

Filing for Permanent Residence Based on a Family Petition

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General Information about Filing an Application for Permanent Residence

OVERVIEW

Every year hundreds of thousands of people from all over the world seek to make the United States their home on a permanent basis. The vast majority of these individuals apply to become permanent residents while already living in the United States.

There are several paths that one can take to obtain permanent residence in the United States. One path to permanent residence is based on a petition filed by a family member to adjust status. The adjustment of status process is the way that someone who is currently living in the United States acquires permanent residence in the U.S.

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Who is a beneficiary?

A beneficiary is an alien who has a visa petition filed on his or her behalf.

Who is a principal beneficiary?

A principal beneficiary is the alien on whose behalf a visa petition is filed.

Who is a derivative beneficiary?

A derivative beneficiary is an alien who cannot be directly petitioned for, but who can follow-to-join or accompany the principal beneficiary based on a spousal or parent-child relationship.

Who is an immediate relative?

An immediate relative is generally a relative of a United States citizen who is not subject to numerical limitations placed on immigrant visas. The following individuals are considered immediate relatives:

- Spouses of a United States citizen;
- Children (unmarried and under 21 years of age) of a United States citizen; and
- Parents of a United States citizen if the United States citizen is at least 21 years of age

Please note: There are other individuals who meet the definition of an immediate relative. However, for the purposes of this section, we will only discuss those that have the Petition for Alien Relative (I-130) or the Petition for Alien Fiancé(e) (I-129F) filed on their behalf.

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What is the family sponsored preference category?

The family sponsored preference category is the immigrant visa category for the relatives of both United States citizens and lawful permanent residents, who are subject to numerical limitations placed upon immigrant visas by immigration law.

How are relatives classified in the family sponsored preference category?

The family sponsored preference category is divided into four preferences or groups of family sponsored immigrants.

The relatives of United States citizens can be classified in first, third or fourth preference and are composed of the following relatives:

- **First:** Unmarried Sons and Daughters (over 21 years of age) of a United States citizen
- **Third:** Married Sons and Daughters of a United States citizen
- **Fourth:** Brothers and Sisters of a United States citizen, if the United States citizen is at least 21 years old

The relatives of permanent residents of the United States are only classified in the second preference and are composed of the following relatives:

- **Second:** Spouses and Children, and Unmarried Sons and Daughters (over 21 years of age) of Permanent Residents

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Who is eligible to apply for adjustment of status in the United States based on an approved family-based petition?

You are eligible to apply for adjustment of status in the United States if:

- You are physically present in the United States;
- You have been inspected by a United States Immigration Officer and were either admitted or paroled into the United States;
- An immigrant visa is immediately available to you at the time you file the I-485;
- You are not inadmissible under any grounds in INA § 212; and
- You are not in one of the ineligible categories.

AND:

- If you entered the United States based on admission as the fiancé(e) of a U.S. citizen (K-1 visa), you may apply to adjust status if you married the petitioning U.S. citizen within 90 days of your entry.
- If you entered the United States based on admission as the child of a K-1 fiancé(e) (K-2 visa), you may apply to adjust status based on your parent's adjustment application.

If I have been convicted of a crime in the United States, am I eligible to adjust status in the United States?

For guidance with this question, please call our toll free number at 1-800-375-5283.

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I am classified as the immediate relative of a U.S. citizen. Do I have to wait for a visa to become available in order to apply for adjustment of status?

No, an immediate relative of a United States citizen is not subject to numerical limitations on immigrant visas and does not have to wait for a visa to become available before applying for adjustment of status.

- If your U.S. citizen relative has not filed a Petition for Alien Relative (Form I-130) yet and you entered the United States legally, you may be able to file the I-130 and an Application to Adjust Status (Form I-485) concurrently (together) if you are the spouse, parent, or unmarried child under age 21 of a U.S. citizen.
- If your U.S. citizen relative has filed a Petition for Alien Relative (Form I-130), it has already been approved, and you believe you are [eligible](#) for adjustment of status in the U.S., you may file an Application to Adjust Status (Form I-485) with a copy of the Notice of Action (Form I-797) showing the I-130 was approved.
- If your U.S. citizen relative has filed a Petition for Alien Relative (Form I-130) and it is still pending with USCIS, you may file an Application to Adjust Status (Form I-485). When you submit your completed I-485 and the fee, include a copy of the Notice of Action (Form I-797) showing the I-130 has been received at the Service Center.
- If your U.S. citizen relative has filed a Petition for Alien Fiancé (e) (Form I-129F), your petition must first be approved by USCIS AND a visa must be issued by the Department of State at a U.S embassy or consular office AND you must have married the U.S. citizen petitioner within 90 days after your entry before you or your child may file an Application to Adjust Status (Form I-485)

Note: If you live abroad, please exit this volume, go back to the Menu Page and refer to Volume 4.2 “Services Available to U.S. Citizens.”

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What application must I file to adjust my status in the United States?

You must file the Application to Register Permanent Residence or Adjust Status (Form I-485).

