

The ABC's Of Immigration: Family Based Immigration Overview

by Gregory Siskind

Immigration through a family member who is a US citizen or permanent resident is the most common way of gaining US residency. All that is required is the qualifying family relationship. The ease with which a person can immigrate through a family member is in keeping with American notions of the importance of the family.

Which relationships qualify to sponsor a visa?

The first question to address in a family-based immigration case is whether a qualifying family relationship exists. Qualifying relationships are grouped into two main categories — immediate relatives and other close family members. Immediate relatives of US citizens are given special preferential treatment. First and foremost, they are allowed to immigrate in unlimited numbers.

Who is considered an immediate relative?

The following are immediate relatives:

- o Spouses
- o Children, unmarried and under 21
- o Parents

Who can be considered a preference relative?

Other close family members of citizens and permanent residents are also allowed to immigrate, subject to annual numerical limitations. The following are other relatives who are allowed to immigrate:

- o Unmarried adult children of citizens
- o Spouses and unmarried children of permanent residents Married adult children of citizens
- o Siblings of citizens

There are many technical rules relating to the allotment of visas in this group, as well as definitions of the family relationship.

What do I need to know about preparing my application?

The elements of the application that must be submitted to USCIS are the same for each type of family member. The main USCIS form that is used in all family cases is the I-130 Petition for Alien Relative. The petitioning relative must complete this form. The application must include documentation of the qualifying family relationship, and of the petitioner's status as a citizen or permanent resident. The filing fee is \$185.

When the application is made for a spouse, it must include copies of Form G-325A — Biographic Information for each spouse, as well as two color photos of each spouse. When the application is filed for an immediate relative not subject to annual numerical limitation

and the relative is in the US, an application for adjustment of status may be filed at the same time. An adjustment application is the actual process where someone converts their status to permanent resident. Think of the I-130 as being a form where someone is determined to be eligible to immigrate in a specific family category and gets a place in the queue for green cards in a particular category. The adjustment application is filed when the preference family member gets to the front of the queue in their preference category.

If the petitioner is in the US, the application is filed with either the appropriate USCIS Service Center or USCIS local office. Applications for immediate relatives are filed with local offices and those for other relatives are filed with the Service Center. If the petitioner is outside the US, they may file the application either with the Service Center that had jurisdiction over the place where they last resided in the US, or with the overseas USCIS office that has jurisdiction over their overseas residence. If the petitioner is overseas on US government business, the application is filed in the US. In some cases, a petitioner residing outside the US may file the application with the US consulate having jurisdiction over their residence. However, not all US consulates accept such petitions.

If the application is in order and shows the qualifying relationship, if the alien is an immediate relative, they can either adjust status or immediately apply for an immigrant visa at a US consulate. If the alien is not an immediate relative, they must wait until a visa number become available to either adjust status or apply for an immigrant visa through the State Department and process the green card through a US consulate overseas. In such cases, the priority date is the date on which the USCIS received the complete application. http://www.exchanges.state.gov/education/jexchanges/designated_sponsors.pdf. article. I-485.

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