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The Ultimate Guide for Immediate Family of U.S. Citizens

Introduction

This comprehensive guide will help spouses, children, and parents of U.S. citizens get a green card as quickly as possible.

Below, we'll cover:

- Who is an Immediate Relative
- Who is eligible to Adjust Status (and get a Green Card!)
- How long the process should take
- How to hire us
- And much more!

So, if you're ready to get a green card, keep reading!

Chapter 1: Who This Guide is For

There are a lot of ways to get a Green Card, but this article focuses on one specific path.

In particular, this guide is for immediate relatives of U.S. citizens who are eligible to adjust status to lawful permanent residence while they are inside the U.S.

While some paths to a green card have a limit to the number of people who can apply each year, there is no limit on the number of immediate relatives who can get a green card. That's one of the reasons that more than 500,000 immigrants adjust status each year.

Now, let's break down what all this means.

What is an Immediate Relative?

The Immigration and Nationality Act (INA) defines an immediate relative as the child, spouse, or parent of a U.S. citizen.

Immigrant children are considered immediate relatives until the age of 21. U.S. citizen children can only petition for their immigrant parents after tVurning 21.

You should also know that a stepchild relationship acts in pretty much the same way for most immigration processes as a biological child relationship. For a stepchild relationship to count, the stepparent needs to marry the biological parent prior to the stepchild's 18th birthday.

What Does it Mean to Adjust Status?

Adjustment of Status is what it means when an immigrant gets a green card while living and remaining inside the United States during the green card process. In theory, immigrants applying for a green card this way are adjusting from a lawful nonimmigrant status to permanent residency.

You apply for adjustment of status with USCIS.

The Immigration and Nationality Act (INA § 245(a)) says that to be eligible to adjust status, an immigrant must:

1. Have a lawful entry to the U.S. (be inspected, admitted, or paroled)
2. Make an application to adjust (using USCIS Form I-485)
3. Be "admissible" to the U.S.
4. Have an approved petition (on Form I-130) and immigrant visa immediately available to them

If you're in the U.S. but for some reason you're not eligible to adjust status, you'll have to apply for a green card through a U.S. consulate or embassy, typically in your home country. That means you'll need to leave the U.S. to get your green card—not something every immigrant wants to do.

We won't talk in detail about the consular process in this post because we're focusing primarily on adjustment of status.

Do I Have a Lawful Entry to the U.S.?

You probably know whether you have a lawful entry to the U.S. In fact, if you came to the U.S. on a plane and you know what visa you had, you can probably just skip to the next chapter of this article.

However, some of you reading this may not be sure whether you have a legal entry. The key language in the INA is "inspected, admitted, or paroled."

For example, you might think that if you entered the U.S. without a visa that you do not have a lawful entry. However, if you arrived at a port of entry, you were interviewed, and a government official let you in with something called humanitarian parole, then you have a lawful entry because you were "paroled."

So if you're not sure what happened at the border or the airport when you entered the U.S., it might be worth talking over with a lawyer.

Finally, there are others of you who know that you don't have a lawful entry. Even then, you might still have options. If you're married to a member of the U.S. military, you might qualify to adjust because of something called "parole in place." So this ebook is still for you!

Do I have an Immigrant Visa Immediately Available for Me?

When the INA says you have to have an "immigrant visa…immediately available," what does that mean?

The U.S. issues two broad categories of visas: non-immigrant visas and immigrant visas.

A nonimmigrant visa is a visa that is temporary. The U.S. gives nonimmigrant visas to people who are visiting, studying, or even working in the U.S. There are a wide variety of nonimmigrant visas, and we won't go into them all here, but common examples include visitors visas and student visas.

An immigrant visa is exactly what it sounds like—a visa issued to someone who wants to immigrate, permanently, to the U.S. When you enter the U.S. on an immigrant visa, you are a permanent resident upon your arrival.

For the purposes of adjustment of status, you likely entered the U.S. on a nonimmigrant visa, and the immigrant visa becomes available to you to use while you are present in the U.S.

There are a number of paths to getting an immigrant visa, but for the purposes of this article we're focusing on family relationships.