What must I file with the I-485?**You MUST submit the following with the I-485:**

- Biographic Information (Form G-325A);;
- Affidavit of Support (Form I-864);
- Copy of your birth certificate, with English translation, or other record of your birth as described at 8 CFR § 103.2 if your birth certificate is unavailable;
- Copy of your Nonimmigrant Arrival/Departure Record (Form I-94), showing your admission to the United States and current status, or other evidence of your status;
- Medical Examination of Aliens Seeking Adjustment of Status (Form I-693). **Note:** If you are a K-1 fiancé(e) or a K-2 dependent who had a medical examination within the past year as required for the nonimmigrant fiancé(e) visa, you only need to submit a vaccination supplement, not the entire medical report;
- Two passport size photographs;
- If you have ever been arrested or convicted, submit police and court records;

AND

- If your adjustment of status application is based on a relative visa petition (Form I-130):
- Either your original I-130, Petition for Alien Relative (if you are filing concurrently), or a copy of your I-797, Notice of Action (if the petition was already approved), or a copy of your receipt notice if your relative has already filed the Form I-130 and it is still pending.

OR

- If your adjustment of status application is based on admission as the K-1 fiancé(e) (Form I-129F) of a U.S. citizen and subsequent marriage to that citizen:
- A copy of the fiancé(e) petition approval notice and a copy of your marriage certificate.

OR

- If your adjustment of status application is based on admission as a K-2 dependent:
- File your application with the application of the K-1 fiancé(e) parent; attach a copy of your birth certificate.

In addition, you may also submit the following forms:

- Notice of Entry of Appearance as Attorney or Representative (Form G-28);
- Application for Employment Authorization (Form I-765) if you want to work while your adjustment application is processed;
- Application for Travel Document (Form I-131) if you need to travel outside the United States while your adjustment application is processed;
- Supplement A (Supplement A to Form I-485) and penalty fee, if applicable; and
- Application for Waiver of Grounds of Inadmissibility (Form I-601), if applicable.

Where is the I-485 package filed?

Please see [the instructions for Form I-485](#) on our website to determine where you should file your completed Form I-485.

What is the filing fee for the I-485 package?

Please see [the instructions for Form I-485](#) on our website to determine the correct fee for Form I-485.

Do I have to file a separate I-485 for every member of my family if I am the principal beneficiary of an approved Alien Petition?

Yes, you must file a separate Form I-485 application for each member of the family that is applying for adjustment of status in the United States.

If I am adjusting my status in the U.S., how do I apply for my family, which is derivative of my approved I-130 and resides abroad?

At the time the Form I-130 was filed on your behalf, if your U.S. citizen relative indicated that your spouse or child is residing abroad and you are currently adjusting status in the United States, USCIS will send the approval notice of your Form I-130 to the National Visa Center. Subsequently, the National Visa Center will transmit the approval notice information to the U.S. Embassy or U.S. Consulate in the country where your spouse or child is residing so his or her immigrant visa may be processed.

If the Form I-130 filed on your behalf does not indicate that your spouse or child is residing abroad, you may file Application for Action on an Approved Application or Petition (Form I-824) in order for USCIS to notify the National Visa Center and the U.S. Consulate or U.S. Embassy so that his or her immigrant visa may be processed.

Am I required to submit a medical examination with my adjustment of status application? And my family?

Yes, you and each family member are required to submit Report of Medical Examination and Vaccination Record (Form I-693) with each of your individual adjustment of status applications. If you entered the United States in any of the following nonimmigrant classifications and had a medical examination as required for the nonimmigrant visa within the past year, you are only required to submit a completed vaccination record:

- K-1, Fiancé(e) of a United States Citizen
- K-2, Minor child of K-1
- K-3, Spouse of a U.S. Citizen
- K-4, Child of K-3

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What effect does the death of the petitioner or principal beneficiary have on my ability to adjust while my Petition for Alien Relative or my Application to Adjust Status is pending?

If the petitioner or principal beneficiary of an immigrant visa petition dies, current law permits the approval – in certain circumstances – of a visa petition or adjustment application and related applications. In order for this to apply, you must meet the following criteria:

- You resided in the United States when the petitioner or principal beneficiary died;
- You continue to reside in the United States on the date of the decision on the pending visa petition or adjustment application; and
- You are one of the following:
 - The beneficiary of a pending or approved immediate relative visa petition; or
 - The beneficiary of a pending or approved preference category family based visa petition, including both the principal beneficiary and any derivative beneficiaries

You must otherwise be eligible for the immigrant visa classification sought or for adjustment of status.

This information only applies to petitions or applications adjudicated on or after October 28, 2009, even if the petitioner or principal beneficiary died before that date. If your visa petition or adjustment application was denied before October 28, 2009, solely because of the petitioner's or principal beneficiary's death, you may file a motion to reopen with the appropriate filing fee.

If my child will be 21 and our adjustment case is still pending at that time, will my child still be able to adjust status in the United States?

