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Family Based Petition Application for Permanent Residence

The Petition for Alien Relative and Application for Permanent Residence is the process to get permanent residence for close relatives of U.S. citizens and U.S. permanent residents.

Relatives that Qualify for the Permanent Residence Petition

1. Immediate Relatives. Relatives of U.S. citizens are immediate relatives if they are spouses, children under 21, or parents of the U.S. citizen. There is no wait to file for IR visas.

2. Preference System Relatives. Other relatives are classified under the preference system.

1st Preference: Unmarried sons and daughters (over 21) of a U.S. citizen.

2nd Preference: [2A] Spouses and children (under 21) of a permanent resident.
[2B] Unmarried sons and daughter (over 21) of a permanent resident.

3rd Preference: Married sons and daughters (over 21) of a U.S. citizen.

4th Preference: Brothers and sisters of a U.S. citizen.

Step 1. Immigrant Visa Petition (I-130)

The immigrant visa petition for an alien relative can be filed at any time. The Petitioner must show proof of U.S. citizenship or permanent residence and documentary evidence of the qualifying relationship to the Beneficiary. **If the relative being sponsored is an immediate relative and is in the U.S., the relative petition and the Application for Permanent Residence can be filed together.**

Step 2. Application for Permanent Residence (I-485)

For a Preference category petition, once the Relative Petition is approved, the Application for Permanent Residence can be filed *if visas are available*. **Visas are always available for immediate relatives of U.S. citizens.** Beneficiaries under the preference system must wait until visas are available. The date of filing the petition establishes the “priority date” which is the Beneficiary’s place in line for their visa. Please contact our office for the current visa bulletin and visa availability.

At the time the Application for Permanent Residence is filed, the Beneficiary can apply for work authorization and permission to travel outside the U.S. while the application is processing.

Step 3. Final review, interview preparation and USCIS interview

When the case has been scheduled for the USCIS interview, we complete a final review of the case to ensure the case has been filed correctly and amend or prepare a supplement for the filing.

Marriage: If the relative petition is based on marriage, *at the time of the interview*, if the Petitioner and Beneficiary have been married *less* than two years, the CIS will grant the Beneficiary *conditional permanent residence*. The Beneficiary must file a petition to remove the conditions (I-751) 90 days prior to the two-year anniversary of conditional residence.

Please note that if your permanent residence is approved at the interview, it will take some time for you to receive your Permanent Resident Card. The Service is not required to give you any temporary evidence of your permanent residence. We advise you to wait for issuance of the card prior to making any international travel plans.

Relative Petition and Application for Permanent Residence Document List

U.S. Citizen Petitioner

- U.S. Passport, Naturalization Certificate or Permanent Resident Card
- State issued identity document (Drivers license, etc.)
- Birth Certificate or Certificate of Unavailability
- Marriage Certificate and Divorce Decree(s)
- IRS Income Tax printout for past 3 years
- Job verification letter (position, dates of employment, salary)
- Evidence of marriage (if for spousal application)
- Two (2) Passport Photo

Beneficiary

- Passport (current and expired)
- All Issued U.S. Visas
- I-94 Admission Record
- CIS Approval Notices and Employment Authorization Card (I-797,I-20, EAD)
- State issued identity document (Drivers license, etc.)
- Birth Certificate or Certificate of Unavailability (w/ Certified Translation)
- Marriage Certificate and/or Divorce Decree(s)
- Medical Examination
- Seven (7) Passport Photos (1 for I-130 and 6 for I-485 package)

The Law Office of Steven Nguyen works to simplify the relative petition process. If you would like us to assist in your relative petition, please contact our office at 281.224.3835.