



episcopal community services of long island

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DISCLAIMER: The following information is not legal advice. It is for educational and informational purposes only. If you need legal advice, consult a licensed immigration attorney or an accredited representative from a Board of Immigration Appeals (BIA) recognized agency. An undocumented immigrant should not seek legal advice from a notario or an "immigration consultant" who is not accredited by the BIA

A GUIDE TO:

Family – Based Immigration and Reunification

What is the Family Preference System?

The **Family Preference System** is a way in which the government assigns preference in immigrant visa number processing to different types of family members who don't fall into the category of **immediate relatives**. The United States allows 226,000 visas per year to foreign nationals who fall into the family preference categories and allocates a certain number to each type of relationship. Preference is assigned in the following order along with the approximate immigrant visa number waiting period:

- 1st – unmarried adult children of U.S. Citizens (4 years)
- 2nd – spouses, minor children, and unmarried adult children of LPRs (5-9 years)
- 3rd – married children of U.S. citizens (7 years)
- 4th – siblings of U.S. citizens (12 years)

Waiting periods also greatly depend upon the country of origin of the foreign national. For more updated information on waiting periods, go to http://travel.state.gov/visa_bulletin.html

Who is eligible for family reunification?

In order for a person living in the United States to sponsor a family member who would like to come to the United States to live, the **sponsor** must be:

- Be a United States citizen, or
- Be a Lawful Permanent Resident (LPR)
- Prove that he/she can support his/her relative at 125% of the poverty line (e.g. file an affidavit of support)

In order for a **foreign national** to be sponsored by someone who meets the above qualifications, the foreign national must not be ineligible for immigration (see WARNING on the back) and be one of the following in relation to the sponsor:

- A spouse of a U.S. citizen sponsor
- An unmarried minor child of a U.S. citizen sponsor
- A parent of a U.S. citizen sponsor
- An adult (married or unmarried) child of a U.S. citizen sponsor
- A sibling of a U.S. citizen sponsor
- A sponsor of an LPR sponsor
- An unmarried child (adult or minor) of an LPR sponsor

The person that fall into the categories under numbers 1, 2, and 3 above are considered to be **immediate relatives** of the sponsor. The persons that fall into the categories under numbers 4, 5, 6, and 7 are considered under the **family preference system**.

How many visas are available for immediate relatives?

There are an unlimited number of immigrant visa numbers available for immediate relatives of U.S. citizens or LPRs.

Application for Family Reunification

1. The sponsor must fill out an immigrant visa petition (I-130 Petition for Alien Relative) for the foreign national, which must subsequently be approved by the U.S. Citizenship and Immigration Services (USCIS).
2. The Department of State will then determine if an immigrant visa number is available to the foreign national (based on relationship to sponsor, preference system, and waiting list) **Immediate relatives of U.S. citizens do not need to wait for an immigrant visa number. One is immediately available to them.**
3. Once an immigrant visa number becomes available, the Department of State's National Visa Center will notify the sponsor, and the foreign national may then, if eligible, apply for an immigrant visa number.
4. If the foreign national is in the United States when the visa number becomes available, he/she may be able to apply to change his/her status to that of an LPR from within the U.S. If the foreign national is outside of the United States, he/she must go to the U.S. Consulate in his/her area to complete the processing.

For more information about the process or to obtain a copy of the applications, go to the following website:
<http://uscis.gov/graphics/services/residency/family.htm>

Screening Process for Foreign Nationals

A foreign national who is applying for an immigrant visa number will be required to provide the following:

- Information about past criminal activities
- All places of residence and employment over the past five years
- Information about parents, spouse, and children
- Photos of himself/herself
- A copy of his/her birth certificate
- Fingerprints
- A medical examination

If the foreign national is in the United States during this process, the U.S. Citizenship and Immigration Services will perform the screening. If the foreign national is outside the United States, a State Department Consular Office in his/her area will perform the screening.

Other Information about Applying for LPR Status

Q: Can I work while my application is pending?

A: If you are an immediate relative filing for adjustment status in the U.S., you may be eligible for work authorization while your application is pending.

Q: Can I travel outside of the country while my application is pending?

A: In order to travel outside of the country while your I-485 form is being processed, you need to get a travel document (USCIS Form I-131, Application for Travel Document) in order to be able to re-enter the United States.

WARNING: Travel outside of the U.S. may make you ineligible to return to the U.S. for 3 to 10 years if you were previously in the U.S. without documentation. Before leaving the U.S., you should check with an immigration lawyer to make sure this does not apply to you.

WARNING: Admissibility Issues for Foreign Nationals

In order to protect people residing in the U.S., certain people cannot receive visas to enter the U.S. This includes people who have certain diseases such as tuberculosis, who have mental disorders, who are addicts, who have committed serious crimes, or are terrorists or other undesirables. This ALSO includes PERSONS WHO ARE IN THE U.S. ILLEGALLY, and PERDONS WHO ARE INELIGIBLE FOR CITIZENSHIP. Some people who are already in the U.S. may have to return to their home country for a period of time before receiving a visa. Doctors who intend to practice medicine in the

U.S. must pass an exam before receiving an immigrant visa. If someone is ineligible for a visa, the consular official will tell him if there is another way for him to receive the visa.