

AN IMMIGRANT'S GUIDE TO

**MARRIAGE AND FAMILY BASED
GREEN CARDS**



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WELCOME!

Welcome to Landerholm Immigration, APC, your advocates for Asylum and Immigration. We created these articles to explain the laws and procedures that are especially important for us and for our clients. We hope this can answer some of your basic questions, and we look forward to working with you on your case.

Family Based Immigration Basics

Petitions - the First Step: US citizens and US lawful permanent residents ("LRPs" aka "green card holders") may file petitions on behalf of an immediate family member in order to allow him/her to immigrate to the United States. They do this on form I-130 and must prove essentially the following things: (1) that the petitioner is a US citizen or LPR; (2) that the beneficiary is biological or adoptive relative of the petitioner; and (2) the beneficiary is eligible to immigrate.

Who Can be Petitioned?: US Citizens can petition any of the following family members: (1) spouses, (2) children under the age of 21, (3) parents, (4) sons and daughters over 21 if they are unmarried (this is a very slow process), (5) sons and daughters over 21 if they are married (this is an even slower process), and (6) brothers and sisters (this is the slowest process imaginable and the government is considering cancelling this program completely). LPRs, can only petition (1) spouses, and (2) children under the age of 21. Petitions on behalf of LPRs take much longer than those of US citizens.

When A Petition Becomes "Current": Certain petitions are made "current" immediately, and certain petitions are put into a very long waitlist. The petitions that are immediately current are for the Spouses, Children and Parents of US Citizens only. The rest must wait and will be placed in a line that is published based on "priority date" on the US State Department's monthly Visa Bulletin.

Legal Eligibility: Once a petition is approved and "current," the immigrant is able to apply for his or her green card. In order to be eligible for that green card, he or she must be "admissible" to the U.S. or must be eligible for a waiver.

"Admissibility" is a complicated area of law. Generally only individuals who have entered the United States lawfully can adjust their status in the U.S. Additionally, certain crimes can make you inadmissible. Your attorney will go over any admissibility issues that exist in your case.

Step Two: Applying for Your Green Card:

After your spouse submits the I-130 (or at the same time) you will need to file form I-485 to apply for your green card. Along with the I-485 your spouse will need to submit and affidavit of support, form I-864, demonstrating that he or she makes more than 125% of the poverty line. If your spouse does not have sufficient income you will need a co-sponsor. You must also undergo a

medical examination with a civil surgeon in your area. At this time, you will also apply for work authorization so that you can have it while your application is pending.



The Interview

Almost all adjustment applicants must go to an interview with an immigration officer to review the application. At the interview you will be asked about your application and your relationship to your USC or LPR family member. Your attorney will help you prepare and accompany you to the interview. The interview is often the most important step in your green card application process.

Beware of Marriage Fraud

At the interview the immigration officer will ask you questions about your marriage. The questions can range from general to the very personal. During this process the immigration officer is trying to determine whether you have a bonafide marriage or whether you only got married to obtain a green card. A finding of marriage fraud will affect your ability to adjust your status now and in the future. Because of the harsh penalties attached to a marriage fraud finding, we highly recommend that you contact an attorney before filing an adjustment application, to avoid such a finding.

"Consular Processing" VS. Adjustment of Status"

As stated before, only individuals who were previously admitted to the United States can adjust their status in the United States. If you did not enter lawfully or are not in the U.S., you can still obtain a green card from your LPR or USC family member, but you will need to process your visa at a consulate in your home country.

This process generally takes longer and is more complicated than regular adjustment. Speak with your attorney about your options.

Inadmissibility

It is important to know if you are inadmissible before you apply for your green card. The three most common types of inadmissibility are: 1) crimes 2) unlawful presence, and 3) immigration related fraud. However, there are many other types as well.

Crimes: Certain crimes can make you inadmissible. For example, crimes involving moral turpitude and drug related crimes and others that make you ineligible for a green card.

Unlawful Presence: Means entering without inspection or parole or overstaying a visa.

Immigration Fraud: You can commit immigration fraud when you lie or misrepresent a material fact to obtain an immigration benefit.



Traveling Abroad For Green Card Case

We do not recommend that you travel while your green card application is pending unless absolutely necessary. However, if you are applying for adjustment of status and you wish to travel outside of U.S., then you can do so by applying for an Advance Parole document (on Form I-131). This document will preserve your application even when you leave the U.S. Beware though, that advanced parole is not a green card and it does NOT guarantee that Border Patrol will allow you back into the US.

