

FAMILY IMMIGRATION



 DAVIS & ASSOCIATES

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Introduction

U.S. immigration can be complex, whether you're petitioning the government for a visa or you want to gain lawful permanent resident status or a green card.

The good news: You don't have to do it alone.

We're here to walk you through your family immigration case. We'll answer your questions, file paperwork on your behalf, help you prepare for your immigration interview and be there every step of the way when you're waiting for approval.

Simply by reading this e-book, you're a step ahead of the game. In it, we cover:

- *Green card eligibility*
- *Family preference categories*
- *Necessary documents*
- *Adjustment of Status applications*
- *What to expect after you file*
- *USCIS & Consulate interviews*
- *Consular processing*
- *Permanent residence*

If you have any questions, please call us or visit our website, GLDLaw.com, to get in touch with an immigration attorney who can provide you with the answers – and legal guidance – you need.

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Green Card Eligibility: Who Qualifies for a Green Card in the U.S.?

Many people qualify for lawful permanent residency in the U.S. A person who is granted this privilege is given official documentation – a *green card* – that shows his or her legal status.

In order to apply for a green card, you must be *admissible* to the U.S., which means you must meet certain criteria, and you must (in most cases) have a valid visa that allows you to enter the country. If you or your family members meet all the right criteria, you can ask the government for a visa (and eventually a green card) based on:

- *Family connections*
- *Employment*
- *Widow/Widower*
- *Refugee or asylee status*
- *Status as a human trafficking or crime victim*
- *Status as a victim of abuse*
- *Registry and other circumstances*

If you are already a lawful permanent resident or citizen who wants to bring a family member to the U.S., the category that you'll most likely use is related to your familial connections.

Green Cards Through Family

Your family relationships may make it possible to bring your relatives to the United States. U.S. immigration law allows you to bring immediate relatives and fiancés to the country, and it allows some widows and widowers to get lawful permanent resident status, as well.

Use this table to determine what relationships qualify a person for family immigration.

Category	Familial Relationships
Immediate relative of a U.S. citizen	<ul style="list-style-type: none"> ➤ Spouses of U.S. citizens ➤ Unmarried children of U.S. citizens, provided the children are under the age of 21 ➤ Parents of U.S. citizens, provided the citizen is at least 21 years old
Other relative of a U.S. citizen or lawful permanent resident	<ul style="list-style-type: none"> ➤ Unmarried children of a U.S. citizen, provided the children are over the age of 21 ➤ Married children of a U.S. citizen ➤ Siblings of a U.S. citizen, provided the citizen is at least 21 years old ➤ Spouse of a lawful permanent resident ➤ Unmarried child of a lawful permanent resident
Fiancé of a U.S. citizen, or a child of the fiancé of a U.S. citizen	<ul style="list-style-type: none"> ➤ People admitted to the U.S. as the fiancé of a U.S. citizen on a K-1 nonimmigrant visa ➤ People admitted to the U.S. as the child of the fiancé of a U.S. citizen on a K-2 nonimmigrant visa
Widow or widower of a U.S. citizen	<ul style="list-style-type: none"> ➤ This category is reserved for people whose spouse was a U.S. citizen when the citizen passed away during the marriage
Victim of battery or extreme cruelty at the hands of a family member	<ul style="list-style-type: none"> ➤ Abused spouses of a U.S. citizen or lawful permanent resident ➤ Abused children of a U.S. citizen or lawful permanent resident, provided the children are unmarried and are under the age of 21 ➤ Abused parents of U.S. citizens

Immediate Relative Categories

The U.S. government uses the term immediate relative to define relationships between U.S. citizens and their family members. They're categorized this way:

- *IR-1 is a spouse of a U.S. citizen*
- *IR-2 is an unmarried child of a U.S. citizen, when the child is under the age of 21*
- *IR-3 is an orphan adopted abroad by a U.S. citizen*
- *IR-4 is an orphan adopted in the U.S. by a U.S. citizen*
- *IR-5 is the parent of a U.S. citizen, when the citizen is at least 21 years old*

Visas are always available to the immediate relatives of U.S. citizens – there's no limit or cap. This means that immediate relatives don't have to wait in line for a visa. If someone doesn't fit into an immediate relative category, they'll have to use the government's family-based preference categories to apply.

