



## Chapter 1: Adjustment of status for the spouse of a U.S. citizen (applying for a marriage green card within the U.S.)

### **Adjustment of status defined**

If you are applying for a marriage green card in the U.S., you are applying for “adjustment of status” to a green card holder. Adjustment of status means that you will have your green card interview in the U.S., rather than in your home country.

Adjustment of status is usually a better option than going abroad for your interview. In the U.S., you have more legal rights and options, and you’ll be able to work while waiting for USCIS to schedule your interview.

On the other hand, attending your green card interview at a U.S. embassy / consulate abroad (called “consular processing”) will afford you less legal rights and options. If your green card is denied or delayed, for example, you generally must wait outside the U.S. until you can resolve the situation. During this time, you’ll be separated from your U.S. citizen spouse, unless they join you abroad.

If you are married to a U.S. citizen and came to the U.S. with a visa or other travel document, you should probably apply for adjustment of status rather than consular processing.

### **Required forms and documents**

You will need to include forms I-130, I-130a, I-485, and I-864. Your doctor will need to complete form I-693, the medical exam. Optional forms are the G-1145, I-765, and I-131. You should file all of these forms together.<sup>1</sup> Online filing for adjustment of status is not currently available; you must file a paper-based application by sending it to USCIS through the mail.

Let’s explore each of these forms in detail.

### **I-130, marriage green card petition**

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<sup>1</sup> Some couples file forms I-130 and I-130a separately from forms I-485 and I-864, but this will only slow down the process. It’s best to file all your forms and supporting documents together, in a single package.



Form I-130 is the marriage green card petition. Your U.S. citizen partner is the petitioner, and you (the green card applicant) are the beneficiary. The I-130 form is 12 pages in length, and USCIS requires certain information about both your U.S. citizen spouse and you, such as your address history for the last five years, your employment history, information about your children, and previous marriages.

With your form I-130, you will need to include the following documents:

- Proof of your U.S. citizen spouse's citizenship (U.S. passport photo page, birth certificate if they were born in the U.S., certificate of naturalization, etc.)
- Your marriage certificate
- Your divorce certificates, if you were previously married
- Your spouse's divorce certificates, if they were previously married
- Proof that your relationship is "bona fide", or authentic, such as 15-20 photos of your partner and you together, joint bank account statements for every month that you've had an account together, a joint lease, a joint mortgage, joint tax return filings, birth certificates of your children together, etc.
- You will also need to include two passport-style photos of your partner, and two of you (2 inches x 2 inches)
- The current USCIS filing fee is \$535. You can pay with a check or money order paid to "U.S. Department of Homeland Security", or with a credit card using form G-1450

### **I-130a, supplemental information**

Form I-130a asks for additional information about you, the beneficiary. You'll need to provide information that you previously filled out on the I-130<sup>2</sup> as well as some other information, such your last address outside the U.S. and information about your parents.

### **I-485, application for permanent residence / adjustment of status**

Form I-485 is your application for a green card (also called permanent residence or lawful permanent residence). You will need to provide information regarding your work and address

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<sup>2</sup> When filling out immigration applications, USCIS often requires you to repeat information across different forms, such as your employment history. This is annoying, but it's best to just provide the requested information again on each form, even if you end up repeating yourself.



history, your parents and children, your previous marriages, and nearly 100 yes or no questions that dig deep into your immigration history.