You should know that the INA sets an annual limit on family-sponsored immigrant visas that can be issued: 226,000. This means that the U.S. will only grant 226,000 immigrant visas to brothers and sisters of adult U.S. citizens, adult children of U.S. citizens, and spouses, children, and unmarried sons and daughters of permanent residents.

But since more than 226,000 petitions are filed each year using form I-130, there is a considerable backlog for many of these family members. As of the writing of this article, adult unmarried children of U.S. citizens in Mexico have a wait time of about 20 years before a visa will be "immediately available" for them.

But as an "immediate relative" a visa number is always "immediately available" for you.

This is one of the most important advantages of immediate relative status under the INA. There is no limit on the number of immigrant visas that can be issued each year. That means, by virtue of being an immediate relative of a U.S. citizen—the spouse, parent, or unmarried child under 21—you don't have to wait to get a visa.

Your U.S. citizen family member can petition for you right now. And since there is never a wait time for your immediate relative immigrant visa, you can usually file your green card application at the same time.

How Do I Know if I'm Admissible?

The U.S. has a list of 10 things that make you Inadmissible. Here are the big topics listed in INA § 212(a):

- Health-related issues
- Criminal history
- Terrorists, Spies, Nazis, and more
- Public charge (i.e., you're too poor to immigrate)
- Unauthorized Employment
- Illegal Entries (including misrepresentation)
- Documentation Issues
- Ineligible for Citizenship
- Prior Deportations and Unlawful Presence
- Miscellaneous grounds (polygamists, kidnappers, unlawful voters)

Even if you read something on that list and think that it might apply to you, and that you might be inadmissible, keep reading.

You see, in the sections above, we've defined what

an immediate relative is.

Now we'll go over some of the benefits of being an immediate relative, which include the fact that some grounds of inadmissibility are automatically waived.

What Inadmissibility is Automatically Waived?

Many of the questions in the green card application are geared towards figuring out if you are inadmissible to the U.S. One important benefit that comes from immediate relative status is that the following grounds of inadmissibility don't apply to you:

- You have worked without authorization in the U.S.
- You are not currently in lawful status in the U.S. at the time you apply for the green card
- You failed to maintain lawful status
- You entered on a Visa Waiver and didn't leave the U.S.
- You otherwise violated the terms of your nonimmigrant visa.

So…it doesn’t matter if you overstayed your visa. It doesn’t matter if you worked in the U.S. unlawfully.

It doesn’t matter how long you have been in the U.S. without lawful status. It doesn’t matter if you came on a student visa and you haven’t been to school in a while.

How I generally frame this to my clients is that, so long as you have a lawful entry to the U.S. and you are an “immediate relative” under the INA, we can probably get you a green card.

There are some exceptions to this rule (most J visas, criminal histories, that kind of thing), but so long as you have a lawful entry and are married to a U.S. citizen we can usually help you get right with our nation’s immigration laws.You see, in the sections above, we’ve defined what an immediate relative is.

Now we’ll go over some of the benefits of being an immediate relative, which include the fact that some grounds of inadmissibility are automatically waived.

What Additional Waivers Are Available?

Some grounds of inadmissibility listed in INA 212 are not automatically waived by virtue of your immediate relative status. In particular, criminal convictions can be tricky to overcome.

We'll go over some common waivers below, but what you need to know is that because of your immediate relative status you can likely qualify to file a waiver that you might not otherwise get.

If you believe you might need to file a waiver application, you should hire a lawyer. While many people can successfully file a green card application on their own, if you believe you may be inadmissible you should hire a lawyer.

It is worth the expense to make sure you need a waiver, make sure you qualify to apply for one, and make sure you get it done right.

What Else Do I Need to Know?

We've already reviewed the basics of what it means to adjust status as an immediate relative of a U.S. citizen. The short version is, if you're an immediate relative and you have a lawful entry to the U.S. you can probably adjust status to get your green card inside the U.S.

If that's the case in your situation, then this guide is for you!

The rest of this guide covers the nuance and details of how to apply, what to watch out for, and how to hire us.

If you already know you want to hire a lawyer, go ahead and reach out to us today!