If the child reaches age 21 before the issuance of a visa to the principal alien parent, a separate petition will be required. In such a case, the original priority date will be retained if the subsequent petition is filed by the same petitioner. The retention of the priority date will be accorded only to a son or daughter previously eligible as a derivative beneficiary under a second preference spousal petition.

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Do my fingerprints have to be taken for the adjustment of status application?

If you are between the ages of 14 and 79, you must be fingerprinted.

Do my fingerprints have to clear before I become a permanent resident?

Yes. Fingerprints must clear and be verified by an immigration officer before you can become a permanent resident.

Does my child who is under 14 years old have to take fingerprints or have an interview?

Children under 14 are not required to have their fingerprints taken and USCIS may waive any interview requirements.

Where do I go to have my fingerprints taken?

USCIS has a vast array of fixed and mobile fingerprint sites. It is possible for USCIS to schedule you to provide fingerprints at an Application Support Center (ASC), at a site co-located in an existing USCIS office, or along an established mobile route. After you file the I-485, USCIS will notify you in writing of when and where you must go to be fingerprinted.

Am I required to attend an interview in order to adjust my status?

According to immigration regulations, an immigration officer shall interview each applicant for adjustment of status. However, interviews may be waived in certain cases. Therefore, USCIS will notify you whether or not an interview is necessary.

What kind of documentary evidence is required at the time of interview?

You will receive a notice telling you what to bring with you to the interview.

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What is the Combined Employment Authorization and Advance Parole Card?

Effective February 14, 2011 USCIS will begin issuing employment and travel authorization on a single card for applicants filing Form I-485, Application to Register Permanent Residence or Adjust Status. The card is identical to the current Employment Authorization Document (EAD) but will include text that reads, "Serves as I-512 Advance Parole." The new card will serve as both employment authorization and a travel document with this endorsement. Employers may accept a combined EAD with Advance Parole endorsement as a List A document for completion of Form I-9, Employment Eligibility Verification.

How do I apply for the combined EAD-Advance Parole card?

You may receive this card when you file Form I-765, Application for Employment Authorization, and Form I-131, Application for Travel Document, concurrently with or after filing Form I-485, Application to Register Permanent Residence or Adjust Status. You must file the Form I-765 and I-131 at the same time in order to receive a combined EAD-Advance Parole card. Please ensure that you enter your name and address exactly the same on both forms.

How long is the combined EAD-Advance Parole card valid?

The combined travel and employment authorization card will be valid for one year, if the applicant's immigrant visa is currently available. If the immigrant visa is not currently available, then the combined card will be valid for two years.

Do I have to request a combined EAD-Advance Parole card when I apply for adjustment of status?

No. If you submit Form I-765 and I-131 concurrently with your Form I-485, and you are granted both interim benefits, you will receive a combined EAD-Advance Parole card. You may also request a combined card while your adjustment of status application is pending, if you did not request it at the time you filed your Form I-485. When you make the request, you must submit Form I-765, Form I-131, and the Notice of Action (Form I-797C) for your Form I-485 at the same time. Form I-797C will show that you filed your Form I-485 on or after July 30, 2007. If you filed Form I-485 before July 30, 2007, you may also request a combined card; however, Forms I-765 and I-131 must be filed with the correct filing fees.

If I receive a combined card, does that guarantee my re-entry into the U.S. if I travel?

As with the current advance parole document, obtaining a combined card allows an adjustment applicant to travel abroad and return to the U.S. without abandoning the pending adjustment of status application. Upon returning to the U.S., you must present the card to request parole through the port-of-entry. The parole decision is made at the port-of-entry. If you have been unlawfully present in the U.S., and subsequently depart and seek re-entry through a grant of parole, you may be inadmissible and ineligible to adjust your status.

How much does the combined card cost?

If you submitted an application for adjustment of status on or after July 30, 2007, you will pay only one fee to file Form I-485, Form I-765, and Form I-131. The fee for Form I-485 is \$1,070, and there is no separate fee for Forms I-765 and I-131 associated with a Form I-485. For those cases that were filed under the old fee structure, the costs for the combined card will equal the combined costs of filing Form I-765 and I-131, which is a total of \$740.

Will USCIS still issue separate EAD and travel authorization documents?

Yes. USCIS will continue to issue separate EAD and Advance Parole documents for many situations. For example, you will receive an EAD without permission to travel if you do not request advance parole or if your Form I-765 is approved but your Form I-131 is denied.

What if I already have an EAD or a travel document?

If your travel document and EAD card have different expiration dates, it may not benefit you to apply for a combined card, unless both documents are about to expire or the EAD is about to expire and the Advance Parole document is for a single entry only. If you decide to apply for a combined card by filing Forms I-765 and I-131 simultaneously, do not apply more than 120 days before your current EAD expires.

If I lose or damage my combined card, how do I get another one?

You must file Forms I-765 and I-131, concurrently, with the appropriate fees. Although applicants who file under the current fee structure obtain their first card at no cost, they are required to pay the current fees for any card that is lost or damaged.

