor. A U.S. citizen can only file a petition for those relatives listed on the Form I-130. When a U.S. citizen's family member immigrates, they may be able to bring his/her spouse and children under age 21 with them as dependents. When an I-130 is filed on behalf of a qualifying relative, this establishes a qualifying relationship that then will allow the relative to immigrate to the United States. Once a petition is approved by USCIS, this will allow the relative to apply for an immigrant visa or apply to adjust status to that of a permanent resident in the United States. However, certain relatives may have to wait in line for several years behind others already in line to immigrate. When your relative reaches the head of the line, the State Department will contact them and invite them to apply for an immigrant visa. Sponsoring a relative involves accepting some financial responsibility and filing an affidavit of support when the time comes for your relative to immigrate.

Information about Helping a Relative Immigrate to the United States

Back to: U.S. Citizen Services

For which relatives may I file?

Note: Select the relative you want to help in the chart below to go to a self-guided tour for filing eligibility**.**

Any U.S. citizen (no age requirement) 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 your petition, you will have to prove your relationship to the person for whom you are filing.

Other General FAQs -

- What does the petition do for my relative?
- Can I petition for other relatives?
- Which family members need a separate petition filed on his/her behalf?
- Which family members can apply for an immigrant visa or adjustment of status based on the principle beneficiary's approved petition?
- After I file, how long will it be before my relative can immigrate?
- Can my relative wait in the U.S. until he or she can apply to become 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 Form I-130?
- How do I know if my relative and I qualify?
- What is a Preference Category?
- 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?

FAQs about financial sponsorship

FAQs about the USCIS Immigrant Fee

What does the petition do for my relative?

Filing a relative petition and proving a qualifying relationship establishes the existence of a relationship between you and your relative and gives your relative a place in line with others waiting to immigrate from the same country or region based on the same type of relationship. When your relative reaches the front of the line, he or she may be eligible to immigrate after passing all requirements necessary to qualify for an immigrant visa or to adjust status. Your relative's place in line will be based on the date the petition is filed. Therefore, there is an advantage of filing as soon as possible. On the other hand, there is no waiting period for immediate relatives of U.S. citizens. That includes a U.S. citizen's spouse, parent, or unmarried child under 21 years of age.

Can I petition for other relatives?

The law limits eligibility to the spouse, unmarried child(ren) under age 21, unmarried son(s) or daughter(s) age 21 or older, married child(ren), parent(s) and sibling(s). We cannot approve a relative petition filed by a U.S. citizen on behalf of any other relatives.

Which family members need a separate petition filed on his/her behalf?

A separate petition must be filed on behalf of each eligible relative. According to the law, a spouse, unmarried child(ren) under age 21, unmarried son(s) or daughter(s) age 21 or older, married child(ren), parent(s) and sibling(s) are considered eligible relatives for whom a U.S. citizen can file a relative petition.

Which family members can apply for an immigrant visa or adjustment of status based on the principle beneficiary's approved petition?

Certain family members of non-immediate relatives may be able to apply for an immigrant visa or adjustment of status based on the principle beneficiary's approved petition.

At the time your unmarried son or daughter age 21 or older, married son or daughter, or sibling becomes eligible to immigrate, their spouse and/or unmarried child(ren) under 21 years of age may apply for an immigrant visa or adjustment of status based on your relative's approved petition.

If the child of your relative is married when the visa becomes available, he/she is no longer eligible to apply for an immigrant visa or adjustment of status based on the principle beneficiary's approved petition.

If the child of your relative turns 21 years of age before the visa becomes available, he/she may no longer be able to apply for an immigrant visa or adjustment of status based on the principle beneficiary's approved petition. In certain cases, the Child Status Protection Act may apply. For more information, please see the FAQs regarding the Child Status Protection Act.

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

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

The law gives special consideration to immediate relatives of U.S. citizens, which includes a U.S. citizen's spouse, unmarried children under 21 years of age, 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.

Other family members must wait until there is a visa number available before they can apply for an immigrant visa or adjustment of status to a lawful permanent resident. Current wait times for visa categories are located under "Visa Bulletins" on the State Department's website at http://travel.state.gov/content/visas/english/law-and-policy/bulletin.html.

Can my relative wait in the U.S. until he or she can apply to become a permanent resident?

If your relative is outside the United States, filing an I-130 does not allow your relative to live or work in the United States. An approved I-130 petition only verifies your relationship with your relative. Your relative should not enter the U.S. and should wait outside the United States to immigrate legally.

If your husband or wife, unmarried child under 21 years, or parent is already in the United States after entering legally, they can apply for adjustment of status to permanent resident at the same time you file their Form I-130 on their behalf.

Does filing a relative petition commit me to anything?

Yes. Under the law, each person who immigrates based on a relative's petition must have a financial sponsor. If you choose to sponsor your relatives by filing Form I-130, when the time comes for your relative to immigrate to the United States, you must file Form I-864, Affidavit of Support, which verifies that you can financially support your relative, through your income or assets, when they arrive in the US. If you do not meet the financial eligibility requirement, other individuals will then need to make this commitment with you.

How do I file?

Follow the I-130 relative petition instructions and check our website 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.

Where do I file?

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

Note: Effective August 15, 2011, petitioners living abroad in a country **without** a USCIS office must file their petitions with the USCIS Chicago Lockbox, as noted in the instructions to Form I-130.

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

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 carefully follow the I-130 instructions and send all required documents the first time to avoid delay.

We will notify you in writing when we make a decision.

- If your relative is already in the United States, he or she may apply to adjust status to become a green card holder (permanent resident) after a visa number becomes available using Form I-485.
- If your relative is outside the United States, your petition will be sent to the National Visa Center (NVC). The NVC will forward your petition to the appropriate U.S. consulate when a visa becomes available and your relative will be notified about how to proceed. You can get more information about immigrant visa processing from the State Department's website at www.travel.state.gov.

Your family member's preference category will determine how long he or she will have to wait for an immigrant visa number.

How long will it take USCIS to process my petition?

Processing time depends on a number of factors and any estimate that USCIS provides to its customers is only an estimate, not a guarantee. You can also check updated processing time estimates for an application or petition by visiting www.uscis.gov and selecting "See Office Case Processing Times" under the Tools tab. These estimates are updated monthly, typically after the 15th of the month.

If you need assistance, please call our toll-free number at 1-800-375-5283.

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. Spouse and unmarried children under age 21 and parents 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 that you wish to upgrade.

National Visa Center
Attn: WC
31 Rochester Avenue, Suite 200
Portsmouth, NH 03801-2915

You can find additional contact information and instructions for sending an inquiry to the NVC on the Department of State's website.

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.

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.

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.

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

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

What is a Preference Category?

Preference categories include family relationships that are not immediate relatives and have annual numerical limits. A visa becomes available to a preference category based on the priority date (the date the Form I-130 was filed). The following are preference categories:

First preference: Unmarried, adult sons and daughters of U.S. citizens (adult means 21 or older.)
Second Preference (2A): Spouses of green card holders, unmarried children (under 21) of permanent residents
Second Preference (2B): Unmarried adult sons and daughters of permanent residents
Third Preference: Married sons and daughters (any age) of U.S. citizens
Fourth Preference: Brothers and sisters of adult U.S. citizens

Your family member's preference category will determine how long he or she will have to wait for an immigrant visa number. Once you have filed a petition, you can check its progress on "Check My Case Status" on the USCIS website.

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What are priority dates and how do they work?

