

Marrying a U.S. Citizen

If you marry a U.S. Citizen you are eligible to apply immediately for Permanent Residency (green card), unless you have had a J-1 visa with a two-year home residency requirement which has not been fulfilled or waived. *Marriage does not make you a permanent resident*; you must file an application with United States Citizenship and Immigration Services (USCIS). For more information, please visit www.uscis.gov.

Please note: You are allowed to remain in the U.S. while your application is pending, even if your current status expires. However, if your application is ultimately denied and you have not been maintaining your F-1 or J-1 status, you will not be able to return to legal student status. You are encouraged, therefore, to maintain your current status until you receive notification that your change to Permanent Resident has been officially approved.

Frequently Asked Questions

- **Can I apply before we get married?** No, USCIS needs proof that you are married. You can, however, prepare your application prior to marriage and submit it once you have the marriage license.
- **What is a fiancé(e) visa (K-1 visa)?** A visa that allows a fiancé(e) outside the United States to enter the U.S. in order to get married. The U.S. citizen fiancé(e) has to file a petition with the USCIS in the U.S. The approved petition will be forwarded to the Consulate in the partner's home country, which will contact the applicant and eventually schedule an interview. Processing the fiancé(e) visa will probably take 4–6 months.
- **My fiancé(e) is American, but s/he doesn't have a U.S. passport, only a green card. What should we do?** If your fiancé has a green card, she or he is a permanent resident, not a U.S. citizen. She or he can petition for you to become a permanent resident, but because of the quota there is a long wait before you can even apply for the green card. The wait is currently 5 years. You may not stay in the U.S. unless you have a valid non-immigrant visa throughout the waiting period.
- **Can I work while waiting to get my green card?** When you apply for permanent residency, you can also request work authorization to cover employment while your application is being processed (Form I-765). It is possible that you will receive the employment authorization document (EAD) before your green card is processed. If you work using the EAD, you have violated your F-1 or J-1 status. Falling out of status is allowed while your application is pending, but if your final application for green card is denied, you will have no legal status in the United States and will have to depart. It is recommended that you maintain your F-1 or J-1 status, including following all employment regulations, until you have received verification that your application for permanent residency has been approved.
- **Once I've filed the application with USCIS, how long does it take?** It varies at different USCIS offices and can take anywhere from six months to two years. You should check with the office where you will be filing.
- **After the interview, do I get my green card?** Your laminated "Permanent Resident" green card will be sent to you shortly after your interview, unless additional documentation is needed. If you need immediate confirmation of your new status before receiving the card, you can request a stamp in your passport evidencing your PR.
- **I've heard that the green card is only temporary—is that true?** Yes, because marriage is a relatively easy route to permanent residency, there is a second check on the marriage after two years. USCIS will grant conditional permanent residency for two years, after which you'll need to file another form to get an unconditional green card. If you've already been married two years by the time you are interviewed, the green card will be permanent.
- **If I become a permanent resident, do I have to give up my passport?** No. A permanent resident is not a U.S. citizen. Your citizenship doesn't change. In fact, you can only apply to become a U.S. citizen after having a green card and being married to a U.S. citizen for three years.
- **What are the benefits of permanent residency?** You may become eligible for in-state tuition at a state university at a later date, will qualify for most student financial aid, do not have to be a full-time student, will not have restrictions on working, and can return to the U.S. freely after short trips abroad.
- **What are the conditions of permanent residency?** 1. You must not leave the U.S. for more than 365 consecutive days without advance permission. 2. If you're planning to be abroad for extended periods of time you risk losing your permanent residency. 3. You will not qualify for some types of U.S. Federal Aid such as Food Stamps.
- **I understand USCIS will ask my spouse to show (s)he will always support me. What is that regulation?** With the passage of the Immigration Law of 1996, there are quite specific financial requirements for people applying for the green card based on marriage. You must show income of at least 125% of the federal poverty guidelines. For a family of two in 2009, that amount was \$18,212/year. If your spouse and/or household do not meet the income requirements, another U.S. Citizen must agree to act as a joint sponsor. For more detailed information, see form I-864 at the USCIS website.
- **Can I travel out of the U.S. before my application is processed and I receive my green card?** As strange as it sounds, it will be difficult to re-enter the U.S. after you've been married and before you receive your green card.

People in F or J status or in tourist status (non-immigrants) are expected to have a home outside of the U.S. to which they intend to return. Once you have applied to become a permanent resident, you look like you intend to immigrate to (reside in) the U.S. and an immigration inspector might deny you re-entry (even if you are traveling to Canada or Mexico). Once you apply for a green card, it is possible to get permission from USCIS to travel while your application is being processed. This permission is called "advance parole" (see information below). You cannot apply for advance parole before being married and, unless there is an emergency, USCIS will take 2-4 months to process the parole.

Applying for Permanent Residence

Applications for permanent residence based on marriage are submitted to USCIS. Complete information about the application process can be found at www.uscis.gov. Following is a basic outline of the procedure to obtain permanent residency through marriage:

1. Download the application materials from the USCIS web site (www.uscis.gov). Search for "Green Card Through Family" and then "Green Card for an Immediate Relative of a U.S. Citizen."
2. After marrying, the US citizen completes Form I-130 and the foreign citizen spouse completes the rest of the application materials (I-485, etc.). As of July 2006, the adjustment application must be sent to an address in Chicago, listed on the USCIS web site. The current application fee is \$1070.
3. It will be necessary for the foreign spouse to have a medical examination between filing the petition and having the interview. This will include an AIDS test. **The examination must be conducted by a USCIS-approved physician.** A list of approved physicians and Medical Examination (Form I-693) should be included in your "adjustment packet."
4. After filing the application, the next step is to wait for the interview which will be conducted at the nearest USCIS district office. It will probably be at least three or four months before the couple will be called in for an interview. **During this waiting period, the foreign spouse needs to remain in F or J status and may not travel outside the US unless approval for Advanced Parole (applied for on Form I-131) is granted.** It is important to keep this in mind when making travel plans.
5. You will be notified of a date and time for the interview with an officer at USCIS. At the interview, the USCIS will stamp the passport of the foreign national spouse with an I-551 stamp, indicating the completion of the permanent residency application process. At that time travel abroad will be allowed.
6. A few months after the interview, the permanent residency or "green card" (Form I-551) will arrive in the mail!

Work Authorization

If you wish to obtain work authorization while the I-485 application is pending, you may submit an Application for Employment Authorization (I-765) together with the I-485 or at a later date. Check the USCIS website for specific filing instructions and locations. The filing fee is \$380.

Advance Parole (travel authorization)

If you wish to have travel authorization while the I-485 application is pending, you may file Form I-131 with the I-485 application or you may file it later with a photocopy of the receipt notice. Fee for initial application and any renewal is covered by the I-485 fee.

K-1 (Fiancé(e) Visa) Applicants

K-1 applicants will have already provided some of the above documentation as part of their I-129F Petition for Alien Fiancé(e). They do not need to submit birth certificates, death or divorce decrees, G-325A (Biographic Information) for the U.S. spouse, I-130 (Petition for Alien Relative), or medical examination.

This material has been adapted from handouts written by International Services at Indiana University, International Student and Scholar Services at University of Colorado-Boulder, and International Students and Scholars Office at Cornell University. Please be advised that the North Park University International Office is providing this information as a service to international students and it is not liable for the accuracy of its contents. If you have specific questions, you are advised to consult an immigration attorney.