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Why does my new EAD look different than my prior one?

USCIS has enhanced the EAD with new security features to reduce fraud. This is part of USCIS's ongoing efforts to improve the integrity of the immigration process. USCIS will replace EADs already in circulation with the new security enhanced EADs as individuals apply for the renewal or replacement of their current EAD.

What category should I place in Question 16 on the employment authorization application?

In most cases, when filing as part of the application for permanent resident status, you would put (c)(9) in the appropriate brackets for question #16 on the Form I-765 employment authorization application.

If I have a pending application for adjustment of status, do I need advance parole to reenter the U.S.?

Generally speaking, if you have a pending adjustment of status case, you will need an advance parole to reenter the United States after travel abroad. Otherwise, your adjustment of status case can be denied based on abandonment.

Please note: If you are in lawful H-1, H-4, L-1, L-2, K-3, K-4, or V nonimmigrant status, you are not required to obtain an advance parole, and your application for permanent resident status will not be considered as having been abandoned if you depart.

Note: For additional information about traveling under one of the nonimmigrant categories noted above, please exit this volume, go back to the Menu Page and refer to that specific status within Volume 4.4.1, *Nonimmigrant Services*.

How do I apply for advance parole?

In order to apply for advance parole, you should file the Application for Travel Document (Form I-131) according to the [instructions on the Form I-131](#).

I have been out of status for a period of more than six months, or I entered the U.S. without inspection, should I travel outside the U.S. even with an advance parole?

Obtaining advance parole does not relieve you of inadmissibility under INA § 212(a)(9)(B)(i). If you have been unlawfully present in the U.S., it may be in your best interest to seek legal advice from a licensed immigration attorney or from a nonprofit agency accredited by the Executive Office for Immigration Review's (EOIR) Board of Immigration Appeals to determine whether your departure would make you inadmissible and potentially ineligible for adjustment of status.

I am leaving the U.S in 48 hours. Can I request that my application for advance parole be expedited?

You may contact the local USCIS office that has jurisdiction over your application by making an appointment through info pass, and you will be assisted accordingly.

I will be outside of United States when my advance parole expires. Can I apply for a new advance parole prior to expiration of my current advance parole?

Yes, you may apply, but you will be issued a single entry I-512 for parole into the United States.

I am in removal proceedings. Can I apply for an advance parole with USCIS?

No, you may not apply with USCIS. USCIS does not issue an advance parole document to an applicant if the applicant is in exclusion, deportation, removal or recession proceedings.

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You are the relative of a U.S. Citizen and your U.S. Citizen relative has Filed or is Filing an I-130 Petition for you

Several paths can lead an individual to become a permanent resident of United States while inside the U.S. In order to help you determine if any of these paths can help you become a permanent resident, I must ask you a few questions.

The first step we must take to determine if you may be able to file for permanent residence is to determine if any of the following describes your situation.

[You are the Husband, Wife, Unmarried Child Under the age of 21, or a Parent of a U.S. Citizen and your U.S. Citizen relative has Filed or is Filing an I-130 Petition for you](#)

[You are the Unmarried Son or Daughter Over the Age of 21 of a U.S. Citizen and your U.S. Citizen Parent has Filed an I-130 Petition for you](#)

[You are the Married Son or Daughter of a U.S. Citizen and your U.S. Citizen Parent Filed an I-130 Petition for you](#)

[You are the Brother or Sister of a Citizen and your U.S. Citizen Sibling Over the Age of 21 Filed an I-130 Petition for you](#)

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How did you enter the United States?

[Legally](#) (inspected and then admitted or paroled)

[Illegally](#)

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Did your U.S. Citizen relative file an immigrant petition on your behalf?

[Yes](#)

[No](#)

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Did your U.S. Citizen relative file an immigrant petition on your behalf?

[Yes](#)

[No](#)

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Have you ever been deemed inadmissible or been found ineligible to become a permanent resident of the United States?

[Yes](#)

[No](#)

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Was the immigrant visa petition filed on your behalf by your U.S. Citizen relative filed on or before April 30, 2001?

[Yes](#)

[No](#)

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Did you ever have an immigrant visa petition (Forms I-130, I-140, I-360, or I-526) or an application for labor certification (Form ETA 750) that was not frivolously filed on your behalf on or before April 30, 2001?

[Yes](#)

[No](#)

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It appears that you may be eligible to apply for permanent residence in the United States.

Please note that if the visa petition filed on your behalf on or before April 30, 2001, was not filed by your current petitioner, when you file your I-485, you must provide evidence that indicates you had an immigrant visa petition or a labor certification application filed on your behalf on or before April 30, 2001.

After using this guide, the conclusion reached is based on the information you provided and may not take certain factors into consideration such as arrests, convictions, deportations, removals, or inadmissibility.

USCIS is prohibited from providing legal advice. You may wish to seek legal advice from a licensed immigration attorney or from a nonprofit agency accredited by the Executive Office for Immigration Review's (EOIR) Board of Immigration Appeals.