A priority date is the date that USCIS has received a properly filed visa petition. The priority date can be found on the top portion of a visa petition approval notice. A priority date, coupled with the preference category, determines when your relative will be eligible to immigrate to the United States.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. To determine whether a priority date is current for your relative, please refer to the Department of State Visa Bulletin. Beginning with the October 2015 visa bulletin, the Department of State will publish two charts:

- An "Application Final Action Dates" chart, which shows what priority dates are current for the purpose of issuing immigrant visas and when individuals may file their adjustment of status application, and
- A "Dates for Filing Visa Applications" chart, indicating when immigrant visa applicants should be notified to assemble and submit required documentation to the National Visa Center.

If USCIS determines that there are more immigrant visas available for the fiscal year than there are known applicants for such visas, the "Dates for Filing Visa Applications" chart" may be used to determine when to file an adjustment of status application with USCIS.

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?

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. This may mean a shorter waiting time for your son or daughter to immigrate to the United States.

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 apply for an immigrant visa or 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.

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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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.

If the son or daughter elects to remain in the second preference category, he or she needs to submit a written request to the appropriate USCIS Service Center if he or she will be adjusting status in the U.S. If they will be adjusting status abroad, then the written request needs to be submitted to the National Visa Center.

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. This may mean a longer wait for a visa to become available.

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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 U.S.	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		

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. For information about how to file for permanent resident status, return to the main menu of the Customer Service Reference Guides and select the guide titled “Benefits for Permanent Residents.

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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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It appears that you may want to file the Form I-130 for your relative. However, the Immigration Judge may have to 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 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.

Please note 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 derive benefits from the I-130 that you file for your spouse and you will need to file a separate Form I-130 for each child.

More information if your spouse has a child or children.

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It appears that you may want to file a Form I-130 for your relative and your relative may wish to file the Form I-485, Application Register Permanenet Residence or Adjust Status, concurrently with the I-130. Even if your relative is now currently out of status, as long as he/she made a lawful entry into the United States, he/she may be able to apply for adjustment of status.

If you choose to file these forms concurrently, you will need to file the Forms G-325A, I-693, and I-864 as well. You may also file Forms I-765 and I-131. These forms can be downloaded from our website at www.uscis.gov/forms. If you decide to file, you will also need to include all appropriate fees.

Note: If you are filing for you spouse and 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 derive benefits from the I-130 that you file for your spouse and you will need to file a separate Form I-130 for each child.

More information if your spouse has a child or children.

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It appears that you may want to file a Form I-130 for your relative. Unfortunately, he/she cannot file to adjust his/her status to permanent resident while physically present in the United States. Therefore, he/she will need to apply for the immigrant visa outside the United States at a 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 forward it to the U.S. Consulate nearest of your relative's country of origin. At that time, both you and your relative will be notified by mail regarding the fee associated with the visa, and document collection. 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 forms from our website at www.uscis.gov.

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

Please note that if filing for your spouse and 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 derive benefits from the I-130 that you file for your spouse and you will need to file a separate Form I-130 for each child.

More information if your spouse has a child or children.

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It appears you may want to file a Form I-130 for your relative. After the 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 by mail regarding the fee associated with the visa application, and document collection. Your relative may be invited to apply for his/her immigrant visa outside the United States at the U.S. Consulate.

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/international.

You may 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 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, those children may be eligible for a K-4 visa as well to join your spouse here in the United States.

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

- Yes
- No. If no, please continue below.

Please note 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 derive benefits from the I-130 that you file for your spouse and you will need to file a separate Form I-130 for each child.

More information if your spouse has a child or children

Other important questions:

Is your spouse's child married?

- Yes
- If No: Continue below

How old is this child?

- Over 21
- Under 21

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

In order to obtain immigration benefits available to a "spouse", there must be a valid and subsisting marriage between the parties. Generally, marriage is valid for immigration purpose if it is recognized by the law of the state or the country where it occurred.

A religious ceremony by itself may not be 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. Furthermore, any marriage considered contrary to public policy is not recognized by USCIS.

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 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.

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. For more information see the Child Status Protection Act

You, the petitioner, are the:

- Father
- Mother
-

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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 immigration purposes. Information about the definition of a child

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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 the definition of child for immigration purposes. Information about the definition of child

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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 immigration purposes. Information about the definition of a child

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

- Yes
- No Stop. Child does not meet the definition of a child for immigration purposes. Information about the definition of a child

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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 immigration purposes. Information about the definition of a child

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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 immigration purposes. Information about the definition of a child

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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 immigration purposes. Information about the definition of a child

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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 immigration purposes. Information about the definition of a child

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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 immigration purposes. Information about the definition of an adopted child

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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 stated 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. Information about the definition of a child or stepchild

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Are you or your brother/sister an adopted child?

- Yes
- No Stop. Information about the definition of a child

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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. Information about the definition of a child

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Was your adoption finalized before you turned 18?

- Yes
- No Stop. Information about the definition of a child

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

- Yes
- No Stop. Information about the definition of a child

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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. Your child does not meet the definition of an "adopted child".

Information about the definition of an adopted child

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 stated 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.

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First, 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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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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Note: Stop. It appears that you do not meet the definition of a child for immigration purposes.

Information about the definition of a child

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

- Yes
- No

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

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

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 for Permanent Residence or to Adjust Status, in the United States.

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

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

- Yes
- No

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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 U.S. Department of State. Once your relative receives the approved waiver, he/she may file Form I-485, Application for Permanent Residence or to Adjust Status.

Note: If you are interested in petitioning for your SPOUSE, continue below.

IF BENEFICIARY IS SPOUSE, STATE: Please note 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 derive benefits from the I-130 that you file for your spouse and 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 your parent currently in immigration proceedings (deportation, removal, etc.)?

- Yes
- No

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

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It appears that you may want to file a Form I-130 for your parent(s) and your parent(s) may wish to file the Form I-485, Application to Register Permanent Residence or Adjust Status, concurrently with the I-130. Even if your parent(s) is/are now currently out of status, as long as he/she made a lawful entry into the United States, he/she may be able to apply for adjustment of status.

If you choose to file these forms concurrently, you will need to file the Forms G-325A, I-693, and I-864 as well. You may also file Forms I-765 and I-131. These forms can be downloaded from our website at www.uscis.gov/forms. If you decide to file, you will also need to include all appropriate fees.

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It appears that you may want to file a Form I-130 for your relative. For additional information, please follow the instructions on Form I-130.

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/international.

If the Form I-130 is approved, it will be sent to the National Visa Center (NVC). The NVC will forward it to the appropriate U.S. Consulate and they will contact you by mail regarding visa fee and document collection.

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. 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.

General FAQs about a U.S. Citizen helping a family member become a permanent resident

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It appears that you may want to file a Form I-130 for your relative. For additional information, please follow the instructions on Form I-130.

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/international.

If the Form I-130 is approved, it will be sent to the National Visa Center (NVC). The NVC will forward it to the appropriate U.S. Consulate and they will contact you by mail regarding visa fee and document collection.

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. 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.

General FAQs about a U.S. Citizen helping a family member become a permanent resident

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You may file Form I-130 for your spouse. After Form I-130 is approved and sent to the U.S. Consulate nearest to 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, your spouse may be eligible for a K-3 visa to enter the United States while the Form I-130 is pending with USCIS. Information about the K-3 visa

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It appears that you may want to file Form I-130 for your relative. Unfortunately, he/she cannot file to adjust his/her status to permanent resident while physically present in the United States. Therefore, he/she will need to apply for the immigrant visa outside the United States at a U.S. Consulate.