You will need to include the following documents with form I-485:

- Your birth certificate
- Your passport biographic page
- Proof that you came to the U.S. after inspection by an immigration officer, like your I-94 or entry stamp in your passport. If you did not come to the U.S. after inspection by an immigration officer, you may not qualify for adjustment of status and may need to consular process with an I-601a provisional unlawful presence waiver (but speak with an immigration lawyer).
- Your visa or travel document
- If you previously used a different visa or had a different immigration status, then you should include copies showing these, for example visas, USCIS approval notices, work authorization cards, I-20's, DS-2019's, etc.
- Two more passport-style photos (2" x 2")
- The USCIS filing fee of \$1,225. You can pay by check or money order (payable to "U.S. Department of Homeland Security"), or by credit card using form G-1450. Note that if paying by money order, you'll need to purchase two separate money orders since the maximum allowable money order amount is \$1,000. So, the first money order should be for \$1,000, and the second should be for \$225
- Although optional, it's always a good idea to include documents that show your accomplishments, like a university degree or transcript

### **I-765, application for a work authorization card (optional but recommended)**

The I-765 work authorization application is optional, but it's a good idea to include this with your application since there is no extra fee. When USCIS approves your I-765 form, they will send you a work authorization card that allows you to work in the U.S. The Social Security Administration will also send you a social security card, if you don't already have one.

Even if you already have a work authorization card, you should still file form I-765 with your green card application. USCIS allows you to have multiple work authorization cards. For example, you might already have a work card based on your DACA or Optional Practical Training (OPT) status. When you apply for a marriage green card, you are allowed to have a second work card based on your pending adjustment of status application.



You should include two passport-style photos (2" x 2") with your I-765 form.

### **I-131, application for advance parole (travel permit) (optional)**

Like the I-765 work authorization application, the I-131 form is optional. The I-131 form is the application for an “advance parole” document (travel permit).

When applying for adjustment of status in the U.S., you must wait until your advance parole document arrives before you are allowed to travel abroad. (There is a limited exception for H-1b and L-1 visa holders.) When your advance parole document arrives in the mail, you can then travel home (or wherever) to visit your friends and family, or simply to explore somewhere new.

After traveling abroad, you can then return safely to the U.S. with your advance parole document, while awaiting USCIS to schedule your green card interview.

You should include two passport-style photos (2" x 2") with your I-131 form.

### **I-864, affidavit of support (financial sponsorship form)**

The I-864 is the “affidavit of support” form, which your spouse must fill out. Your spouse is agreeing to be your financial sponsor, and to be financially responsible if you end up as a “public charge” to the U.S. government.

How much money does your partner need to make to be your financial sponsor? For a family of two (your spouse and you, with no children or dependents), USCIS requires that your spouse make about \$23,000/year or more. If you have children or dependents, that amount will increase.

You can check the exact income requirements online:

<https://www.uscis.gov/i-864p>

Your spouse will need to include their tax returns or tax return transcripts for the past three years. Sending tax return transcripts instead of tax returns is generally better because it involves less paperwork (tax return transcripts might be only five or six pages, while tax returns can be 100 pages or more).



You can order tax transcripts online by making an account with the Internal Revenue Service (IRS):

<https://www.irs.gov/individuals/get-transcript>

Your spouse should also include more recent proof of their income, such as the past three months of paystubs, a letter from Human Resources confirming their salary, or a letter from their accountant noting their recent income.

If your spouse doesn't make enough money to be your financial sponsor, you can combine your income with theirs using form I-864a. But, you must be authorized to work in the U.S.. If you are not authorized to work in the U.S., you won't be able to combine your income.

Another option when your spouse's income is not high enough is to ask a friend or family member to join your application as a joint sponsor. A joint sponsor can be anyone who is a U.S. citizen or green card holder, who lives in the U.S. They will need to fill out their own I-864 form, in addition to your spouse's I-864.

Your joint sponsor will also need to include proof that they're a U.S. citizen (U.S. passport biographic page, naturalization certificate, birth certificate if they were born in the U.S., etc.) or green card holder, their taxes for the most recent year, plus proof of recent income like their paystubs, etc.

In some situations, you may need to use form I-864w instead of form I-864, for instance if your partner passed away and you are applying as a widow, or if you are applying based on domestic violence.

Can your sponsor use assets, like owning a house, to meet the I-864 affidavit of support requirement? Yes, but USCIS generally doesn't like applications based on assets, and will sometimes deny an affidavit of support based on assets rather than ongoing income. If possible, it's best to show income rather than assets, even if that means spending time to find someone with a higher income to be your joint sponsor.