For more information about immigration law and regulations, please see our website at www.uscis.gov.

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It appears that you are ineligible to apply for permanent residence inside the United States. In order to have qualified for this benefit, you needed to have an immigrant visa petition filed on your behalf that was received by USCIS on or before April 30, 2001 or a labor certification application filed with the Department of Labor on or before April 30, 2001. That is the only way someone who entered the United States illegally and is not in a specific class of aliens can become a permanent resident from inside the United States.

If you are still interested in becoming a permanent resident of the United States, then you must have an immigrant visa petition approved on your behalf. Please note that once that immigrant visa petition is approved, you must file for an immigrant visa **at your local U.S. Embassy or U.S. Consulate outside the U.S.**

After using this guide, the conclusion reached is based on the information you provided and may not take certain factors into consideration such as arrests, convictions, deportations, removals, or inadmissibility.

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Have you ever been deemed inadmissible or been found ineligible to become a permanent resident of the United States?

[Yes](#)

[No](#)

[Back to](#) [Relative of USC and USC has filed or is filing I-130](#) [Filing for Permanent Residence Based on a Family Petition](#)

It appears you may be ineligible to apply for permanent residence in the United States. An approved or pending Form I-130, *Petition for Alien Relative*, does not cure inadmissibility or ineligibility of a foreign national to become a permanent resident of the U.S.

You will need to receive a waiver of inadmissibility. You must apply for the waiver. Even if a specific waiver exists for your situation, there is no guarantee that the waiver will be granted. Some grounds of inadmissibility do not have a waiver, resulting in the permanent inadmissibility of an applicant to the U.S.

If a waiver does exist for your particular situation, to apply for the waiver:

You would file *Application for Waiver of Grounds of Inadmissibility (Form I-601)*, with USCIS for grounds of inadmissibility relating to criminal grounds, medical conditions, unlawful presence, immigration fraud or willful misrepresentation, etc.

You would file *Application for Advance Permission to Enter as a Nonimmigrant (Form I-192)*, with USCIS for all grounds of inadmissibility instead of Form I-601 if you are applying for permission to temporarily enter the U.S. as a nonimmigrant.

You would file *Application for Permission to Reapply for Admission into the U.S. after Deportation or Removal (Form I-212)* with USCIS if you have been removed or deported. If you have been removed or deported, besides filing Form I-212, you may also need to file *Application for Waiver of Grounds of Inadmissibility (Form I-601)* to apply for a waiver of the underlying ground(s) of inadmissibility for which you were removed or deported, as well as inadmissibility for unlawful presence.

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It appears you may be eligible to apply for permanent residence in the United States. To begin the process you can file an I-485.

If your U.S. citizen relative has not yet filed the immigrant visa petition, he or she may file the immigrant visa petition with your I-485. After using this guide, the conclusion reached is based on the information you provided and may not take certain factors into consideration such as arrests, convictions, deportations, removals, or inadmissibility.

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[Information about how to apply for permanent resident status](#)

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How did you enter the United States?

[Legally](#) (inspected and then admitted or paroled)

[Illegally](#)

[Back to Relative of USC and USC has filed or is filing I-130 Filing for Permanent Residence Based on a Family Petition](#)

Did your U.S. citizen relative file an immigrant petition on your behalf?

[Yes](#)

[No](#)

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Did your U.S. citizen relative file an immigrant petition on your behalf?

[Yes](#)

[No](#)

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Are you currently maintaining a valid nonimmigrant status in the United States?

[Yes](#)

[No](#)

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In most immigrant categories, the law limits how many people can immigrate each year. Often the demand to immigrate is greater than the limit allowed per year.

Priority dates are numerical limitations (preferences) assigned to eligible applicants seeking to immigrate to the United States. This is solely due to the maximum number of visas issued per fiscal year (October 1 through September 30) that are divided into family sponsored, employment based, and diversity immigrant visas.

[Check the U.S. Department of State's visa availability bulletin.](#)

The Department of State issues a visa bulletin on a monthly basis. In the visa bulletin, if a date is shown for any category, this indicates that the category is oversubscribed. The cut-off date for an oversubscribed category is the priority date of the first applicant who could not be reached within the numerical limits. Visas are available only to applicants who have a priority date earlier than the cut-off date. Your priority date is the date the Form I-130 visa petition was properly filed on your behalf.

In the bulletin, if "C" is shown in a category, this means immigrant visas are immediately available for all qualified applicants in that category.

In the bulletin, "U" means unavailable. This means no immigrant visas are available.

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Have you ever been deemed inadmissible or been found ineligible to become a permanent resident of the United States?

[Yes](#)

[No](#)

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Was the immigrant petition filed on your behalf by your U.S. citizen relative, filed on or before April 30, 2001?

[Yes](#)

[No](#)

[Back to Relative of USC and USC has filed or is filing I-130](#) [Filing for Permanent Residence Based on a Family Petition](#)

Did you ever have an immigrant petition (I-130) that was not frivolous, filed on your behalf on or before April 30, 2001?