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 and they will contact you by mail regarding the fee associated with the visa, and document collection.

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. Once 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.

General FAQs about a U.S. Citizen helping a family member become a permanent resident.

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Because he/she is in a category that has a limited amount of visas available, your relative 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 Form I-130 for your relative with the USCIS Lockbox. For additional information, please follow the instructions on Form I-130.

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. Beginning with the October 2015 visa bulletin, the Department of State will publish two charts:

- An "Application Final Action Dates" chart, which shows what priority dates are current for the purpose of issuing immigrant visas, and
- A "Dates for Filing Visa Applications" chart, indicating when immigrant visa applicants should be notified to assemble and submit required documentation to the National Visa Center.

Also, please note 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.

Information about the definition of child

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

It appears that you cannot file an immigrant or fiancé (e) visa petition at this time.

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Helping a Relative Immigrate and Financially Sponsoring an Immigrating Alien

Filing for a K-3/K-4 Nonimmigrant

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 Form 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.

FAQs 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?

Note: General Information about the K-3/K-4 visa classification is located in the Guide titled "Nonimmigrants" on the Customer Service Reference Guides main page.

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

To obtain a K-3 or K-4 nonimmigrant visa, you must file two petitions with USCIS and apply for a visa from the U.S. Department of State.

- **Form I-130**: File on behalf of your non-citizen spouse with the USCIS Service Center having jurisdiction over your place of residence. You will then receive a Form I-797, Notice of Action, indicating that USCIS has received the Form I-130.
- **Form I-129F, Petition for Alien Fiancé(e)**: File this after filing Form I-130 and include a copy of the I-797, on behalf of the non-citizen spouse and any children. Submit to the USCIS Service Center where the underlying Form I-130 petition is pending. There is no fee when filing a Form I-129F for a non-citizen spouse (K-3). If your non-citizen spouse has any minor children seeking K-4 nonimmigrant visas, they should be listed on the I-129F filed on your spouse's behalf to facilitate the application process.

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

If approved, USCIS will forward the I-129F to the U.S. Department of State for consular processing.
The non-citizen spouse and any minor children will then need to apply to the U.S. Department of State for the K-3 or K-4 nonimmigrant visa. For more information on the visa application process see information about the U.S. Department of State's National Visa Center. .
The U.S. Consulate/Embassy where your spouse 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.

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 a 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

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/her behalf.

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/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 notice, if applicable.

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

If the child meets the definition of a child, step-child, or adopted child of the U.S. citizen under immigration law, the U.S. citizen parent/step-parent may file a Form I-130 on his/her child's behalf along with the Form I-485 adjustment of status packet. If the U.S. citizen filed a Form I-130 on his/her child's behalf prior to admission, the child may file the Form I-485 and accompanying forms with the receipt notice of the pending Form I-130 or with the approval notice, if applicable.

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

The immigrant parent may petition for his/her 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/she will no longer hold K-3 nonimmigrant status and the child will no longer be able to maintain derivative K-4 nonimmigrant status. Therefore, 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 beneficial to the child if the U.S. citizen parent/step-parent files a Form I-130 on the child's behalf since then the immigrant visa would be immediately available.

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	Crew members
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 U.S.	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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It appears that you may want to file a Form I-130 for your parent(s) and your parent(s) may wish to file the Form I-485, Application to Register Permanent Residence or Adjust Status, concurrently with the I-130. Even if your parent(s) is/are now currently out of status, as long as he/she made a lawful entry into the United States, he/she may be able to apply for adjustment of status.

If you choose to file these forms concurrently, you will need to file the Forms G-325A, I-693, and I-864 as well. You may also file Forms I-765 and I-131. These forms can be downloaded from our website at www.uscis.gov/forms. If you decide to file, you will also need to include all appropriate fees.

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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.

General FAQs

- 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?
- Someone has asked me to be a financial sponsor because they don't meet the minimum income requirement. What can I do?
- 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?
- Should I file Form I-864 or Form I-134? What is the difference?

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.

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.

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. You can check the current poverty guidelines by downloading Form I-864P, Poverty Guidelines, from www.uscis.gov.

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 Form I-864, *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 United States 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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Someone has asked me to be a financial sponsor because they don't meet the minimum income requirement. What can I do?

Anyone applying to be 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. If the petitioner does not meet the financial qualifications, the income of certain other household members can be added into the income level of the petitioner if that household member signs 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 petitioner's relative applying for permanent residence. If the petitioner still cannot meet the financial qualifications, another person will need to complete a separate Form I-864, Affidavit of Support, to become a joint financial sponsor of the petitioner's relative.

If you choose to become the joint sponsor, you must meet all sponsorship requirements separately, including the minimum income requirements for your household, and must be willing to assume, along with the petitioner, financial liability for the sponsored immigrant.

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

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. The National Visa Center will contact you regarding the fee associated with the visa application and document collection.

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.

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.

Back to: Financially Sponsering an Immigrating Alien U.S. Citizen Services

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.

Should I file Form I-864 or Form I-134? What is the difference?

If the beneficiary is seeking admission or adjustment as a permanent resident based on immediate relative status, is another family-based immigrant, or is seeking admission based on certain categories of employment-based immigration, Form I-864 is the appropriate form to file. Form I-134 may be used in any case where the beneficiary is inadmissible on public charge grounds but is not required to have an I-864 filed on his/her behalf. Do NOT use Form I-134 if the person you are sponsoring is required to have form I-864 instead. Please refer to the instructions of the primary petition and carefully follow them. The instructions will make clear which form needs to be filed.

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Helping a Relative Immigrate and Financially Sponsoring an Immigrating Alien

Information about the USCIS Immigrant Fee

OVERVIEW

Effective February 1, 2013, USCIS will collect a $165 Immigrant Visa DHS Domestic Processing Fee (USCIS Immigrant Fee) from individuals who have been issued immigrant visas by the U.S. Department of State and who are applying for admission to the U.S. USCIS established this fee to recover the costs associated with processing, filing, and maintaining the immigrant visa package, and producing and mailing required documents.

General FAQs

- What is the Immigrant Visa DHS Domestic Processing Fee (USCIS Immigrant Fee)?
- Who has to pay the USCIS Immigrant Fee?
- When will the USCIS Immigrant Fee take effect?
- How should I pay the Immigrant Fee?
- When should the Immigrant Fee be paid?
- Can check payments be from an overseas bank?
- If the immigrant visa holder does not have a checking account, debit, or credit card, or is otherwise unable to pay the fee, may I pay on their behalf?
- Can my employer or attorney open a USCIS ELIS account and pay my USCIS Immigrant Fee?
- If the immigrant visa is issued before February 1, 2013, but the immigrant visa holder did not apply for admission to the U.S. until after February 1, 2013, will the immigrant visa holder have to pay the fee?
- What happens if I do not pay the USCIS immigrant fee?
- Who is exempt from paying the immigrant fee?
- Can I mail payment of the USCIS Immigrant Fee to a USCIS office?
- How can I track my status of the permanent resident card?
- May I pay for my family member if I have already paid my USCIS Immigrant Fee in USCIS ELIS?
- Where can I get more information about the USCIS Immigrant Visa Fee?