Family-Based Preference Categories

The U.S. government allows family members of citizens and lawful permanent residents, or LPRs, to get a green card based on their specific relationships. There are five family-based preference categories:

- *First preference (F1)*
- *Second preference (F2A)*
- *Second preference (F2B)*
- *Third preference (F3)*
- *Fourth preference (F4)*

In order to get a green card as a family member, you must meet admissibility criteria. If you don't, the government will deny your petition and you will not be allowed to immigrate to the United States. However, in some cases, waivers are available to people who are not admissible to the U.S. for various reasons (see the "Grounds for Inadmissibility" section of this e-book to learn more).

The preference immigrant categories are designed to help U.S. Citizenship and Immigration Services determine which applications to prioritize. These categories have an annual limit, a total number and a separate per country number.



First Preference

The first preference category, F1, is for unmarried sons and daughters of U.S. citizens, provided the unmarried children are 21 or older.

Second Preference

There are two subcategories of second preference: F2A and F2B. F2A is for spouses and children of lawful permanent residents (as long as the children are unmarried and under 21 years of age), and F2B is for the unmarried children of lawful permanent residents when the children are 21 or older.

Third Preference

The third preference category, F3, is for the married sons and daughters of U.S. citizens.

Fourth Preference

The fourth and final family preference category, F4, is designed for the siblings of U.S. citizens, as long as the citizen is 21 or older. Lawful permanent residents must become U.S. citizens before petitioning to bring a sibling to the country.

What is a Priority Date?

Usually, there are more people who apply for family-based immigration than there are visas available. People who aren't immediate relatives of a U.S. citizen must apply through a family preference category and wait for a visa to become available.

If you apply under a family-based preference category, you'll get a *priority date*. Your priority date is the date you and your attorney file your petition, and it becomes your number in line. You'll have to keep an eye on the U.S. Department of State's monthly Visa Bulletin to find out when it's your turn to claim your visa.

Applying for a Green Card

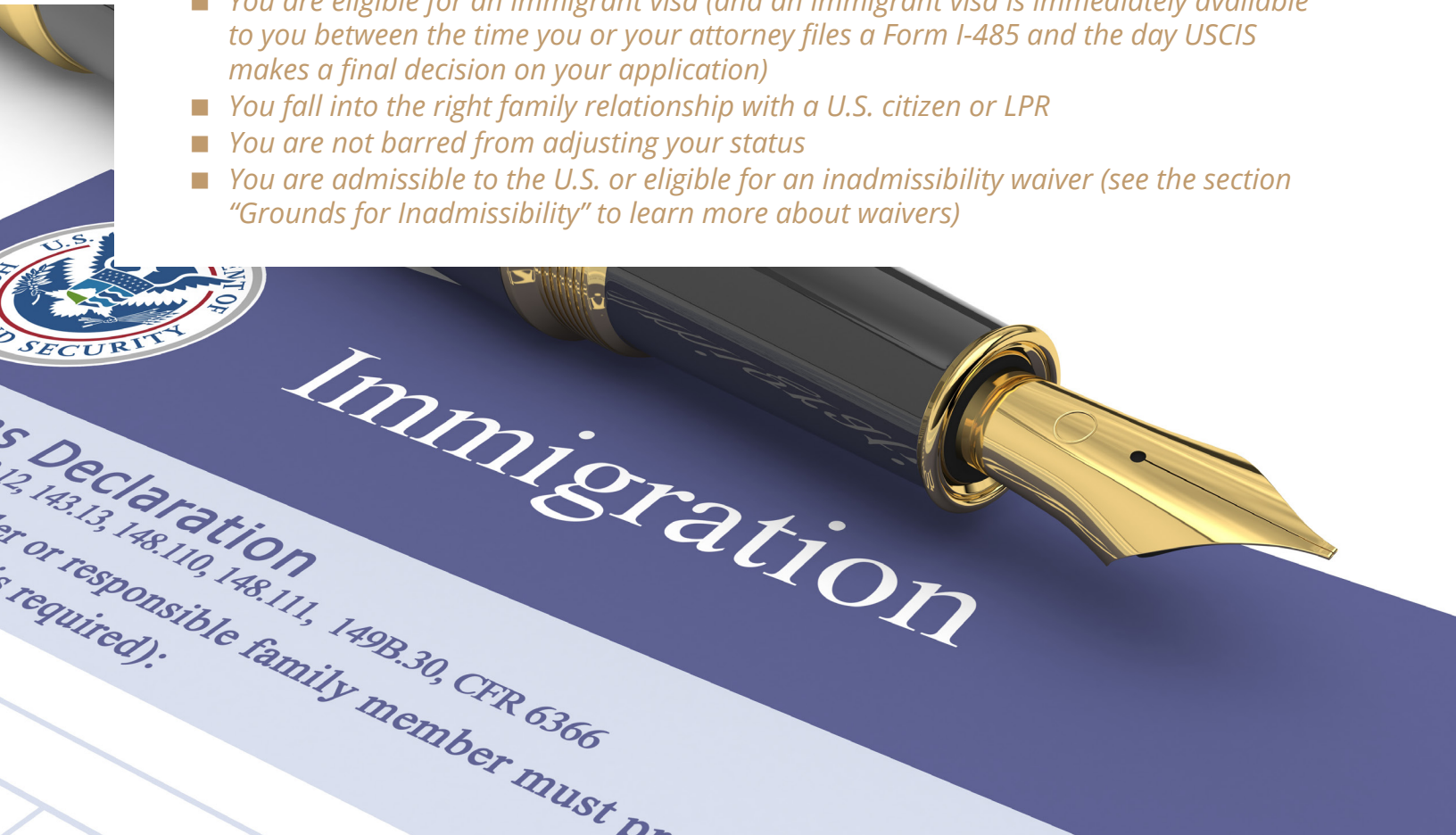
Once you have your petition approved and the visa is available, you can apply for a green card. There are two ways to do this: through *adjustment of status* or through *consular processing*.

