

Nonimmigrant Visa for a Spouse (K-3)

Important Notice: Review the procedures effective February 1st, 2010, relating to certain I-129F petitions for a nonimmigrant K-3 visa.

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What Is a K-3 Visa?

If you are the spouse of a U.S. citizen you can come to the United States (U.S.) with a nonimmigrant K-3 visa. If you are the child of the spouse of a U.S. citizen and your parent has been issued a K-3 visa, you can be issued a K-4 nonimmigrant visa. Both the K-3 and the K-4 visas allow you to stay in the US while your immigrant visa petition is pending. Before a K-4 visa can be issued to a child, the parent must have a K-3 visa or be in K-3 status.

What Is a "Spouse"?

A [spouse](#) is a legally wedded husband or wife. [Cohabiting](#) partners do not qualify as spouses for immigration purposes. [Common-law](#) spouses may qualify as spouses for immigration purposes depending on the laws of the country where the common-law marriage occurs. In cases of polygamy only the first spouse qualifies as a spouse for immigration. U.S. law does not allow [polygamy](#). If you were married before, you and your spouse must show that you ended (terminated) all previous marriages before your current marriage. The death and divorce documents that show termination of marriages must be legal and verifiable in the country that issued them. Divorces must be final. In cases of legal marriage to two or more spouses at the same time, or marriages overlapping for a period of time, you may file only for the first spouse.

What do I need to do to receive a K-3 visa?

1. You must first file an immigrant Petition for Alien Relative, form I-130 for your spouse with the U.S. Citizenship and Immigration Services (USCIS) Office that serves the area where you live. The USCIS will send you a Notice of Action (Form I-797) [receipt notice](#). This notice tells you that the USCIS has received the petition.
2. You next file Petition for Alien Fiancé(e), form I-129F for your spouse and children. Send the I-129F

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petition, supporting documents and a copy of the Form I-797 receipt notice to this Department of Homeland Security [USCIS Address](#) on their web site.

How will the Department of State process my K-3 visa petition?

Important Notice: Effective February 1st, 2010, when both the I-129F petition for a nonimmigrant K visa and the I-130 petition for an IR-1 (or CR-1) spouse of a U.S. citizen visa have been approved by USCIS and sent to the National Visa Center (NVC), the availability as well as the need for a nonimmigrant K-3 visa ends. If the NVC receives both petitions:

The nonimmigrant K visa will be administratively closed.

The application process explained below will not be applicable and cannot be used.

The NVC will contact the petitioner and you with instructions for processing your IR-1 (or CR-1) immigrant visa. For more information on the immigrant visa process review the [Immigrant Visa for a Spouse](#) webpage.

If the NVC does not receive your I-130 petition and I-129F at the same time, the NVC will process your I-129F petition. Then NVC will send the petition to the embassy or consulate in the country where the marriage took place. If your marriage took place in the U.S., the NVC will send the petition to the embassy or consulate that issues visas in your country of nationality. If your marriage took place in a country that does not have an American embassy, or the embassy does not issue visas, the NVC will send your petition to the embassy or consulate that normally processes visas for citizens of that country. For example, if your marriage took place in Iran where the U.S. does not have an embassy your petition would be sent to Turkey.

A Spouse of a U.S. Citizen (K-3) Is Also an Immigrant

The spouse of an U.S. citizen applying for a nonimmigrant visa (K-3 applicant) must have an immigrant visa petition on his/her behalf by the U.S. citizen spouse. Therefore, the spouse of the U.S. citizen (the K-3 applicant) must meet some of the requirements of an immigrant visa.

Applying for a Visa

The U.S. Embassy or Consulate where you, the spouse of an American citizen, will apply for a K-3 visa must be in the country where your marriage took place. Here are the procedures to apply. The U.S. Embassy or Consulate will let you know any additional things to do, such as where you need to go for the required medical examination. During the interview process, an ink-free, digital fingerprint scan will be taken. Some visa applications require further [administrative processing](#), which takes additional time after the visa applicant's interview by a Consular Officer. The following is required:

Two copies of form [DS-156](#), Nonimmigrant Visa Application

Police certificates from all places lived in since the age of 16

Birth certificates

Marriage certificate for spouse

Death and divorce certificates from any previous spouses

Medical examination (except vaccinations)

A passport valid for travel to the U.S. and with a validity date at least six months beyond the applicant's intended period of stay in the U.S. (unless [country-specific agreements](#) provide exemptions).

Two [nonimmigrant visa photos](#), two inches/50 X 50 mm square, showing full face, against a light background)

Proof of financial support (Form I-134 Affidavit of Support may be requested.)

Payment of fees, as explained below

Note: The consular officer may ask for additional information. It is a good idea to bring marriage photographs and other proof that the marriage is genuine. Documents in foreign languages should be translated. Take clear, legible photocopies of civil documents, such as birth and marriage certificates, to the visa interview. Original documents can then be returned to you.

Fees - How Much Does It Cost?