Additional FAQs continue on the next page

Additional USCIS Immigrant Fee FAQS

- What happens if I lose my copy of the payment confirmation? How can I provide proof of payment?
- How should I respond to a request for evidence (RFE) stating that I did not pay the immigrant fee?
- What if the fee is not paid? Will USCIS hold production of the Permanent Resident Card until the fee is paid?
- Does the fee have to be paid for each individual issued a visa or just for the individual on whose behalf an immigrant visa petition was filed? If I file an immigrant visa petition for my relative who has dependent children, will the fee have to be paid for each of the dependents as well?
- I am trying to pay the USCIS Immigrant Fee and am unable to type in my Case ID Number on the fee payment form on the USCIS ELIS website. What should I do?
- Will the immigrant receive proof of permanent resident status when entering the U.S.?
- Can the immigrant fee be waived?
- Is a Spanish version of the USCIS ELIS website available?
- I don't have a Case ID Number or an Alien Registration Number (A-Number). What should I do?
- I received a letter titled "Permanent Resident Card Processing Payment" from the Texas Service Center. Why was this letter sent to me?
- My mailing address is different from the address I provided the Department of State of U.S. Customs and Border Protection. How do I update the address to which my Permanent Resident Card is mailed?
- Do I have to pay for a replacement Permanent Resident Card if I previously paid the USCIS Immigrant Fee but have not yet received my card?

Note: If you have questions about using ELIS, please go back to the main page and refer to the Guide titled "Getting Ready to File" and see the ELIS Chapter.

Back to: USCIS Immigrant Fee U.S. Citizen Services

What is the Immigrant Visa DHS Domestic Processing Fee (USCIS Immigrant Fee)?

The USCIS Immigrant Fee is a fee of $165 that USCIS established to cover the costs associated with processing, filing, and maintaining the immigrant visa package, and producing and mailing required documents (such as a Permanent Resident Card).

Who has to pay the USCIS Immigrant Fee?

Individuals who have been issued immigrant visas by the U.S. Department of State and are applying for admission to the U.S. need to pay this fee.

The following immigrants are exempt from paying the immigrant fee:

- children who enter the United States under either the Orphan or Hague adoption programs;
- Iraqi and Afghan special immigrants;
- returning residents (SB-1s); and
- those issued K visas.

When will the USCIS Immigrant Fee take effect?

Effective February 1, 2013, USCIS will collect the USCIS Immigrant Fee from individuals who have been issued immigrant visas by the U.S. Department of State.

How should I pay the Immigrant Fee?

Immigrant visa holders applying for admission to the U.S. must pay the USCIS Immigrant Fee by going online at www.uscis.gov/elis and linking to USCIS ELIS to answer some questions and provide their checking account, debit, or credit card information.

Immigrant visa holders must submit payments online after they receive their immigrant visa package from the U.S. Department of State (DOS). DOS will issue the applicant:

- A USCIS handout which will include the immigrant visa holder's Alien number (the letter "A" followed by 8 or 9 numbers) and DOS Case ID number (3 letters followed by 9 or 10 numbers); and
- Instructions on how to submit payment.

Note: If the immigrant visa holder is a Diversity Visa immigrant, the DOS Case ID number will have 4 numbers followed by 2 letters and 5 more numbers.

Immigrant visa holders should keep a copy of their receipt for their records.

Please visit our Web site at www.uscis.gov/immigrantfee and www.uscis.gov/elis for more information about the fee.

Note: If you have questions about using ELIS, please go back to the main page and refer to the Guide titled "Getting Ready to File" and see the ELIS Chapter.

When should the Immigrant Fee be paid?

Payment should be made before traveling to the U.S.

If you are unable to pay the fee before departing for the U.S., you must pay this fee after your arrive in the U.S. If there is no record of payment following your admission to the U.S., USCIS will send you a notice requesting payment.

Please note that you will not receive your permanent resident card until you have paid the USCIS Immigrant Fee.

Failure to pay the USCIS immigrant fee will not affect your status as a lawful permanent resident but you will only have evidence of your lawful permanent status for one year from the date of your admission, as evidenced by the temporary I-551 stamp placed in your passport by CBP at the time of your admission.

Can check payments be from an overseas bank?

No. Check payments must be drawn on a U.S. bank.

If the immigrant visa holder does not have a checking account, debit, or credit card, or is otherwise unable to pay the fee, may I pay on their behalf?

Yes, you will need your family member's A-number and Department of State (DOS) Case ID in order to pay the fee.

Can my employer or attorney open a USCIS ELIS account and pay my USCIS Immigrant Fee?

Yes, they will need your A-number and Department of State (DOS) Case ID in order to pay the fee.

If the immigrant visa is issued before February 1, 2013, but the immigrant visa holder did not apply for admission to the U.S. until after February 1, 2013, will the immigrant visa holder have to pay the fee?

No. Immigrant visa holders are not required to pay the USCIS Immigrant Fee if the U.S. Department of State issued their Immigrant Visa before February 1, 2013.

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What happens if I do not pay the USCIS immigrant fee?

You will not receive your permanent resident card until you have paid the USCIS Immigrant Fee.

Failure to pay the USCIS immigrant fee will not affect your status as a lawful permanent resident but you will only have evidence of your lawful permanent status for one year from the date of your admission, as evidenced by the temporary I-551 stamp placed in your passport by CBP at the time of your admission.

Who is exempt from paying the immigrant fee?

The following immigrants are exempt from paying the immigrant fee:

- children who enter the United States under either the Orphan or Hague adoption programs;
- Iraqi and Afghan special immigrants;
- returning residents (SB-1s); and
- those issued K visas.

Can I mail payment of the USCIS Immigrant Fee to a USCIS Office?

No. USCIS only accepts payment of the USCIS Immigrant Fee online through USCIS ELIS. USCIS **will not** accept payments via mail.

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How can I track the status of my permanent resident card?

If you have your receipt number, please visit www.uscis.gov and select “Check My Case Status.”

If you do not have your receipt number and it has been 60 days since you paid the immigrant fee, please visit https://egov.uscis.gov/cris/contactus and fill out the Electronic Immigration System Online Help Form requesting an update of your status. Please remember to include your full name and A-number when completing the Form. You can find your A-Number on your immigrant data summary, USCIS Immigrant Fee handout, or immigrant visa stamp.

The receipt number is not available until 60 days after payment of the immigrant fee.

May I pay for my family member if I have already paid my USCIS Immigrant Fee in USCIS ELIS?

Yes, you will need your family member’s A-number and Department of State (DOS) Case ID in order to pay the fee.

Note: If you have questions about using ELIS, please go back to the main page and refer to the Guide titled “Getting Ready to File” and see the ELIS Chapter.

Where can I get more information about the USCIS Immigrant Visa Fee?

For more information about the fee, please visit our website at www.uscis.gov/immigrantfee where a News Release and a detailed payment Web page, including a set of questions and answers about the USCIS Immigrant fee, are available. Also, please visit www.uscis.gov/elis.

What happens if I lose my copy of the payment confirmation? How can I provide proof of payment?

Payment confirmations cannot be re-generated. For payment confirmation please view the statement for the credit card or bank account that was used to pay for the immigrant fee.

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How should I respond to a request for evidence (RFE) stating that I did not pay the immigrant fee?

If you did not pay the immigrant fee, please go online at www.uscis.gov/elis to pay the fee. Please print out a copy of the payment confirmation and submit it with your response to the RFE.

Please note that you will not receive your permanent resident card until you have paid the USCIS Immigrant Fee.

If you previously paid the immigrant fee, when responding to the RFE, you can provide a copy of your credit card statement, bank statement, or processed check that was used for payment.

