



BASHYAM SPIRO^{LLP} | IMMIGRATION
LAW GROUP

Family Immigration: A Guide to Sponsoring Your Spouse or Fiancee.



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Sponsoring US Citizen vs. Lawful Permanent Resident

LPR: --*Cannot* sponsor fiancée.

--Sponsorship of spouses by LPRs subject to numerical limitations.

USC: --*Can* sponsor fiancée.

--Sponsorship of spouses subject to backlogs, but not numerical limitations.

--More exceptions for immigration problems.



The Goal: Green Card/LPR Status for Beneficiary

Process for Green Card

Adjustment of Status vs. Consular Processing

Adjustment of Status:

Can do if Beneficiary is present in US

(Potential Problems: Fraud when entering US, present without inspection, out of status)

Consular Processing:

Process for obtaining an immigrant visa at US Embassy abroad.

Beneficiary uses immigrant visa to enter US as an LPR. (Potential Problems: Difficulty in proving relationship is bona fide, previous immigration violations)



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#1 Most Common Question from Clients

“Adjustment of Status sounds so much easier. Can I bring my fiancée to the US on a tourist visa, get married, and then apply for adjustment of status?”

Potential Finding of Fraud: 30/60 Day Rule



#2 Most Common Follow-up Question from Clients:

“So, if my fiancée comes in as a tourist and then we wait 60 days to get married, can she apply for adjustment of status and everything will be fine?”

Answer: NO!





Option #1 Fiancée Visa Process

I-129 Petition filed in the US with USCIS:

- **Must prove that you've been in each other's physical presence in the 2 years prior to filing.**
- **Must include evidence of ongoing relationship.**



Fiancée Visa Process Continued...

- **Approved I-129 Petition send to National Visa Center. (Transfer from USCIS/Dept. of Homeland Security to Department of State/Appropriate US Embassy)**
- **Beneficiary receives packet from Embassy & interview is scheduled.**

(Biographical information forms, financial form for sponsor, police check, birth certificate, divorce judgments, medical exam, visa fees)



Fiancée Visa Process Continued...

4. **Beneficiary attends fiancée visa interview.**
 - Evidence to prove relationship.
 - Questions about relationship and USC.
5. **If approved:** Visa Stamp—valid for 6 months. Single Entry.
6. **Must marry within 90 days of entering in K-1 (Fiancée) Status.**
7. **After marriage, file adjustment of status.**



Fiancée Visa Route:

No marriage before Fiancée Enters US!!!

Regarding special ceremonies:

If it results in a legal marriage in the country where performed, US also recognizes it as a legal marriage. Sometimes unregistered marriages are legal marriages.



Option #2--Marriage/Immigrant Visa

US Citizen Resides Abroad:

In certain situations, the US government will allow all processing to be done in the foreign country where the US Citizen resides.

Widely perceived as easier and faster, but intended for USCs who are truly living abroad. Can't use this to circumvent the normal immigration process.



Process for most USCIs whose Spouses Reside Abroad:

1. File I-130 Immediate Relative Petition in the US with USCIS.

3. Approved I-130 is sent to National Visa Center.
 - Pay Visa Fees.
 - Submit Required Forms—Biographic & Financial
 - Submit Certain Original Documents: Marriage Cert, Birth Cert, Divorce Documents, Police Check, Photos

3. Embassy contacts Spouse for Interview
 - Medical Exam
 - Evidence and Questions Regarding Relationship



Marriage/Immigrant Visa Continued...

4. If Approved—Immigrant Visa Valid for 6 months.

5. Spouse uses immigrant visa to enter US.
 - Spouse becomes Lawful Permanent Resident on the day she enters US.
 - Conditional Resident/2 year Card—
If married less than 2 years
 - 10 year Card—If married more than 2 years



What's a K-3 Visa?
Will it help my spouse get here faster?



Option #3--Marriage/Adjustment of Status

Be careful: Fraud Issues

Doesn't Work for Everyone!!!

1. File I-130/I-485 Package in the US with USCIS:
Temporary work and travel documents
(Not everyone is qualified for travel.)
2. Interview at Local USCIS office
 - Must prove marriage is bona fide
 - Must prove Spouse is not **"inadmissible"** to US
3. If approved, Spouse's status is "adjusted" to that of Lawful Permanent Resident.
 - Marriage less than 2 years: Conditional 2 year card
 - Marriage 2 years or more: 10 year green card



Pros & Cons

- Fiancee Visa
- Marriage—Spouse enters US with Immigrant Visa
- Marriage—Spouse adjusts status in US to Lawful Permanent Resident



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THANK YOU!

919-833-0840

ame@bashyamspiro.com

murali@bashyamspiro.com

www.bashyamspiro.com