[Yes](#)

[No](#)

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It appears you may be eligible to apply for permanent residence in the United States. To begin the process you can file an I-485.

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For more information about immigration law and regulations, please see our website at www.uscis.gov.

[Information about how to apply for permanent resident status](#)

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It appears that you are not eligible to apply for permanent residence because an immigrant visa is not available for your particular visa petition classification based upon your priority date. An immigrant visa must be available for your particular priority date before you can apply for permanent residence.

Once an immigrant visa becomes available for your particular priority date, you may contact USCIS at 1-800-375-5283 or visit our website www.uscis.gov for further information.

After using this guide, the conclusion reached is based on the information you provided and may not take certain factors into consideration such as arrests, convictions, deportations, removals, or inadmissibility.

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[Back to Relative of USC and USC has filed or is filing I-130](#) [Filing for Permanent Residence Based on a Family Petition](#)

It appears that you are ineligible to apply for permanent residence at this time because you do not have a pending immigrant visa petition. However, your permanent resident relative can still file an immigrant petition (Form I-130) on your behalf to start you on the path to permanent residence.

After using this guide, the conclusion reached is based on the information you provided and may not take certain factors into consideration such as arrests, convictions, deportations, removals, or inadmissibility.

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Note: For information about filing for an alien relative, please exit this volume, go back to the Menu Page and refer to Volume 4.2 "Services Available to U.S. Citizens" and see the chapter "How to Help a Family Member Get Permanent Resident Status in the United States."

[Back to Relative of USC and USC has filed or is filing I-130](#) [Filing for Permanent Residence Based on a Family Petition](#)

Filing for Permanent Residence Based on a Family Petition

You are the relative of a Permanent Resident and your Permanent Resident relative has filed an I-130 Petition for you that has been approved and the priority date is current

Several paths can lead an individual to become a permanent resident of United States while inside the U.S. In order to help you determine if any of these paths can help you become a permanent resident, I must ask you a few questions first.

This preliminary determination is only a tool to help you decide whether you should apply for the benefit you seek and should by no means be interpreted as a determination that you are eligible for permanent residence.

The first step we must take to determine if you may be able to file for permanent residence is to determine if any of the following descriptions describe your situation.

[You are the Husband, Wife, or Unmarried Child Under the age of 21 of a Permanent Resident and your Permanent Resident relative has Filed an I-130 Visa Petition](#)

[You are the Unmarried Child Over the Age of 21 of a Permanent Resident and your Permanent Resident Parent has Filed an I-130 Visa Petition](#)

[Back to Filing for Permanent Residence Based on a Family Petition](#)

How did you enter the United States?

[Legally](#) (inspected and then admitted or paroled)

[Illegally](#)

[Back to Relative of PR and PR has filed or is filing I-130](#) [Filing for Permanent Residence Based on a Family Petition](#)

Did your Permanent Resident relative file an immigrant petition on your behalf?

[Yes](#)

[No](#)

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Did your Permanent Resident relative file an immigrant petition on your behalf?

[Yes](#)

[No](#)

[Back to Relative of PR and PR has filed or is filing I-130](#) [Filing for Permanent Residence Based on a Family Petition](#)

Are you currently maintaining a valid nonimmigrant status in the United States?

[Yes](#)

[No](#)

[Back to](#) [Relative of PR and PR has filed or is filing I-130](#) [Filing for Permanent Residence Based on a Family Petition](#)

Was the immigrant petition filed on your behalf by your permanent resident relative, filed on or before April 30, 2001?

[Yes](#)

[No](#)

[Back to Relative of PR and PR has filed or is filing I-130](#) [Filing for Permanent Residence Based on a Family Petition](#)

Did you ever have an immigrant petition (I-130) that was not frivolous, filed on your behalf on or before April 30, 2001?

[Yes](#)

[No](#)

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In most immigrant categories, the law limits how many people can immigrate each year. Often the demand to immigrate is greater than the limit allowed per year.

Priority dates are numerical limitations (preferences) assigned to eligible applicants seeking to immigrate to the United States. This is solely due to the maximum number of visas issued per fiscal year (October 1 through September 30) that are divided into family sponsored, employment based, and diversity immigrant visas.

[Check the U.S. Department of State's visa availability bulletin.](#)

The Department of State issues a visa bulletin on a monthly basis. In the visa bulletin, if a date is shown for any category, this indicates that the category is oversubscribed. The cut-off date for an oversubscribed category is the priority date of the first applicant who could not be reached within the numerical limits. Visas are available only to applicants who have a priority date earlier than the cut-off date. Your priority date is the date the Form I-130 petition is properly filed on your behalf.

In the bulletin, if "C" is shown in a category, this means immigrant visas are immediately available for all qualified applicants in that category.

In the bulletin, "U" means unavailable. This means no immigrant visas are available.

[Back to Relative of PR and PR has filed or is filing I-130](#) [Filing for Permanent Residence Based on a Family Petition](#)

In most immigrant categories, the law limits how many people can immigrate each year. Often the demand to immigrate is greater than the limit allowed per year.