Does the fee have to be paid for each individual issued a visa or just for the individual on whose behalf an immigrant visa petition was filed? If I file an immigrant visa petition for my relative who has dependent children, will the fee have to be paid for each of the dependents as well?

Yes. The fee must be paid for each recipient of a Department of State Immigrant Visa who applied for admission to the United States. The immigrant fee would have to be paid for the relative and for each dependent.

You must provide the Alien Registration Number or A-Number and the Department of State Case ID Number assigned to you and each family member you are paying for. Please be sure to correctly enter the A-Number and Department of State Case ID Number in USCIS ELIS. You can pay for multiple family members by clicking the “Add Family Member” button.

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I am trying to pay the USCIS Immigrant Fee and am unable to type in my Case ID Number on the fee payment form on the USCIS ELIS website. What should I do?

The Case ID Number can be found on the Immigrant Data Summary Sheet stapled to the front of the immigrant visa package you received with your visa. The number begins with three letters indicating the consulate or embassy followed by a series of numbers. Additionally, at the time of your interview at the U.S. Embassy or Consulate, the DOS interviewing officer provided you with a USCIS handout that informed you of the need to pay the immigrant fee and included your A-Number and Case ID Number.

If the fee payment form will not accept your Case ID Number, USCIS should be able to process your payment if the correct Alien Registration Number or A-Number assigned to the individual on the transaction is entered. Please be sure to enter the A-Number correctly when paying the fee. If you are paying the fee on behalf of multiple family members, ensure that the A-Number for each individual is captured correctly. The A-Number is the letter “A’ followed by eight or nine numbers. If you A-Number is fewer than nine digits, insert a zero after the “A” and before the first digit to create a nine-digit number. For example, “A12345678” would become “A012345678.”

Will the immigrant receive proof of permanent resident status when entering the U.S.?

Yes. The immigrant will receive an ADIT stamp upon entry that will serve as proof of permanent resident status for up to one year or until their card is received. While waiting for your permanent resident card, this stamp can also be used for re-entry when returning to the United States from overseas travel and for evidence of work authorization in the United States.

Can the immigrant fee be waived?

No, there is no waiver available for the immigrant fee.

Is a Spanish version of the USCIS ELIS website available?

No. The USCIS ELIS website is only available in English.

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I don't have a Case ID Number or an Alien Registration Number (A-Number). What should I do?

Your Case ID Number and Alien Registration Number (A-Number) can be found on the Immigrant Data Summary Sheet stapled to the front of the immigrant visa package you and any accompanying family members received with your visa from the Department of State (DOS), US Embassy or Consulate. If you did not receive an Immigrant Data Summary Sheet with your visa packet, please request this sheet from the U.S. Embassy or Consulate that issued you the visa. Each individual family member will be provided a separate sheet. Additionally, at the time of your interview at the U.S. Embassy or Consulate, the DOS interviewing officer provided you with a USCIS handout that informed you of the need to pay the immigrant fee and included your A-Number and Case ID Number.

Your A-Number can also be found on your passport next to your admission stamp. If you are still unable to locate your A-Number, you may make an appointment to visit your local USCIS office. The Immigration Services Officer at the local office can provide you with your A-Number. The A-Number is the letter "A' followed by eight or nine numbers. If you A-Number is fewer than nine digits, insert a zero after the "A" and before the first digit to create a nine-digit number. For example, "A12345678" would become "A012345678." You can schedule the appointment yourself by using INFOPASS on our website at www.uscis.gov.

I received a letter titled "Permanent Resident Card Processing Payment" from the Texas Service Center. Why was this letter sent to me?

This letter was sent to inform you that the processing of your Permanent Resident Card has been suspended because USCIS does not have a record of payment of the $165 USCIS Immigrant Fee. For more information about the USCIS Immigrant Fee and how to pay the fee, please visit our website at www.uscis.gov/immigrantfee and www.uscis.gov/elis.

Please follow the instructions in the letter and mail a copy of the letter and a copy of your payment confirmation from Pay.gov to the Texas Service Center address noted in the letter.

My mailing address is different from the address I provided the Department of State or U.S .Customs and Border Protection. How do I update the address to which my Permanent Resident Card is mailed?

USCIS will only mail your permanent resident card to the U.S. mailing address you provide to the Department of State at the time of your immigrant visa interview or to the U.S. Customs and Border Protection (CBP) officer when you are admitted to the United States. If you move after you arrive in the U.S. and do not receive your card within 45 days, please update your address with USCIS by visiting www.uscis.gov/addresschange or by calling us back.

Do I have to pay for a replacement Permanent Resident Card if I previously paid the USCIS Immigrant Fee but have not yet received my card?

If you need a replacement card, please see information on Form I-90, Application to Replace Permanent Resident Card.

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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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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.

DO YOU NEED INFORMATION ABOUT ADOPTIONS THROUGH THE HAGUE ADOPTION CONVENTION OR THROUGH THE ORPHAN PROGRAM?

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

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

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Understanding the Immigration Process When Adopting Children

Adopting a child through the orphan adoption process

OVERVIEW

U.S. immigration law provides for the immigration of foreign national children who qualify as “orphans” and who have been adopted, or are coming to be adopted, by a U.S. citizen and his or her spouse, or by an unmarried citizen who is at least 25 years old. 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 theI-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.

Guided information in helping you through the Orphan adoption process

FAQs about the Orphan adoption process

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FAQs about the Orphan adoption process

- Who can use the special orphan adoption program?
- How do I apply under the special orphan adoption program?
- What is the overall process for Orphan adoptions?
- What is an “adoption service provider?”
- 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?
- How long will it take USCIS to process the adoption petitions once they are properly filed?
- Where can I get more information about the adoption process?

FAQs about Haitian adoptions

- I would like to help the situation in Haiti by adopting a Haitian child. What can I do?
- Why isn’t the U.S. government acting quickly to bring Haitian orphans to the U.S.?
- I’ve heard about Humanitarian Parole. What does that mean?
- I would like to make a donation to an orphanage. What would be the best way to help an orphanage?

Links to the USCIS website for more information about Haitian adoptions

- Information for U.S. Citizens in the process of adopting a child from Haiti
- Information for Adoptive Parents of Paroled Haitian Orphans

Who can use the special orphan adoption program?

If you are married, and a U.S. citizen, you may file a petition for a foreign national orphan if you and your spouse have adopted or will adopt the orphan. If you are a U.S. citizen, but you are not married, you must be at least age 24 when you file a Form I-600A and at least age 25 at the time of filing Form I-600. If you are married, you and your spouse must go through the immigration and adoption process together. 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.

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 obtain a determination that you are suitable to be the adoptive parents of a foreign national orphan 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.

Step one is filing a preliminary Form I-600A application for advance processing of orphan petition. The Form I-600A focuses on your qualifications, and, if you are married, those of your husband or wife. If you file the Form I-600A, with the home study and other required evidence, USCIS approval of your Form I-600A will mean that your suitability as an adoptive parent has already been established before 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.

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 non-Hague country. Effective July 14, 2014, any adoption service provider must be accredited or approved, or be a supervised or exempted provider in compliance with the Intercountry Adoption Act. For more information about the Intercountry Adoption Act, please see the USCIS website at www.uscis.gov.

What is the overall process for Orphan adoptions?