### **I-693, medical exam**



Your doctor will need to fill out form I-693, the medical exam. You can find a list of USCIS-approved doctors here:

<https://www.uscis.gov/tools/find-a-civil-surgeon>

Your doctor will give you the completed medical exam in a sealed envelope. Don't open the envelope! Instead, ask for a copy of the completed medical exam before your doctor seals the envelope. You should review the copy to ensure that everything was filled out correctly.

Most green card applicants will pass their medical exam easily, but note that USCIS has certain vaccination requirements. Since October 1, 2021, USCIS requires all green card applicants to have received the Covid-19 vaccination, with limited exceptions. If you are opposed to vaccines, you may be able to waive the vaccine requirement using form I-601, which has a \$715 fee.

Currently, I-693 medical exams are valid for two years. If you think that USCIS might keep you waiting more than two years before approving your green card, then you can wait until your green card interview is scheduled before having your medical exam done. When you receive your green card appointment notice from USCIS, you can have the medical exam done then, and bring it to your interview so that it doesn't expire before your application is adjudicated.

### **G-1145, e-notification of application / petition acceptance (optional but recommended)**

The G-1145 form notifies USCIS that you would like them to advise you by text and/or email when there are updates on your case, like when they have received your application. Although optional, it's always a good idea to include a G-1145 with your immigration applications.

### **Name changes**

If you have ever used a different name, then you will need to include documents showing your name change. For example, if you were married previously and at the time used your ex-partner's last name, then you should include a copy of the marriage certificate from that relationship.

### **Translations**



You will need to include English-language translations of any foreign-language document that you submit, such as your birth certificate. You should include the English translation on top, followed by the translator's certification, followed by the original-language document.

Even if you speak fluent English, you should not do the translations yourself. Instead, use a company like Rush Translate or fiverr.com (choose someone with a high rating).

See Appendix A for a sample translator's certification.

### **Originals or copies of your documents?**

When submitting your application, you should include copies of your documents, not originals. When you attend your green card interview, you should bring originals of your civil documents like birth certificates, passports, marriage certificates, etc. You should also bring a copy of the forms and documents that you submitted to USCIS, in case you need to cross-reference something that the USCIS officer brings up during your interview.

### **When can I start working? When can I travel internationally?**

When applying for adjustment of status, you can optionally include forms I-765 and I-131, which will give you a work authorization card and an advance parole document (travel permit). You will generally receive these documents in the mail, before USCIS schedules your interview. Currently, USCIS is taking up to a year to process these documents, and you may not be legally allowed to work or travel until then.

While you may not be authorized to work until you receive your work card in the mail, many people will work regardless if they can find an employer that will hire them. If you are applying for adjustment of status based on marriage with an American citizen, working without authorization generally will not negatively affect your green card application. Many people work off the books before receiving their work cards, and they are nonetheless able to adjust status to green card holders.



You should not leave the U.S. until you receive your advance parole document. (There is a limited exception for H-1b and L-1 visa holders.)

### **When USCIS receives your application**

When USCIS receives your application, they will send you an I-797 receipt notice. The receipt notice will contain your case number. You can check your case status online at:

<https://egov.uscis.gov/casestatus/mycasestatus.do?appReceiptNum=EAC1920351306>

You can also receive case updates by creating a My USCIS online account:

<https://my.uscis.gov/>

USCIS will send you the receipt notice within a month or two after receiving an application. You should send your application by certified mail, which means that you will receive a tracking number to confirm that USCIS receives your application.

Sometimes USCIS rejects applications. If this happens, USCIS will return your complete case file to you with an explanation of why they didn't accept your application. You will need to review their explanation and try to rectify the situation, and then send the application a second time.

### **Biometrics (fingerprints) appointment**

About a month or two after receiving your green card application, USCIS may send you another notice asking you to come in to have your biometrics (fingerprints) taken. You should ensure that you show up for this appointment.