Adjustment of Status

Adjustment of status means you'd like to change your U.S. immigration status to permanent residence, which means you go from being a visa holder to a green card holder while inside the U.S.. If your application is approved, you'll become a lawful permanent resident of the United States – and that's what you need to be in order to eventually become a citizen. Eligibility for Adjustment of Status

You can only adjust your status if you are currently in the U.S. and meet these criteria:

- *You or your attorney files a Form I-485 (Application to Register Permanent Residence or Adjust Status)*
- *You were inspected and admitted or inspected and paroled into the U.S.*
- *You are physically present in the U.S. when you or your attorney files your Form I-485*
- *You are eligible for an immigrant visa (and an immigrant visa is immediately available to you between the time you or your attorney files a Form I-485 and the day USCIS makes a final decision on your application)*
- *You fall into the right family relationship with a U.S. citizen or LPR*
- *You are not barred from adjusting your status*
- *You are admissible to the U.S. or eligible for an inadmissibility waiver (see the section "Grounds for Inadmissibility" to learn more about waivers)*



If you are outside the U.S., you'll most likely need to use consular processing (see the section "Consular Processing" to learn more).

What Do "Inspected and Admitted" and "Inspected and Paroled" Mean?

In order to be eligible to adjust your status, you must be present in the U.S. after being either *inspected and admitted* or *inspected and paroled* by an immigration officer.

Inspected means that:

- *An immigration officer has checked to see whether you are admissible*
- *You've presented all the required documentation to get into the U.S. (including fingerprints, photos, other biometric identifiers, documentation of your current immigration status such as a visa, I-94 or parole and any other requested evidence)*
- *You've established that you're not subject to removal under immigration laws, executive orders or presidential proclamations*

You'll be admitted to the U.S. if you meet all the conditions listed above and an immigration officer decides you're admissible. You'll be considered paroled if you're seeking admission at a port of entry to the U.S. and an immigration officer lets you in without determining whether you're admissible. This all happens at a port of entry, such as an airport, seaport or border crossing.

You must be in a lawful immigration status to apply for adjustment of status, unless you are applying as an immediate relative. Immediate relatives only have to prove legal entry to qualify for adjustment of status. There are some exceptions, which you would need to explore with your lawyer to see if you qualify. (Issue is that immediate relatives don't have to be in legal status to file for adjustment of status, and there are two exceptions in the law - 245(k) and 245(i), which allow a person who has failed to maintain legal status or in some cases entered illegally to file for adjustment of status)

Bars to Adjustment of Status

Some people aren't allowed to adjust their immigration status – instead, they're subject to a bar to adjustment of status. If you entered the U.S. illegally, or if you committed certain types of crimes or violations of immigration law, you may be barred from adjusting status. In some cases, however, waivers are available; your attorney can help you determine whether you might qualify for one.