Generally speaking, the process is as follows:

1) The prospective adoptive parent(s) (PAPs) choose an adoption service provider (ASP);
2) The PAPs obtain a home study;
3) The PAPs apply to USCIS by filing Form I-600A, Application for Advance Processing of Orphan Petition, for a determination of suitability and eligibility as adoptive parents which includes a review of the home study and background checks on all adult household members;
4) The PAPs work with the ASP to be matched with a child;
5) The PAPs obtain an adoption decree or legal custody through the laws of the child's country of origin;
6) The PAPs petition USCIS by filing Form I-600, Petition to Classify Orphan as an Immediate Relative, for a determination of the child's eligibility to immigrate, which includes a determination as to whether the child meets the legal definition of "Orphan";
7) The PAPs apply to the U.S. Department of State for an immigrant visa for the child; and
8) The PAPs bring the child to the U.S. and the child is admitted.

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

In an orphan case, you must file your visa petition before the child's 16th birthday. The only exception to this is if the child being adopted is the birth 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 visa petition for the birth sibling must be filed before the birth sibling's 18th birthday. A petition that was filed after the child's 16th birthday (or 18th birthday for a birth sibling) will be considered timely filed only if: ***both*** of these requirements are met: 1) The petitioner filed a Form I-600A that itself was filed after the child's 15th birthday but before the child's 16th birthday (or, if applicable, after the child's 17th birthday but before the child's 18th) birthday);
AND 2) The Form I-600 is filed not more than 180 days after *initial* approval of the Form I-600A.

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. You can then apply for the proper visa so the child can enter the U.S. If you adopted the child abroad, and you (and your spouse, if you are married) saw the child before or during the adoption proceeding, your child will receive an "IR-3" visa. If you have not yet adopted the child, and will do so in the United States, the child will receive an IR-4 visa. Once your child obtains an immigrant visa, you can bring your child to the United States for admission as an immigrant.

Under section 320 of the Act, an orphan becomes a citizen if all of these requirements are met before the orphan's 18th birthday:

(1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization.

(2) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

Generally, an IR-3 orphan who is admitted before the age of 18 becomes a citizen upon admission, because all of the adoption requirements are met. An IR-4 orphan generally becomes a citizen under section 320 only if the child is adopted after admission, and before the age of 18.

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

The "orphan" program, as its name indicates, applies only to adopted children who qualify as orphans, as defined under U.S. immigration law. A separate provision, section 101(b)(1)(E), applies to other adopted children. In a case under this provision, you must adopt the child before the child's 16th birthday (or 18th birthday, for birth siblings of other adopted children). And your child will not be eligible to immigrate until you have had legal custody of the child, and have lived with the child, for at least two years. However; once your adopted child qualifies as your child for immigration purposes, you can file a **Form I-130** relative petition. If a child adopted under section 101(b)(1)(E) meets the requirements of section 320 before the child's 18th birthday, the adopted child will automatically become a U.S. citizen. If the child does not meet these requirements before turning 18, he/she can choose to apply for naturalization after he/she reaches 18 and has been a permanent resident for five years.

For more information, please see our guide, How do I immigrate an adopted or prospective adopted child or help my adopted child become a U.S. citizen or U.S. permanent resident? It is available on our website at www.uscis.gov. Many state and local government social service agencies also provide information and assistance for anyone interested in adopting a child.

How long will it take USCIS to process the adoption petitions once they are properly filed?

The amount of time it takes to complete an intercountry adoption varies greatly by country, based on each country's adoption process and how many foreigners wish to adopt from a certain country. The target processing times for USCIS paperwork are as follows:

- Form I-600A, Application for Advance Processing of Orphan Petition, approximately 75 days; and
- Form I-600, Petition for Classify Orphan as an Immediate Relative, approximately 75 days.

Where can I get more information about the adoption process?

For more information about the adoption process, please visit our adoption web page at www.uscis.gov/adoption.

I would like to help the situation in Haiti by adopting a Haitian child. What can I do?

We understand that many Americans have been deeply touched by the plight of Haitian children, including many who may have been orphaned by the recent earthquake. The U.S. Government is working with the Government of Haiti and the international community to address the needs of all Haitians, including in particular, the needs of vulnerable children. For additional information please check USCIS web site: Help HAITI Act of 2010, or you may call 877-424-8374 or email NBC.adoptions@dhs.gov. Additionally, our web site has additional information: http://www.usaid.gov/haiti/. Here you will also find information about how you can help.

Why isn't the U.S. government acting quickly to bring Haitian orphans to the U.S.?

The U.S. government is working with the Government of Haiti and the international community to address the needs of all Haitians, especially the needs of vulnerable children. Before children can be offered for adoption, it must be clear that the child is indeed an orphan. Any process for adopting Haitian orphans must be consistent with both Haitian and American law, and must ensure that the children are truly eligible for adoption.

I've heard about humanitarian parole. What does that mean?

Humanitarian parole is an extraordinary discretionary authority that the U.S. Department of Homeland Security may employ in this instance to bring children who are pending adoption to the United States to be united with their adoptive parents. When the children enter the country with humanitarian parole, they will then need to regularize their immigration status after arrival by completing the final adoption formalities. At this time, humanitarian parole is only available to children who had adoption cases pending before the earthquake. For more information, please contact Haitianadoptions@dhs.gov

I would like to make a donation to an orphanage. What would be the best way to help an orphanage?

Licensed child welfare agencies or other charities in your area may be able to assist you with this question. The website www.cidi.org may also have helpful information.

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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?

- 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. A child who is not an “orphan” but who is adopted by a U.S. citizen or an alien lawfully admitted for permanent residence, for example, may be able to qualify under section 101(b)(1)(E) of the Act, if the child meets the requirements of that section.

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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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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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It appears that 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 an orphan is equally important to the orphan's welfare.

- 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. If you obtain approval of a Form I-600A before an orphan is identified for you, you will be 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 an orphan 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 orphan waits overseas. Once we approve the Form I-600, we will notify the U.S. Consulate/ Embassy so it can issue a visa for the orphan to come to the U.S.

The USCIS webpage that explains the process of adopting orphans from abroad

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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.

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 (or 18 if the child is the birth sibling of another child who is immigrating as your adopted child and who meets the "under 16" requirement);
- He or she must have lived with you for at least 2 years, either before or after adoption; and
- He or 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. Information about petitioning for relatives

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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 (;or 18 if the child is the birth sibling of another child who is immigrating as your adopted child and who meets the "under 16" requirement);
- 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, 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. Information about petitioning for relatives

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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.

Information about the definition of child

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

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 mail. 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 National Benefits Center at 1-877-424-8374.

General FAQs about the Hague Adoption Convention

Hague Convention adoption versus non-Convention orphan adoption FAQs

National Benefits Center (NBC) Processing FAQs

Home Study FAQs

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Hague 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 Convention 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 Convention adoption?
- May I foster a child from a Convention 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 Convention 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?
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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?
- 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

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- 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?

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.

When does the Convention become effective for the United States?

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

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.

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.

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. Information about the Central Authority for each Convention country is available at the “Intercountry Adoption” page at www.hcch.net.

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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.

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

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.

How long will it take USCIS to process the adoption petitions once they are properly filed?

The amount of time it takes to complete an intercountry adoption varies greatly by country, based on each country's adoption process and how many foriegners wish to adopt from a certain country. The target processing times for USCIS paperwork are as follows:

- Form I-800A, Application for Determination of Suitability to Adopt a Child from a Convention Country, approximately 90 days;
- Form I-800A, Supplement 3, Request for Action on Approved Form I-800A, approximately 30 days; and
- Form I-800, Petition for Classify Convention Adoptee as an Immediate Relative, approximately 30 days.