How We Handle Your Green Card Case

Our office is committed to help you throughout the entire process and assure that you understand what is happening at each step in your case. Below is an overview of how we will handle your case.

1) Initial Consultation: at the initial consultation we will go over your eligibility for a green card and you be given a checklist of all the documents that will be required for your case.

2) Sign Contract and Pay Initial Retainer:

Once you formally become our client we will assign a paralegal to help gather all the information on your case. The paralegal will provide you with a list of civil surgeons in your area with Form I-693 and pertinent instructions.

3) Information Gathering:

The paralegal on your case will send you a welcome email with a questionnaire for you to fill out which will allow us to complete all the forms for you. At this time you will also compile all the required documents as listed on the checklist that was given to you at your initial consultation.

4)Medical Exam:

At the same time that you are gathering documents, you will also be required to schedule an appointment for your medical exam. Once the exam is complete you will bring us the results in a sealed envelope.

5)Follow Up Appointment:

Approximately ten business days after we receive all the required documentation, including the medical exam, the paralegal will set up a follow up appointment for you to meet with your attorney. In the meantime, the paralegal and your attorney will prepare all the required forms. At the appointment your attorney will review the forms with you and have you sign them. The follow up appointment usually lasts a bout 1.5 to 2 hours.

*Note: Please make sure all fees, including our office fees and government filing fees are turned in at this final appointment.

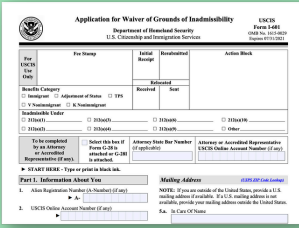
What to Expect After Your Case Is Submitted

- 1) You should receive a receipt notice approximately four weeks later, and a biometrics notice around the same time.
- 2) You should receive an interview notice (or in some cases a request for initial evidence within six weeks of filing.
- 3) You will have a follow up appointment 10 days before your interview to go over the application and prepare for the interview



Waivers!

Certain inadmissibility issues can be waived through by filing a waiver. The most common types of waivers are for unlawful presence, crimes, and fraud.



The image shows a sample of the USCIS Form I-601, "Application for Waiver of Grounds of Inadmissibility". The form is titled "Application for Waiver of Grounds of Inadmissibility" and includes the USCIS logo and the Department of Homeland Security seal. It contains various fields for personal information, reasons for the waiver, and contact details. The form is partially filled out with example text.

To qualify for a waiver, you must have a qualifying relative, usually an LPR or USC spouse or parent. Then you must show that your relative would suffer "extreme hardship" if you were forced to leave the United States.

Post-DOMA Same Sex Petitions

In June of 2013 the Supreme Court ruled that the Defense of Marriage Act ("DOMA") was unconstitutional because it denied same sex couples equal protection of the laws of the United States. This ruling has opened up an avenue for same sex partners to petition their spouses for green cards.

Although we don't yet know exactly how USCIS will treat these applications we expect that they will be treated just like all other applications. Your attorney will help you collect the necessary evidence to help you apply and petition for your loved on


Conditional Residence and the I-751

If your green card is based on marriage, and if you had less than two years of marriage at the time you applied, your green card will be "conditional." This means that it will only last for two years and you will need to file a separate form (form I-751) to remove the conditions.

When to file the form? You will need to file the I-751 within the 90 days before the expiration of your 2-year green card. If you fail to do so, the government will terminate your status and can subject you to deportation.

How to file the form? It is best to file the I-751 jointly with your spouse whenever possible. However, if this is not possible, there are still options available. Talk to your lawyer about the best strategy in your situation.

Don't Lose Your Residency

A hand is shown reaching down towards a Permanent Resident Card. The card is tilted and features a photo of a woman, the text "IMMIGRATION AND NATURALIZATION SERVICE", and "PERMANENT RESIDENT".

Permanent residents have the right to live and work in the United States, but they can still be deported in certain cases. For example, as an LPR you have to be permanently residing in the U.S., so you should not leave the country for more than six months without talking to your lawyer. Also, certain crimes can make you deportable. Therefore, if you are arrested, contact an immigration lawyer immediately. Before you take any plea bargains or take a plea, consult an immigration attorney to avoid losing your status.

Naturalization

The next step after becoming a permanent resident is to naturalize to a United States citizen. If you became a permanent resident through your spouse, you are eligible to naturalize 3 years after you become a permanent resident. If you gained your residency through another family member you can naturalize after 5 years of being a permanent resident. There are other requirements to naturalize as well, so please feel free to contact us when the time comes, and we can help you with your application!





Landerholm Immigration, A.P.C.
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