Sometimes USCIS will waive the biometrics requirement if they already have your fingerprints on file from a previous application. If so, USCIS will send you a notice stating that the biometrics requirement has been waived.

### **Interview / interview waiver**

Most marriage green card applicants will need to eventually show up at their local USCIS office





for an interview. Both your U.S. citizen spouse and you must attend together. The USCIS officer will call your name and you will be required to answer the officer's questions about your relationship and previous immigration history.

The purpose of the interview is to confirm that your relationship is bona fide (authentic) and that you qualify for a green card. As long as you qualify and you prepare beforehand, the interview is usually just a formality.

Recently USCIS has been waiving interviews for some applicants. This is great news, and you should try to ensure that you submit a well-documented green card application, so that USCIS can approve it without requiring an interview. Include lots of good documentation of your relationship, and ensure that you send every document on the adjustment of status checklist in Appendix B.

### **What happens at your USCIS interview?**

A lot can happen when in an interview with the federal government, but keep in mind the following:

- You can go with a lawyer, or without
- Arrive at the USCIS office with plenty of time, at least 30 minutes before your scheduled appointment time
- Dress nicely in clean, presentable clothing (professional attire like a suit is not required)
- Bring your USCIS interview notice and photo ID like a passport. Bring originals of all your civil documents (birth certificate, etc.) plus copies of everything else that you included with your application, plus copies of the immigration forms that you sent to USCIS
- Bring updated supporting documents since you submitted your application, e.g. more photos and joint bank account statements/joint tax returns since you filed the application
- Check in at the window at USCIS
- If the USCIS officer hasn't called you within one hour of your scheduled start time, check with the window staff to confirm that you should still be waiting
- Eventually, the USCIS officer will call your name, so you will need to keep your ears tuned over the noise of the waiting room. You will follow the officer to their office for the interview
- Interviews usually last 20-30 minutes. The USCIS officer will go over your answers on the forms that you filed to confirm your eligibility



- When the USCIS officer asks you questions, be direct and to the point. Don't say anything more than you need to. If you can answer the officer's questions with a simple yes or no, just say yes or no
- The USCIS officer can recommend your case for approval, but usually a supervisor needs to sign off before the formal approval notice
- If your case is approved, your green card should arrive in the mail within a couple weeks

### **After your case is approved – conditional green cards**

If you receive your green card within two years of your marriage, USCIS will issue you a temporary, two-year green card. You will be required to file an I-751 application three months before your green card expires. This is called removing the conditions on your green card.

When you file the I-751, you will need to show that you're still with your U.S. citizen spouse. You should include good documentation to show that you still live together, like joint bank account statements, a joint lease, joint tax filings, birth certificates of your children together, etc.

If you have separated from your spouse since you received your green card, you can still file a successful I-751, for example if your ex is willing to sign the I-751. But even if they are not cooperating, there are other ways of being able to receive your permanent green card. Speak with an immigration lawyer.

### **Children**

If you have children who also need green cards, your U.S. citizen spouse can sponsor them, as long as you married your U.S. citizen spouse before your children turned 18.<sup>3</sup> Your spouse will need to submit separate applications for each of your children, and pay the USCIS fees for each child.

If your children are over 21, they may not qualify to adjust status, and may need to instead consular process at a U.S. embassy / consulate abroad. Speak with an immigration lawyer for more details.

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<sup>3</sup> If your U.S. citizen spouse is the biological parent (not stepparent) of your children, your spouse can sponsor your children at any time, regardless of whether and when you married.



### **Apply for citizenship**

You will be able to apply for U.S. citizenship three years after receiving your green card, if you are still married and living together.

### **Sponsor your family**

Congratulations! You are now an American citizen. Now you can sponsor the green cards of your family members: your parents, children, and siblings. If you have children, you should look into whether they can hold dual citizenship (both the U.S. and your home country).