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.

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, which 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.

How can I get more information about Convention adoptions?

For further information on adoptions from Hague Convention countries, please check USCIS web site: International Adoption Simplification Act of 2010, you may email NBC.Hague@dhs.gov, or call 1-877-424-8374. Also, please visit our adoption web page at www.uscis.gov/adoption.

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.

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.

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. Information on the Orphan adoption process

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.

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.

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?

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.

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.

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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.

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.

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.

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.

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.

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. If the child will be residing with the citizen parents abroad, rather than in the United States, the child may obtain a B-2 nonimmigrant visa. Upon admission as a B-2 temporary visitor for pleasure, the child may obtain naturalization under Section 322 of the Act and then return abroad with the parents.

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

Yes. The USCIS Buffalo office reviews all IH-3 admissions. If USCIS Buffalo finds that the requirements of section 320 were met when the child was admitted, USCIS will issue a Certificate of Citizenship within 45 days of receipt of the visa packet. If the requirements of section 320 were not met (for example, the child was admitted after his or her 18th birthday), the child will receive a permanent resident card.

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.

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.

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

You must file Form I-800A and Form I-800 as specified on the Forms instructions. USCIS field offices will return to the petitioner or application any Form I-800A or I-800 received after October 27, 2008.

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.

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.

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.

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.

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.

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.

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.

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 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.

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.

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.

When can I file my "grandfathered" 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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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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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 intends to marry a foreign national can take different paths to help his/her fiancé(e) get permanent residence.

The first option is to use the fiancé visa to bring your fiancé to the U.S. The fiancé visa is used if your fiancé(e) is currently overseas and you intend to get married in the U.S. 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, s/he can apply for permanent residence and remain in the U.S. while we process an application for adjustment of status. If you choose this option, you will need to file a Form I-129F fiancé(e) petition. Form I-129F is available on our website at www.uscis.gov/forms. If you choose this option and if USCIS approves the I-129F, USCIS 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.

The second option is to file an immigrant petition, Form I-130, for your spouse after you have married each other overseas. 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 currently in the United States 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 in the United States.

Self-guided tour through the Fiance(e) process

FAQs about the Fiance(e) process

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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

Back to: Helping a Fiancé (e) Immigrate U.S. Citizen Services

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.

Information about how to obtain K-1 fiancé(e) visa outside the U.S.

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

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. After the 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 spouse's place of residence. At that time, you and your spouse will be contacted by mail regarding the fee associated with the visa application, and document collection. Your spouse may be invited to apply for his/her immigrant visa outside the United States at the U.S. Consulate

Note: Please check with the consulate of that country on the rules and laws pertaining to U.S. Citizens entering and/or getting married in that country before you travel.

Information on how to help a husband/wife become a permanent resident

Note: If you have questions about bringing your fiancé (e) to the United States, please see the FAQs for the I-129F Fiancé (e) Visa Petition.

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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).

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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 Form 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

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 may want to consider marrying your fiancé(e) outside the U.S., waiting to file the fiancé visa until you are ready to get married within 90 days, or going through the spouse relative petition process instead.

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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.

Other important questions about whether your fiancé(e) has children or not.

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Does your fiancé(e) have any children?

- Yes
- No – If you have any further questions, please return to the main page.

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?
- My approved From I-129F petition expired. Can it be extended?

Note: For additional information about an approved I-129 and other FAQs about approved cases, please call our toll-free number at 800-375-5283.

Back to: Helping a Fiancé (e) Immigrate U.S. Citizen Services

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:
  - 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
  - You prove that the requirement to personally meet your fiancé(e) would result in extreme hardship to you.

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 Form I-130 Petition for Alien Relative as your husband or wife. Information about spouse relative petitions and spouses getting permanent resident status

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.

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

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 www.uscis.gov 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. In addition, once we complete processing, the U.S. Consulate must process your fiancé(e) for a visa; so factor this into your plans.

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 come with your fiancé(e) as long as all custodial issues have been resolved in that child's country.

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/she is admitted to the U.S. based on the fiancé(e) visa. However, it will expire when status expires 90 days after entry.

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.

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My approved Form I-129F petition expired. Can it be extended?

A Form I-129F petition is valid for four months from the date of approval by USCIS. A U.S. Department of State Consular Officer may extend the validity period of the petition if:

- the petition expires before visa processing is completed; and
- the consular officer finds that the petitioner and the K-1 beneficiary are legally free to marry and intend to marry each other within 90 days of the beneficiary's entry into the U.S.

The normal processing of an approved Form I-129F petition is as follows:

- USCIS sends an approved petition to the National Visa Center (NVC);
- The NVC sends the approved petition to the U.S. Embassy or Consulate that serves the country where the K-1 beneficiary resides;
- The U.S. Embassy or Consulate contacts the beneficiary to provide instructions on applying for a K-1 visa.

A U.S. citizen should have his/her fiancé(e) contact the U.S. Embassy or Consulate to request an extension of an expired K-1 petition. If the U.S. citizen or his/her fiancé(e) feels there were circumstances that contributed to the validity of the petition expiring before visa processing is complete, that information should be provided to the U.S. Embassy or Consulate. For further information about K-1 visas, please visit the Department of State's Webpage: "Nonimmigrant Visa for a Fiance(e) (K-1)."

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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 pending

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 go to our Website at www.uscis.gov for information about a pending case or call our toll-free number at 800-375-5283.

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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 a 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, no later than 30 days after the change of address to down load the Form I-865 please visit www.uscis.gov.

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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.

Back to: Change of Address for U.S. Citizens U.S. Citizen Services

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.

How do I locate my Naturalization Certificate number?

How do I request a certified copy of my naturalization certificate?

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?
- Can I get information over the phone about my alien registration or naturalization certificate number?
- Why USCIS redesigned the certificate of citizenship?

Back to: U.S. Citizen Services

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.

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.

How can I get the Form N-565?

You can get a Form N-565 from our website at www.uscis.gov.

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.

Can I get information over the phone about the alien registration or naturalization certificate number?

USCIS will not provide or release any personal information over the phone. In order to receive the information you are requesting, you must make an appointment on line with info pass, and must appear in person at the local USCIS office that have jurisdiction over your residency.

Why did USCIS redesigned the certificate of citizenship?

The new method of producing certificates will rely on a printing process that is more tamper and fraud resistant than the previous printing methods.
For more information about the new naturalization certificate please visit www.uscis.gov

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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.

How long will it take USCIS to process my N-565 application?

Note: Processing time information

Processing time depends on a number of factors and any estimate that USCIS provides to its customers is only an estimate, not a guarantee. You can also check updated processing time estimates for an application or petition by visiting www.uscis.gov and selecting “See Office Case Processing Times” under the Tools tab. These estimates are updated monthly, typically after the 15th of the month.

Will USCIS issue interim documentation while my N-565 application is pending?

No. Evidence of U.S. citizenship cannot be issued until the necessary research is completed.

How do I locate my Naturalization Certificate number?

The naturalization certificate number is located on the top right hand corner of your naturalization certificate. The number beginning with “A” is not your certificate number; it is your alien number.

How do I request a certified copy of my Naturalization Certificate?

