



U.S. Citizenship
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Services

Form I-130

Petition for Alien Relative



Presented by
USCIS Service Center Operations

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Objective



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At the end of this presentation, you will be able to describe

- How USCIS receives, processes and adjudicates a Form I-130
- The relationship between the USCIS approval of a Form I-130 and the DOS issuance of an immigrant visa

What is Form I-130?



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Form I-130 is the petition used by U.S. citizens or Lawful Permanent Residents to establish a qualifying relationship with certain relatives so they can lawfully reside permanently in the U.S.

The I-130 is used to classify a family relationship upon which a subsequent application for immigrant visa or adjustment of status may be based. Approval does not convey any benefit.

Who can file a Form I-130?



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- A U.S. citizen (USC) or
- A lawful permanent resident (LPR)
- U.S. National American Samoa
 - Swains Island
 - Some individuals from the Commonwealth of Northern Mariana Islands (CNMI)

Who can file a Form I-130?



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USCs can file petitions on behalf of the following relatives:

- Spouse
- Child (including adopted and step-must be under 18 and unmarried)
- Sibling (the petitioner must be 21 years of age at the time of filing)
- Parent (the petitioner must be 21 years of age at the time of filing)
- Unmarried son/daughter
- Married son/daughter

Who can file a Form I-130?



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LPRs and U.S. nationals may file on behalf of the following relatives:

- Spouse
- Child (including adopted or step-must be under 18 and unmarried)
- Unmarried son/daughter

No one can file an I-130 on behalf of an aunt, uncle, cousin, niece, nephew, in-law or grandparent.

Immediate Relatives



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Immediate Relatives:

- IR1– Spouse of a USC
- IR2 – Child (unmarried and under 21) of a USC
- IR5 – Parent of a USC

Immediate Relatives are not subject to numerical limitations on visa availability.

Preference Immigrants



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Preference immigrants are subject to numerical limitations for visa availability.

- F11 – Unmarried son/daughter of USC (21 or older)
- F21 – Spouse of LPR
- F22 – Child of LPR (under 21 and unmarried)
- F24 – Unmarried son/daughter of LPR (21 or older and unmarried)
- F31 – Married son/daughter of USC
- F41 – Sibling of USC (USC petitioner must be at least 21)

Filing I-130 Petitions



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The I-130 filing instructions provide the petitioner with specific information and filing addresses.

Petitioners may file online or by mail in (paper).

Petitioners can visit [USCIS.gov](https://uscis.gov) to:

- Create an account to file Form I-130 online or
- Download the Form I-130 to file by mail

Intake of I-130 Petitions



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The Lockbox and electronic filing systems perform intake and data entry processes and determine whether petitions meet acceptance criteria.

A properly filed I-130 is one that is received with:

- petitioner's signature and
- the appropriate filing fee

Intake of I-130 Petitions



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The online filing system and the lockbox will reject and refund petitions that do not meet acceptance criteria.

Petitions filed at Lockbox that meet the criteria are data entered into the electronic processing system and transferred electronically to the USCIS office with jurisdiction over the case.

Petitioners may track cases at <https://my.uscis.gov/>.

Filing Instructions for Form I-130



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Concurrent filing of Forms I-130 and I-485 is possible for beneficiaries who reside in the U.S., if a visa is immediately available. These are worked by the National Benefits Center.

Petitioners may file Form I-130 online even if Form I-485 is filed by mail. It is advisable for applicants to include the Form I-130 receipt notice with their Form I-485 filing.

Priority Date



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The priority date is generally the date the visa petition was properly filed with USCIS.

- Preference immigrants subject to numerical limitations must wait for their priority date to become current.
- Visas are always available to immediate relatives.

Service Center Processing



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At the Service Center, cases undergo pre-processing for security checks and are assigned to officers for adjudication.

As officers are ready for work, cases are assigned through the electronic system.

Adjudication of Form I-130



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In the adjudication process, the adjudicator-determines:

- Is the petitioner eligible to file the petition?
- Do the petitioner and beneficiary have a “qualifying” familial relationship for the classification being sought?
- Does the file contain evidence of the bona fides of the relationship, if applicable?
- Are other required documents missing from the file?

Adjudicating I-130 Petitions



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In most cases, the standard of proof for an I-130 is “preponderance of evidence”.

The petitioner must submit evidence that establishes that the claimed relationship is more likely than not to exist.

Adjudicating I-130 Petitions



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Most I-130 petitions will be completed without a personal interview; however, the facts of an individual case may indicate that a personal interview is appropriate.

Cases requiring a beneficiary in the U.S. to be interviewed are transferred to a Field Office.

For overseas beneficiaries, USCIS relies on the Consular process to conduct the interview.

Adjudicating I-130 Petitions



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If the evidence the petitioner provided is not sufficient to prove the qualifying relationship, USCIS may send the petitioner a Request for Evidence (RFE). The RFE will:

- Inform the petitioner what is deficient
- Request specific documents or information
- Provide the petitioner with a set timeframe within which to respond to the RFE and the consequences of a failure to submit a timely response.

Adjudicating I-130 Petitions



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If the case contains adverse information of which the petitioner is unaware, raises questions regarding eligibility, or appears to be deniable, USCIS will issue a Notice of Intent to Deny (NOID), which:

- Describes reason(s) for the intended denial and why the evidence in the record is not sufficient.
- Provides the petitioner with the opportunity to provide additional documentation or explanation.

Decisions



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Approval- evidence establishes the petitioner's eligibility to file as well as the familial relationship to the beneficiary

Denial- the petitioner does not establish eligibility for the benefit.

- Denials for abandonment may not be appealed; the petitioner has only motion rights.

Approved Petitions



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Upon approval, both the petitioner and any G-28 representative are notified of the approval by mail.

For overseas beneficiaries, the petition is sent to the DOS National Visa Center for overseas processing.

For beneficiaries residing in the U.S. and eligible to adjust status, the petition is stored in one of our Records facilities.

Approval of the Form I-130 does not grant the beneficiary any legal status or work authorization.

Denied Petitions



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Petitioners and their G-28 representatives are provided with written notice of the denial grounds and provided with appeal information.

Cases are forwarded to a Records storage facility after the appeal period has passed.

Consular Returns



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Certain approved petitions are returned to USCIS from DOS for further action.

DOS provides a memo explaining why the petition is being returned or why it should be revoked.

DOS must provide statements and/or evidence that constitute “good and sufficient cause” for USCIS to initiate revocation proceedings. *Matter of Estime*, 19 I&N, Dec. 450 (BIA 1987).



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Questions?

About this Presentation



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