Fees are charged for the following services:

Filing an immigrant Petition for Alien Relative, Form I-130

Applying for a nonimmigrant visa application processing fee, DS-156

Medical examination (costs vary from post to post)

Fingerprinting fees, if required

Filing Form I-485, Application to Register Permanent Residence or to Adjust Status

Other costs may include translation and photocopying charges, fees for getting the documents required for the visa application (such as passport, police certificates, birth certificates, etc.), and travel expenses to the embassy or consulate for an interview. Costs vary from country to country and case to case.

For current fees for Department of State, government services see [Fees](#).

Extending the Petition

The I-129F petition is valid for four months from the date of approval. A consular officer can extend the validity of the petition (revalidate the petition) if it expires before you finish processing the visa.

Children Have Derivative Status

Children do not need separate Petition for Alien Relative, I-130 petitions, but you, the petitioner, must take care to name all your children on the Petition for Alien Fiance, I-129F petition. If you do not name the children on the petition, they may find it difficult to prove their identity as children of a K-3 applicant or person in K-3 status.

You must file separate I-130 immigrant visa petitions for your children before they qualify for permanent residence. When they [adjust status](#) in the U.S., they must file Form I-485 Application to Register Permanent Residence or to Adjust Status with the USCIS Office that serves the area where you live. Remember that in immigration law children must be unmarried and under 21 years of age. See [child](#).

If the Child is Not Named on the I-129F Petition, Will That be a Problem?

The K-4 visa will not be denied because the child's name is not listed on the I-129F petition. As long as it can be established that he/she is the minor, unmarried child of the applicant issued a K-3 visa.

Can a K-3 Visa Holder Work in the U.S.?

As a K-3 visa holder, you can file form I-765, Application for Employment Authorization with the USCIS that serves the area where you live for an employment authorization document (work permit). You can get more information by clicking on [How Do I Get a Work Permit \(Employment Authorization Document\)?](#)

How Long Does It Take?

The length of time varies from case to case according to its circumstances. The time it takes each USCIS office and each consular office to process the case varies. Some cases are delayed because the applicants do not follow instructions carefully or supply incomplete information. (It is important to give us correct postal addresses and telephone numbers.) Some visa applications require further [administrative processing](#), which takes additional time after the visa applicant's interview by a Consular Officer.

What If the Applicant Is Ineligible for a Visa?

Certain conditions and activities may make an applicant ineligible for a visa. Examples of these ineligibilities are:

- Drug trafficking
- [Overstaying](#) a previous visa
- Practicing polygamy
- Advocating the overthrow of the government
- Submitting fraudulent documents

The consular officer will inform you, the visa applicant, if you are ineligible for a visa, whether there is a [waiver](#) of the ineligibility and what the waiver process is. You can see the complete list of ineligibilities by clicking on [Classes of Aliens Ineligible to Receive Visas](#).

How do I qualify for a child of a spouse (K-4) nonimmigrant visa status?

To qualify for K-4 issuance, an applicant must be the minor, unmarried child under 21 years of age of a qualified K-3 visa applicant. The U.S. citizen who files an I-129F petition for an alien spouse does not have to file a separate I-129F petition for a child of his/her spouse. These children should be listed on the I-129F petition for the spouse. While the U.S. citizen must also file an I-130 petition for the spouse, there is no requirement to file a Form I-130 immigrant visa petition on behalf of the spouse's children seeking K-4 nonimmigrant status, since K-4 is a derivative nonimmigrant classification.

How does a K-4 child adjust status in the U.S.?

The K-4 child will not be able to file for adjustment of status in the U.S. until the U.S. citizen parent/step-parent files a I-130 on behalf of the child. If the U.S. citizen parent/step-parent never files the I-130 petition, the immigrating parent may do so once he/she has obtained legal permanent resident (LPR) status, but the child would have to wait for an available visa number. Finally, the immigrant parent, upon adjusting status will no longer be in K-3 status, therefore, the child will no longer be in lawful K-4 status, since this is merely a derivative classification, and that child would begin to accrue unlawful presence.

Can those with K-3 and K-4 visas change to another non-immigrant visa category in the U.S.?

K-3/K-4 visa holders cannot change status in the U.S. to another non-immigrant visa category.

Can I travel and re-enter the U.S. on my K-3 or K-4 visa?

Spouses or children present in the U.S. in a K-3 or K-4 nonimmigrant visa status can travel outside of the U.S. and return using their K-3/K-4 visa. If they have filed for adjustment of status in the U.S. prior to departure from the U.S., USCIS will not presume that the departure constitutes abandonment of an adjustment application.

How Do I Find the Regulations on the K-3 Visa?

For Department of State regulations on the K-3 visa view the visa section within the [Foreign Affairs Manual \(FAM\)](#) on the Department of State's website.

How to Apply for a Social Security Number Card

Before your spouse arrives in the U.S., you can help her or him apply for a social security number card. To learn more about this process, visit the website for the [Social Security Administration](#).

Further Visa Inquiries

Questions on visa application procedures and visa ineligibilities should be made to the American consular office abroad by the applicant. Before submitting your inquiry, we request that you

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carefully review this web site and also the Embassy Consular web site abroad. Very often you will find the information you need.

If your inquiry concerns a visa case in progress overseas, you should first contact the U.S. Embassy or Consulate handling your case for status information. Select [U.S. Embassy or Consulate](#) and you can choose the U.S. Embassy or Consulate website you need to contact.