If you need to have a Certificate of Naturalization “authenticated,” USCIS can copy the document and certify it as a true copy. “Authentication” is a term used by the U.S. Department of State and other Governments to describe what USCIS refers to as Certified True Copies. When you require a Certificate of Naturalization to be authenticated, be sure to use the term "Certified True Copy." If you have the original document to be certified, you must make an appointment with your local USCIS office by using the InfoPass Appointment Scheduler on our website. When you go to your appointment, be sure to bring your original naturalization certificate and a copy of it. Also bring another form of photo identification, such as a driver’s license or passport. A USCIS officer will review the documents and may certify the copy, if the officer can confirm your identity and status as a naturalized citizen.

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Information about Same-sex Marriage

FAQs about Same-sex Marriage

Petitioning for my Spouse

- I am a U.S. citizen or lawful permanent resident in a same-sex marriage to a foreign national. Can I now sponsor my spouse for a family-based immigrant visa?
- I am a U.S. citizen who is engaged to be married to a foreign national of the same sex. Can I file a fiancé or fiancée petition for him or her?
- My spouse and I were married in a U.S. state that recognizes same-sex marriage, but we live in a state that does not. Can I file an immigrant visa petition for my spouse?

Applying for Benefits

- Do I have to wait until USCIS issues new regulations, guidance or forms to apply for benefits based upon the Supreme Court decision in *Windsor*?
- My Form I-130, or other petition or application, was denied solely because of DOMA. What should I do?

Changes in Eligibility Based on Same Sex

- What about immigration benefits other than for immediate relatives, family-preference immigrants, and fiancés or fiancées? In cases where the immigration laws condition the benefit on the existence of a “marriage” or on one’s status as a “spouse,” will same-sex marriages qualify as marriages for purposes of these benefits?
- If I am seeking admission under a program that requires me to be a “child,” a “son or daughter,” a “parent,” or a “brother or sister” of a U.S. citizen or of a lawful permanent resident alien, could a same-sex marriage affect my eligibility?

FAQ’s continue on the next page

Residency Requirements

- Can same-sex marriages, like opposite-sex marriages, reduce the residence period required for naturalization?

Inadmissibility Waivers

- I know that the immigration laws allow discretionary waivers of certain inadmissibility grounds under certain circumstances. For some of those waivers, the person has to be the “spouse” or other family member of a U.S. citizen or of a lawful permanent resident. In cases where the required family relationship depends on whether the individual or the individual’s parents meet the definition of “spouse,” will same-sex marriages count for that purpose?

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I am a U.S. citizen or lawful permanent resident in a same-sex marriage to a foreign national. Can I now sponsor my spouse for a family-based immigrant visa?

Yes, you can file the petition. You may file a Form I-130 (and any applicable accompanying application). Your eligibility to petition for your spouse, and your spouse's admissibility as an immigrant at the immigration visa application or adjustment of status stage, will be determined according to applicable immigration law and will not be denied as a result of the same-sex nature of your marriage.

I am a U.S. citizen who is engaged to be married to a foreign national of the same sex. Can I file a fiancé or fiancée petition for him or her?

Yes. You may file a Form I-129F. As long as all other immigration requirements are met, a same-sex engagement may allow your fiancé to enter the United States for marriage.

My spouse and I were married in a U.S. state that recognizes same-sex marriage, but we live in a state that does not. Can I file an immigrant visa petition for my spouse?

Yes. As a general matter, the law of the place where the marriage was celebrated determines whether the marriage is legally valid for immigration purposes. Just as USCIS applies all relevant laws to determine the validity of an opposite-sex marriage, we will apply all relevant laws to determine the validity of a same-sex marriage.

Do I have to wait until USCIS issues new regulations, guidance or forms to apply for benefits based upon the Supreme Court decision in *Windsor*?

No. You may apply right away for benefits for which you believe you are eligible.

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My Form I-130, or other petition or application, was denied solely because of DOMA. What should I do?

USCIS will reopen those petitions or applications that were denied solely because of DOMA section 3. If such a case is known to us or brought to our attention, USCIS will reconsider its prior decision, as well as reopen associated applications to the extent they were also denied as a result of the denial of the Form I-130 (such as concurrently filed Forms I-485).

Once your I-130 petition is reopened, it will be considered anew—without regard to DOMA section 3—based upon the information previously submitted and any new information provided. USCIS will also concurrently reopen associated applications as may be necessary to the extent they also were denied as a result of the denial of the I-130 petition (such as concurrently filed Form I-485 applications).

Additionally, if your work authorization was denied or revoked based upon the denial of the Form I-485, the denial or revocation will be concurrently reconsidered, and a new Employment Authorization Document issued, to the extent necessary. If a decision cannot be rendered immediately on a reopened adjustment of status application, USCIS will either (1) immediately process any pending or denied application for employment authorization or (2) reopen and approve any previously revoked application for employment authorization. If USCIS has already obtained the applicant's biometric information at an Application Support Center (ASC), a new Employment Authorization Document (EAD) will be produced and delivered without any further action by the applicant. In cases where USCIS has not yet obtained the required biometric information, the applicant will be scheduled for an ASC appointment.

No fee will be required to request USCIS to consider reopening your petition or application pursuant to this procedure. In the alternative to this procedure, you may file a new petition or application to the extent provided by law and according to the form instructions including payment of applicable fees as directed.

What about immigration benefits other than for immediate relatives, family-preference immigrants, and fiancés or fiancées? In cases where the immigration laws condition the benefit on the existence of a "marriage" or on one's status as a "spouse," will same-sex marriages qualify as marriages for purposes of these benefits?

Yes. Under the U.S. immigration laws, eligibility for a wide range of benefits depends on the meanings of the terms "marriage" or "spouse." Examples include (but are not limited to) an alien who seeks to qualify as a spouse accompanying or following to join a family-sponsored immigrant, an employment-based immigrant, certain subcategories of nonimmigrants, or an alien who has been granted refugee status or asylum. In all of these cases, a same-sex marriage will be treated exactly the same as an opposite-sex marriage.

If I am seeking admission under a program that requires me to be a "child," a "son or daughter," a "parent," or a "brother or sister" of a U.S. citizen or of a lawful permanent resident alien, could a same-sex marriage affect my eligibility?

There are some situations in which either the individual's own marriage, or that of his or her parents, can affect whether the individual will qualify as a "child," a "son or daughter," a "parent," or a "brother or sister" of a U.S. citizen or of a lawful permanent resident. In these cases, same-sex marriages will be treated exactly the same as opposite-sex marriages.

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Can same-sex marriages, like opposite-sex marriages, reduce the residence period required for naturalization?

Yes. As a general matter, naturalization requires five years of residence in the United States following admission as a lawful permanent resident. But, according to the immigration laws, naturalization is available after a required residence period of three years, if during that three year period you have been living in “marital union” with a U.S. citizen “spouse” and your spouse has been a United States citizen. For this purpose, same-sex marriages will be treated exactly the same as opposite-sex marriages.

I know that the immigration laws allow discretionary waivers of certain inadmissibility grounds under certain circumstances. For some of those waivers, the person has to be the “spouse” or other family member of a U.S. citizen or of a lawful permanent resident. In cases where the required family relationship depends on whether the individual or the individual’s parents meet the definition of “spouse,” will same-sex marriages count for that purpose?

Yes. Whenever the immigration laws condition eligibility for a waiver on the existence of a “marriage” or status as a “spouse,” same-sex marriages will be treated exactly the same as opposite-sex marriages.

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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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Disclaimer

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, this guide may not fully address your situation, as the full and correct answer may be significantly different.

This guide is not intended to 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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