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Monday, March 2, 2009

FAQs on Affidavit of Support

I have been actively answering immigration questions on Avvo.com, and many of these questions relate to the Affidavit of Support requirement in many permanent residence applications. The Affidavit of Support and related regulations are complex and are therefore difficult for a lay person to understand. I understand the confusion that many people feel about the I-864, so I hope these FAQs help.



1. What is an Affidavit of Support and when do I need one?

The US government requires petitioners in family-based permanent residence cases to complete and file an Affidavit of Support on connection with the sponsored immigrant. If you are bringing a relative to live permanently in the United States, you must accept legal responsibility for financially supporting this family member. You accept this responsibility and become your relative's sponsor by completing and signing a document called an Affidavit of Support (Form I-864). This legally enforceable responsibility lasts until your relative



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About Me



Elaine Martin

Experienced, trusted, creative immigration solutions. Elaine has dedicated her practice to immigration law since 1997. Elaine worked with the world's largest immigration law firm for more than eight years, advising businesses of all sizes, ranging from multinational Fortune 500 corporations to start-up ventures and sole proprietorships. In addition, she was responsible for all individual client casework, providing services in family-based immigration petitions. Elaine brings valuable personal experience and passion

becomes a U.S. citizen or can be credited with 40 quarters of work (usually 10 years), even if the relationship (e.g. marriage) ends before that time.

2. Do all immigrants need an Affidavit of Support?

No, the following immigrants do not need an I-864:

- Self-petitioning widows or widowers or battered spouses and children (petitioning on a Form I-360).
- Relatives who enter as refugees or asylees.
- People who have worked for 40 qualifying quarters (as defined in Title II of the Social Security Act), or who can be credited with 40 qualifying quarters (e.g. through a family member).
- Children who can automatically acquire citizenship through a parent.

3. What are the income requirements for an Affidavit of Support?

The sponsor must meet certain income requirements: you must show that your household income is equal to or higher than 125% of the US poverty level for your household size. The poverty guidelines change annually and are on this website. If the sponsor is on active duty in the Armed Forces of the United States, and the immigrant she is sponsoring is her spouse or child, the income only needs to equal 100 percent of the U.S. poverty level for the family size.

4. What is "household size?"

The household size includes the sponsor, your dependents, any relatives living with you, and the immigrants you are sponsoring. For example, if you have a spouse and two children and you want to sponsor your brother and his wife, you must prove that your household income is equal to or higher than 125% of the US poverty level for a family of six. You must also include in your household size any immigrants you have previously sponsored under this part of the law (who are not yet naturalized citizens).

to her work as an immigration lawyer - she immigrated to the United States from Ireland in 1994.

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5. Who can be a sponsor?

If you filed an immigrant visa petition for your relative, you must be the sponsor. You must also be at least 18 years old and a U.S. citizen or a lawful permanent resident. You must be domiciled in the US. Usually, this means that you must actually live in the US, or a territory or possession, in order to be a sponsor. If you live abroad, you may still be eligible to be a sponsor if you can show that your residence abroad is temporary, so that you still have your domicile in the United States.

6. What if a sponsor can't meet the income requirements?

If you cannot show income of 125% of the poverty guidelines, you can opt for one of the following alternatives:

(a) Show that you have assets worth at least 5 times the difference between your income and the 125% of the poverty guidelines. For example, if 125% is \$30,000, and your income is \$20,000, you need to show assets worth \$50,000, i.e. 5 x \$10,000.

(b) Count the income and assets of members of your household who are at least 18 years old and are related to you by birth, marriage, or adoption. To use their income you must have listed them as dependents on your most recent Federal tax return or they must have lived with you for the last 6 months. They must also complete a Form I-864A, Contract between Sponsor and Household Member.

(c) Use the income and/or assets of the immigrants you are sponsoring, if you have listed them as dependents on your most recent Federal tax return or they have lived with you for the last 6 months. If the immigrant(s) meets these criteria, you may include the value of their income and assets, but the immigrant does not need to complete Form I-864A unless he or she has accompanying family members.

7. Where can I find more information?



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For further details about the Affidavit of Support obligations, please see the following links:

[USCIS Affidavit of Support FAQs](#)


[DOS FAQs](#)

[My prior blog on 2009 poverty guidelines.](#)

Photo by [stopnlook](#)

Posted by Elaine Martin at [1:28 PM](#) 

Labels: [adjustment of status](#), [affidavit of support](#), [family sponsorship](#), [green card](#), [marriage-based](#), [permanent residence](#)

 7 comments:

 [Vanessa](#) said...


- Hello this is Vanessa again and I am writing to let you know we got the NOA2 for the k3 visa and its been sent to NVC. My husband will start to prepare the financial support papers I134 but we will need a co sponsor and his mother is willing to help us with that , Do you know which form should she fill out as co sponsor? Can you help me figure that? Have a good week Vanessa from Brazil

[April 19, 2009 5:05 PM](#)

 [Elaine Martin](#) said...

- Vanessa - I cannot give specific legal advice on this site. If you would like help with your application, I recommend contacting an experienced immigration attorney.


[April 21, 2009 11:47 AM](#)

 Anonymous said...

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- Hello, just a general question, once the immigrant is here and decided to move out from the sponsor's place, can the sponsor withdraw the affidavit of support filed since they will no longer be under his care?

[May 11, 2009 5:33 PM](#)

 eric said...

- How do you terminate an affidavit of support if the person you have sponsored is no longer living with you?

[May 11, 2009 5:38 PM](#)

 [Elaine Martin](#) said...

- Eric - you cannot terminate your obligations if the permanent residence process is complete. This is why it is so important to know exactly what is involved in signing an Affidavit of Support.

[May 12, 2009 9:25 AM](#)

 Anonymous said...

- What if a Sponsor was living out-of-country with their spouse, and now they are living together in Canada, and have signed the affidavit of support, but now are unable to find employment?

[May 22, 2009 2:19 PM](#)

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- Anonymous - the sponsors are still liable under the Affidavit of Support, even if they cannot afford the obligations. Whether the government could actually collect anything from the sponsors is a different matter.

[May 26, 2009 2:14 PM](#)



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