Your Adjustment of Status Packet

You and your immigration attorney will work together to put together an adjustment of status packet that contains all the documentation and forms necessary to get a green card. The documents you need include:

- *Form I-485, Application to Register Permanent Residence or Adjust Status*
- *Form I-130 and I-130A only apply to immediate relative spouses. Immediate relatives who are not spouses would just have the I-130. And preference would already have the I-130 approved in most cases.*
- *Form I-864, Affidavit of Support*
- *Form I-693, Report of Medical Examination and Vaccination Record*
- *Form I-765, Application for Employment Authorization (this form is optional) Form*
- *I-131, Application for Travel Document (this form is optional)*

There are fees associated with filing some of these forms, which are subject to change. Your attorney will let you know what the filing fee is for each document, or you can check yourself on the USCIS website.

What is Advance Parole?

Because an adjustment of status can take several months (or longer), applicants may want to travel outside the United States. If you want to travel outside the country, whether you're visiting family or taking a vacation, you must need to get the appropriate travel document. This document is called *advanced parole*. If you travel outside the U.S. without advanced parole, you could jeopardize your entire immigration case.



Grounds for Inadmissibility

Some people aren't permitted by law to enter or stay in the U.S. The Immigration and Nationality Act sets the rules for inadmissibility, which include:

- *Health*
- *Criminal status*
- *National security*
- *Likelihood of becoming a public charge*
- *Lack of labor certification*
- *Fraud or misrepresentation*
- *Prior removals or unlawful presence*
- *Miscellaneous reasons*

What Are Inadmissibility Waivers?

Inadmissibility waivers are special documents that USCIS can grant to some immigrants to allow entry into the U.S. You and your attorney can work together to request a waiver, and if it's granted, you'll be allowed entry into the country.

Consular Processing

Consular Processing is the process of applying for an immigrant visa through a U.S. embassy or consular office in another country outside the U.S. If you're currently in the U.S. on a visa, you may be eligible to apply for an adjustment of status. Your attorney can give you case-specific legal advice on which method is right for you based on where you are – or where you plan to be – when you file your petition.



What Happens After You Apply for a Green Card?

After you file your application to get a green card, a series of events need to take place. The next steps depend on whether you filed for adjustment of status or you applied through consular processing.

After You File an Adjustment of Status Petition

You'll receive a Form I-797, Notice of Action, from USCIS. This form is just a receipt that tells you USCIS has received your application and that you filed it properly. When you receive Form I-797, it means you are an official adjustment of status applicant. The form will contain a receipt number, and you can use that number to check the status of your case on the USCIS website.

After you receive your receipt, these are the next steps:

- *You must attend a biometrics appointment*
- *You must attend an immigration interview*

The Biometrics Appointment

USCIS will send you an appointment notice for a biometrics screening. At your screening, a USCIS official will take your picture, collect your fingerprints and have you sign your name. This is done to confirm your identity so USCIS can perform a criminal background check – and so that it can ensure that immigration benefits are going to the right people.

The Immigration Interview

Most people have to go through an immigration interview. During your interview, a USCIS official will go over the information in your application to re-verify it. The official assigned to your case will also ask you if you've had any life changes that might affect your eligibility, as well as some other questions.

Most commonly, these additional questions help the USCIS agent determine the validity of a marriage; that way, the government can be sure that you didn't just marry your spouse to gain an immigration benefit. For example, the agent might ask you:

- *How you and your spouse met*
- *What type of food was served at your wedding reception*
- *Who does the laundry in your home*
- *How you and your spouse celebrated your last anniversary*

These questions can seem very personal – and very detailed – but if you're living with your spouse and you have a bona fide marriage, they should be easy to answer.

Most USCIS adjustment of status interviews last around 30-45 minutes after waiting in the waiting area to be called

What to Bring to Your Immigration Interview

You and your attorney will discuss what documents you need to bring to your immigration interview, but generally, you need:

- *A complete copy of your visa petition*
- *A complete copy of your adjustment of status application*
- *Original copies of documents that you have already submitted to USCIS (like birth certificates or marriage certificates)*
- *Your passport*
- *An advance parole document if you have one*

After the Interview

Sometimes USCIS officers approve applications at the end of the immigration interview. If that happens in your case, you might be able to request to have an I-551 stamp put in your passport, which provides temporary proof that you're a permanent resident of the United States. You can use that to travel in and out of the country until you receive your official green card.