Chapter 2: How to Apply for a Green Card

In this section we go step-by-step and cover each form you need to fill out to Adjust Status as the immediate relative of a U.S. citizen. We talk about the I-130 petition, the I-485 green card application, and the evidence that goes along with it.

We've also created a video to help you understand how our law office fills out the relevant forms.

How to Adjust Status as the Immediate Relative of a U.S. Citizen

The immediate family green card process has two steps.

First, the U.S. citizen files a petition using Form I-130 for their immediate relative parent, spouse or child.

Second, the immigrant parent, spouse, or child—the immediate relative—then files for a green card. If overseas, or ineligible to adjust, the immediate relative must file form DS-260 through the National Visa Center and finish processing at a local consulate. But if the immediate relative is present in the U.S. with a lawful entry, they can file Form I-485, Application to Register Permanent Residence or Adjust Status, with USCIS.

Because we're focusing on immediate relatives who are adjusting status, we'll tell you that most immigrants in this situation file the I-130 petition and the I-485 application at the same time.

This is possible because there is no limit to the number of immigrant visas issued each year. This means there's no wait time between when the U.S. citizen petitions for their immediate relative and a visa number is issued.

In contrast, spouses, parents, and children of lawful permanent residents (LPRs) are subject to visa limits. This often leads to lengthy wait times and additional requirements that have to be met for family of LPRs to adjust status.

The limitless number of visas and lack of wait time are among the benefits of adjusting status and getting your green card as the immediate relative of a U.S. citizen.

What Forms Do I File?

The first thing you need to know is that all immigration forms are freely available at USCIS.gov. You also don't need a lawyer—you could file for a green card on your own.

But should you hire a lawyer?

We think so. There's a lot of nuance involved in our nation's immigration laws, and given that it's such a hot button political issue, minor changes in laws or their interpretation happen all the time. We discuss this in more detail below in Chapter 6.

Back to the forms. Here is what you usually need to fill out and file if you are an immediate relative of a U.S. citizen and you have a vanilla case.

The U.S. Citizen Petition

FORM: I-130, Petition for Alien Relative

FORM: I-130A, Supplemental Information for a Spouse Beneficiary (if filing for a spouse)

INA 245(a) requires you to have an immigrant visa "immediately available" to you at the time your application for residency is filed. The immigrant visa is issued to you when your U.S. citizen family member files the I-130 petition and it is approved.

When we file an immediate relative application for residency, we usually file the I-130 petition and the I-485 application at the same time.

If you already have an approved I-130 petition from a qualifying U.S. citizen, you may be eligible to file for adjustment of status immediately.

Immediate Relative Application

FORM: I-485, Application to Register Permanent Residence or Adjust Status

FORM: I-765, Application for Employment Authorization

FORM: I-864, Affidavit of Support Under Section 213A of the INA

FORM: I-864A, Contract Between Sponsor and Household Member (sometimes required when using the intending immigrant's income, or if you use a joint sponsor who files a "married filing jointly" tax

return)

Form I-485 is the green card application for people applying in the U.S.

We've listed the I-765 application for work authorization here because we always file it together with the green card application, but it is an optional form. The reason we file it with the green card application is that the work authorization is usually approved long before the green card is approved, and getting work authorization is a priority for most of our clients.

For clients who have work authorization under another basis, when you file the I-765 application USCIS automatically extends your work authorization by 180 days, giving you extra time to keep working until your work authorization is renewed.

COVID-19 Related Delays

It feels like most of the world has recovered from the COVID-19 pandemic, but USCIS is lagging far behind. Processing times are still very extended, and many processes that used to take a short time are still very much delayed. Prior to the pandemic, it wasn't uncommon for most work authorization applications to be decided on in a matter of weeks to 3 months at the high end of the processing time. We see many work authorization applications taking one entire year, and green card applications stretching out to two years or more.

Make sure you visit USCIS.gov to check on the processing time for your case, and use your receipt number to check the progress of your case.

Both I-864 forms have to do with financial sponsorship. We'll discuss in more detail below, but INA 212(a) makes you inadmissible if USCIS believes you are a public charge (that's legal speak for saying you're too poor to get a green card).