Priority dates are numerical limitations (preferences) assigned to eligible applicants seeking to immigrate to the United States. This is solely due to the maximum number of visas issued per fiscal year (October 1 through September 30) that are divided into family sponsored, employment based, and diversity immigrant visas.

[Check the U.S. Department of State's visa availability bulletin.](#)

The Department of State issues a visa bulletin on a monthly basis. In the visa bulletin, if a date is shown for any category, this indicates that the category is oversubscribed. The cut-off date for an oversubscribed category is the priority date of the first applicant who could not be reached within the numerical limits. Visas are available only to applicants who have a priority date earlier than the cut-off date. Your priority date is the date the Form I-130 petition was properly filed on your behalf.

In the bulletin, if "C" is shown in a category, this means immigrant visas are immediately available for all qualified applicants in that category.

In the bulletin, "U" means unavailable. This means no immigrant visas are available.

[Back to Relative of PR and PR has filed or is filing I-130](#) [Filing for Permanent Residence Based on a Family Petition](#)

Have you ever been deemed inadmissible or been found ineligible to become a permanent resident of the United States?

[Yes](#)

[No](#)

[Back to Relative of PR and PR has filed or is filing I-130](#) [Filing for Permanent Residence Based on a Family Petition](#)

Have you ever been deemed inadmissible or been found ineligible to become a permanent resident of the United States?

[Yes](#)

[No](#)

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You may be eligible to apply for permanent residence in the United States. Please note that if the I-130 petition filed on your behalf on or before April 30, 2001, was not filed by your current petitioner, when you file your I-485, you must provide evidence that indicates you had an immigrant visa petition (Forms I-130, I-140, I-360, or I-526) or labor certification application (Form ETA 750) filed on your behalf on or before April 30, 2001.

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It appears that you are ineligible to apply for permanent residence inside the United States. In order to have qualified for this benefit, you needed to have an immigrant visa petition (Forms I-130, I-140, I-360, or I-526) filed on your behalf on or before April 30, 2001, and mailed to the Immigration and Naturalization Service, or a labor certification application (Form ETA 750) filed with the Department of Labor on or before April 30, 2001. That is the only way someone who entered the United States illegally and is not in a specific class of aliens can become a permanent resident from inside the United States.

If you are still interested in becoming a permanent resident of the United States, then you must have an immigrant petition approved on your behalf. Please note that once that immigrant visa petition is approved, you must apply for an immigrant visa **at your local U.S. Embassy or Consulate outside the U.S.**

After using this guide, the conclusion reached is based on the information you provided and may not take certain factors into consideration such as arrests, convictions, deportations, removals, or inadmissibility.

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[Back to Relative of PR and PR has filed or is filing I-130](#) [Filing for Permanent Residence Based on a Family Petition](#)

It appears that you are ineligible to apply for permanent residence at this time because you do not have a pending immigrant visa petition. However, your permanent resident relative can still file an immigrant petition (Form I-130) on your behalf to start you on the path to permanent residence.

After using this guide, the conclusion reached is based on the information you provided and may not take certain factors into consideration such as arrests, convictions, deportations, removals, or inadmissibility.

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It appears that you are currently not eligible to apply for permanent residence because an immigrant visa is not available for your particular visa petition. An immigrant visa must be available for your particular priority date before you can apply for permanent residence.

Once an immigrant visa becomes available for your particular priority date, you may contact us at 1-800-375-5283 or visit our website at www.uscis.gov for further information.

After using this guide, the conclusion reached is based on the information you provided and may not take certain factors into consideration such as arrests, convictions, deportations, removals, or inadmissibility.

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[Back to Relative of PR and PR has filed or is filing I-130](#) [Filing for Permanent Residence Based on a Family Petition](#)

It appears you may be ineligible to apply for permanent residence in the United States. An approved or pending *Petition for Alien Relative (Form I-130)* does not cure inadmissibility or ineligibility of a foreign national to become a permanent resident of the U.S.

You will need to receive a waiver of inadmissibility. You must apply for the waiver. Even if a specific waiver exists for your situation, there is no guarantee that it would be granted. Some grounds of inadmissibility do not have a waiver, resulting in the permanent inadmissibility of an applicant from the U.S.

If a waiver does exist for your particular situation, to apply for the waiver:

You would file *Application for Waiver of Ground of Inadmissibility (Form I-601)* with USCIS for grounds of inadmissibility relating to criminal grounds, medical conditions, unlawful presence, immigration fraud or willful misrepresentation, etc.

You would file *Application for Advance Permission to Enter as a Non-immigrant (Form I-192)* with USCIS for all grounds of inadmissibility instead of Form I-601 if you are applying for permission to temporarily enter the U.S. as a nonimmigrant.

You would file *Application for Permission to Reapply for Admission into the U.S. after Deportation or Removal (Form I-212)* with USCIS if you have been ordered removed or deported by an immigration judge.

