

Family Immigration

There are essentially two categories for family-based immigration, limited and unlimited. Unlimited immigration is available to the immediate family member of a U.S. Citizen. This includes the spouse, parent (if the U.S. citizen is over the age of 21) and unmarried or widowed children under 21. Immediate relatives have special immigration priority and do not have to wait in line for a visa number to become available for them to immigrate because there are an unlimited number of visas for their particular categories.

Get a Green Card While Inside the United States:

Certain people are eligible to apply for a green card (permanent residence) while inside the United States. An immediate relative relationship allows you to apply on Form I-485, Application to Register Permanent Residence or Adjust Status, to become a permanent resident at the same time your U.S. citizen petitioner files Form I-130, Petition for Alien Relative.

Get a Green Card While Outside the United States:

If you are currently outside the United States and are an immediate relative of a U.S. citizen, you can become a permanent resident through consular processing. Consular processing is when USCIS works with the Department of State to issue a visa on an approved Form I-130 petition when a visa is available. You may then travel on the visa and will officially become a permanent resident when admitted at a U.S. port of entry.

The Department of State will notify you when you are eligible to apply for an immigrant visa. If you do not apply for an immigrant visa within one year following notification from the Department of State, your petition may be terminated.

Things to keep in mind:

Turning 21 years of age. When an immediate relative child of a U.S. citizen reaches the 21 years of age, he or she generally will become a “first preference” (F1) category son or daughter (over 21 years of age) of a U.S. citizen, and will no longer have a visa immediately available. This change may result in a significant delay in adjustment of status or visa processing because he or she will now need to wait for an immigrant visa to become available.

Child Status Protection Act. In certain cases, the Child Status Protection Act (CSPA) may allow you to retain the classification of “child” even if you have reached age 21. Generally, your age is “frozen” as of the date your U.S. citizen parent files Form I-130 for you.

Getting Married. If an immediate relative child under age 21 gets married, he or she can no longer be classified as an “immediate relative” and will become a “third preference” (F3) category married son or daughter of a U.S. citizen and a visa would no longer be immediately available.