In all cases, the person who filed the I-130 petition must also file form I-864 when you apply to adjust status. Form I-864 is sent with tax returns showing proof of income. If your income is above the federal poverty guidelines for your household size (including the immigrant) then you won't need a joint sponsor.

If, however, you don't have sufficient income, you will need to find a joint sponsor who is willing to be financially responsible for the immigrant in the event they require some kind of government benefit between the time they receive residency and when they become a U.S. citizen.

Are there Risks of Financial Sponsorship?

Often when my clients reach out to friends and family to act as financial sponsors, I routinely get the question of whether this could impact the joint sponsor in any real way. Joint sponsors should read the contract on the form and be aware of what they are agreeing to.

However, joint sponsors should also be aware that the government has almost never sought reimbursement for government benefits granted to permanent residents. It simply doesn't happen.

Could it happen? I suppose. The Trump administration planned to pursue this, but we haven't seen any indication that the Biden administration plans to.

Optional Forms

FORM: I-131, Application for Travel Document

FORM: G-1145, e-Notification of Application/Petition Acceptance

FORM: G-1450, Authorization for Credit Card Transactions

Form I-131 allows the immigrant to travel outside of the U.S. while you are waiting on your green card to be approved. If you travel out of the U.S. while the green card is pending, your case will be deemed abandoned. And, now that you've filed for a green

card, the U.S. government will believe that virtually all future entries are for the purpose of getting a green card—that you have immigrant intent.

This means that, if you travel outside of the U.S. after filing for residency, and you didn't first get a travel document, you'll probably have to finish your green card process from outside the U.S.

We also don't recommend traveling, even if you got a travel document, if you are or were inadmissible for some reason when you applied for a green card.

As an immediate relative applicant for a green card, some grounds of inadmissibility are automatically waived or inapplicable for green card purposes, but they won't necessarily be waived for purposes of returning to the U.S.

Discuss any travel plans with your immigration lawyer while your green card application is pending.

The G-1145 is simply a form you can send to get a text receipt for your application. USCIS also mails a receipt for your applications.

G-1450 allows you to pay filing fees for some immigration applications via credit card. Most of our clients pay the government fee to us, and then we issue a check. This gives us a second avenue to see when your application was processed and know when we should keep an eye out for the receipt.

Either payment method is perfectly fine.

What Evidence Do I Include With My Application?

Each of the forms we talked about above has its own set of instructions and its own evidence requirements. And, depending on your specific circumstances the evidence you submit may be different from another application.

Here are a couple of things to keep in mind to help you make sense of it all.

The forms and evidence are trying to accomplish two things:

- Make sure you are eligible to adjust status
- Make sure you are not inadmissible

So, to prove you should get an immigrant visa you have to prove you have the kind of relationship that would entitle you to one.

For example, for a married couple that's going to be a marriage certificate. USCIS also often requires other evidence that you have a real relationship and not a sham marriage—birth certificates of children born in the marriage, joint bank account, joint taxes, that kind of thing.

For a child petitioning her mom, she just needs to submit her petition with a birth certificate listing her mom's name and evidence that she is a citizen.

To figure out what specific evidence you need for your case you can dig in to the form instructions themselves.

We have our own exclusive internal lists of evidence that we use when we work with our clients to help them apply for adjustment of status. We plan to provide access to those internal lists through an email list signup on this page--so check back soon!

Until then, you can either hire us and we can help you manage that evidence requirement, or you'll have to root through the form instructions and figure out what evidence you need to submit with your application.

Finally, there are a couple of pro tips that can be very helpful that we'll pull back the curtain on.

Department of State Reciprocity Documents

Not every country creates or maintains the same vital records. And even when they do, they may have multiple methods of managing that information. This is why, when immigrating from certain countries, you'll need, for example, more than just a birth certificate.

Is this listed in the form instructions?

It's buried in there, but you probably wouldn't know this unless A) you practice immigration law, or B) you're reading this article.

One way to make sure you submit the right documentation though is to use the U.S. Department of State's U.S. Visa: Reciprocity and Civil Documents by Country webpage.