If you have been removed or deported, besides filing Form I-212, you may also need to file Form I-601 to apply for a waiver of the underlying ground(s) of inadmissibility for which you were removed or deported, as well as inadmissibility for unlawful presence.

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Filing for Permanent Residence Based on a Family Petition

You were admitted to the United States as a K-1 fiancé(e) or K-2 child of a fiancé(e) of a United States Citizen

Several paths can lead an individual to become a permanent resident of United States while inside the U.S. In order to help you determine if any of these paths can help you become a permanent resident, I must ask you a few questions first.

This preliminary determination is only a tool to help you decide whether you should apply for the benefit you seek and should by no means be interpreted as a determination that you are eligible for permanent residence.

The first step we must take to determine if you may be able to file for permanent residence is to determine if any of the following descriptions describe your situation.

[Admitted to the United States as the K-1 fiancé\(e\) of a U.S. Citizen](#)

[Admitted to the United States as the K-2 child \(unmarried child under the age of 21\) of a K-1 fiancé\(e\)](#)

[Back to Filing for Permanent Residence Based on a Family Petition](#)

Have you ever been deemed inadmissible or been found ineligible to become a permanent resident of the United States?

[Yes](#)

[No](#)

[Back to](#) [K-1 or K-2 Visa holder](#) [Filing for Permanent Residence Based on a Family Petition](#)

Have you ever been deemed inadmissible or been found ineligible to become a permanent resident of the United States?

[Yes](#)

[No](#)

[Back to](#) [K-1 or K-2 Visa holder](#) [Filing for Permanent Residence Based on a Family Petition](#)

Did you marry the U.S. Citizen petitioner who filed the Petition for Alien Fiancé(e) (Form I-129F) on your behalf within 90 days of your entry into the United States?

[Yes](#)

[No](#)

[Back to](#) [K-1 or K-2 Visa holder](#) [Filing for Permanent Residence Based on a Family Petition](#)

Did your K-1 parent, whom you accompanied to the United States, marry the U.S. Citizen petitioner who filed the Petition for Alien Fiancé(e) (Form I-129F) on his or her behalf within 90 days of his or her and your entry into the United States?

[Yes](#)

[No](#)

[Back to](#) [K-1 or K-2 Visa holder](#) [Filing for Permanent Residence Based on a Family Petition](#)

It appears you may be ineligible to apply for permanent residence in the United States.

An approved or pending *Petition for Alien Relative (Form I-130)* does not cure inadmissibility or ineligibility of a foreign national to become a permanent resident of the U.S.

You would need to receive a waiver of inadmissibility. In order to receive a waiver, you would have to specifically apply for the waiver. Even if a specific waiver exists for your situation, there is no guarantee that it will be granted. Some grounds of inadmissibility do not have a waiver, resulting in the permanent inadmissibility of an applicant from the U.S.

If a waiver does exist for your particular situation, to apply for the waiver:

You would file *Application for Waiver of Ground of Inadmissibility (Form I-601)* with USCIS for grounds of inadmissibility relating to criminal grounds, medical conditions, unlawful presence, immigration fraud or willful misrepresentation, etc.

You would file *Application for Advance Permission to Enter as a Non-immigrant (Form I-192)* with USCIS for all grounds of inadmissibility instead of Form I-601 if you are applying for permission to temporarily enter the U.S. as a nonimmigrant.

You would file *Application for Permission to Reapply for Admission into the U.S. after Deportation or Removal (Form I-212)* with USCIS if you have been ordered removed or deported by an immigration judge. If you have been removed or deported, besides filing Form I-212, you may also need to file Form I-601 to apply for a waiver of the underlying ground(s) of inadmissibility for which you were removed or deported, , as well as inadmissibility for unlawful presence.

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[Back to](#) [K-1 or K-2 Visa holder](#) [Filing for Permanent Residence Based on a Family Petition](#)

It appears you may be eligible to apply for permanent residence in the United States. To begin the process you can file an I-485.

If a dependent child was included on the original Petition for Alien Fiancé(e) (Form I-129F) , that child may also be eligible to apply for adjustment of status. You should file your dependent child's I-485 application at the same time as your I-485 application.

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[Back to](#) [K-1 or K-2 Visa holder](#) [Filing for Permanent Residence Based on a Family Petition](#)

It appears that you are ineligible to apply for permanent residence inside the United States.

If you are still interested in becoming a permanent resident of the United States, then you must have an immigrant visa petition approved on your behalf. Please note that once that immigrant visa petition is approved, you must file for an immigrant visa **at your local U.S. Embassy or Consulate outside the U.S.**

For more information about immigration law and regulations, please see our website at www.uscis.gov.

[Back to](#) [K-1 or K-2 Visa holder](#) [Filing for Permanent Residence Based on a Family Petition](#)

It appears you may be eligible to apply for permanent residence in the United States. To begin the process, you should file your I-485 application with your K-1 parent's application or with evidence that your parent's I-485 application is pending with USCIS or was approved, or with evidence that your parent was granted permanent residence based on a K-1 visa.

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