If you're not immediately approved, you will receive notice of USCIS's decision in the mail. You may simply receive your green card in the mail, which typically takes a few weeks.



After You Apply Through Consular Processing

If you're located outside the U.S., the only way to apply for family immigration is through consular processing. (If you're in the U.S., you can use adjustment of status.) Generally, you'll receive your immigrant visa and then come to the United States. You will deliver a sealed packet to the inspecting officer, pay a processing fee, and your green card will be delivered in the mail to the address you provided, usually in about 60-120 days.

After you apply through consular processing, these are the next steps:

- *Your petition goes to the National Visa Center, or NVC*
- *You must monitor the current Visa Bulletin*
- *The NVC will process your application when you reach your priority date*
- *You will attend an immigration interview*

The National Visa Center

Your initial sponsorship petition goes to USCIS. Once USCIS approves your petition, it sends it to the National Visa Center. After the NVC receives your petition, you'll receive a case number. If you're an immediate relative of a U.S. citizen, an immigrant visa is immediately available to you – but if you're applying under a family preference category, you may have to wait some time. That's because there are a limited number of visas available to people in family preference categories.



Checking the Visa Bulletin

When you have your priority date and you know your family preference category, you must check the U.S. State Department's monthly visa bulletin. Your attorney can help you navigate to find out what kind of time frame you're working with.

National Visa Center Processing

When your priority date meets the State Department's most recent qualifying date, the NVC will start pre-processing your case. You'll have to complete Form DS-261 (filing yourself) or DS-260 (if you're using an attorney). You'll also have to pay the fees associated with your application. From there, the NVC will ask you to submit all the required documentation, such as the Affidavit of Support, birth certificates and other information. Your attorney will go over the necessary documentation with you to ensure that you're submitting a complete petition.

If you don't apply for an immigrant visa within a year of notice that there is a visa available with you, the State Department could terminate your petition. It's incredibly important that you check the visa bulletin each month to see whether it's time for you to start working on the process.



The Immigration Interview

The NVC will coordinate with the U.S. consulate in your country to schedule your immigration interview. Usually, the appointment will be within 60 days of the NVC receiving your complete packet. You'll receive an interview appointment letter that describes the date, time and location of your interview, and the NVC will forward all your documents to the consulate or embassy.

Your interview will be very similar to an adjustment of status interview. You'll also need to bring several documents and forms with you. Your attorney can go into more detail, but generally, you must have:

- *Your interview appointment letter*
- *An unexpired passport that's valid for at least 6 months beyond the date you intend to enter the U.S., as well as a photocopy of the biographic page (the page that contains your name and picture)*
- *Two color passport photos with a white background; the photos must measure 5 cm. by 5 cm. (2 in. by 2 in.)*
- *Civil documents like birth certificates, marriage certificates, divorce decrees, death certificates, military records or police certificates*
- *The confirmation page you received when you or your attorney filed Form DS-260, Immigrant Visa and Alien Registration Application*
- *A signed Affidavit of Support from your petitioner and any other financial co-sponsors*
- *Financial evidence that proves your petitioner's and co-sponsor's income, such as a U.S. federal tax return or Form W-2*
- *Proof of the U.S. petitioner's status and domicile in the U.S., such as a photocopy of a birth certificate, passport, naturalization certificate or green card*
- *Medical exam is only provided to the government in a sealed envelope when filing for adjustment of status. Filing at the consulate, the medical exam is done by a local doctor and the results are provided to the consulate directly.*

If your documents are not written in English or in the official language of the country where the interview takes place, you should also provide a translation in English, and a translator must certify each translation.

If your application is approved, you'll receive notice of that approval and you can begin your travel preparations to come to the U.S. While many visa applications are ultimately approved, it's important that you don't make any major decisions – like selling your home or buying a plane ticket – until you're certain that your petition has been approved.

You're Not Alone

Simply by reading this e-book, you're miles ahead of other people – you're taking the time to educate yourself and learn about all the steps you can take to smooth out the process.

And we'll be here with you, every step of the way.

We've helped people from all over the world immigrate to the U.S. based on their relationships with U.S. citizens and lawful permanent residents, and we can help you, too.

When you're ready to begin your own immigration journey, call us or visit our website, GLDLaw.com. We'll give you the guidance you need.



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