(We know that's a mouthful, but here's the link.)

Once you're there, pick the country you're immigrating from. If you need a birth certificate for your adjustment of status application, make sure you get the exact type of birth certificate mentioned on the State Department website. The same applies for other documents listed on your country-specific page.

Organize Your Evidence and Make a Copy

We always include an exhibit list with adjustment of status applications we submit. This helps us 1) make sure we're including everything we're supposed to include, and 2) it makes it easier for the USCIS official to review and approve.

Remember, there is a government bureaucrat on the other end of this process. If you make her job easier she is more likely to approve your application.

In addition to organizing your evidence you should also scan in and preserve a digital copy of your application. Keeping a copy of your application is a MUST.

If you get an RFE (detailed below) you'll want to know what you've already sent. Keeping a copy will help you know how to respond to any mishaps that may occur in the future.

Requests for Evidence

Even after your best efforts, and even when you work with an attorney, Requests for Evidence (also known as RFEs) are very common.

An RFE is exactly what it sounds like. USCIS has reviewed your green card application and they want more evidence, or maybe even just clarification on a form response. If you get an RFE, be aware that this happens all the time, and we routinely overcome

any issues that arise as the result of an RFE.

If you hired us to help with your application and you get an RFE, there is no additional charge for simple RFEs. An example of a simple RFE is if USCIS just wants a clearer copy of your I.D., or a different version of your birth certificate.

However, we do apply an additional charge for substantive RFEs.

What makes a substantive RFE, you ask?

Well, let's say you went to your green card interview and bombed it. Now the USCIS official thinks you are lying about your relationship and we have to spend an additional 10 hours to put the evidence together to respond to the RFE and prevent your spouse's deportation.

If you didn't hire us at the outset and you're in the middle of the adjustment of status process, we can help with an RFE but we have a minimum level of engagement of $1,500. This means that, even if it's a simple RFE, $1,500 is where we start.

Chapter 3: Immigrate Lawful Entries & Immigrant Intent

To adjust status, INA 245(a) says you must be "inspected and admitted or paroled" to qualify to get a green card while in the U.S. Inspected, admitted, or paroled is just legalese for saying you entered the U.S. lawfully.

If you're present in the U.S. and eligible to adjust status, that usually means you entered on a nonimmigrant visa, but there's also a wrinkle here that we need to talk about: Immigrant Intent.

What is Immigrant Intent?

When you enter the U.S. on a student visa, studying is about all you can do. Sure, there might be some rules about working on campus, or in positions that satisfy an optional practical training purpose, but you can't just take a job anywhere, because that's not the point of your visa. Your student visa says you came to study, period. You can't do anything else.

The same goes for your B-1/B-2 visitor visa. For me the visa evokes the frequent movie-cliché where the attendant at the airline ticket counter asks, "business or pleasure?" A B-1 visit is to conduct limited business activity, but not work a job as a W-2 employee. A B-2 visit is for tourism.

Both types of visits are permitted, but a visit is all that's permitted. You can't do anything but visit.

And you definitely can't use a lawful entry on a visitor's visa with a plan to remain in the U.S. forever.

The reason is, the intent behind your visa is to visit, not live permanently in the U.S.

If you got a visitor's visa with a plan to enter the U.S. forever, then that means you had "immigrant intent." And entering on a nonimmigrant visa when you have immigrant intent is a violation of the terms of your visa.

That would make your entry not a lawful entry at all.

It would make your entry to the U.S. illegal.

It would make you inadmissible under INA 212(a)(6)(C)(i), and you wouldn't be eligible to get a green card.

I can hear you already…

"But I entered on a visitor's visa. Are you saying I can't adjust status and get a green card in the U.S.?"

That's not what I'm saying at all, but it is a great segue to talk about the 90-day rule.

The 90-Day Rule

It’s important to remember that intent matters.

If it was your intention to remain in the U.S. forever when you entered on that visitor’s visa, then yes, your entry was unlawful.

But what if you entered with an honest intention to visit and then life just happened?

Maybe you met someone, fell in love, and got married.

Or maybe COVID-19 happened and you weren’t able to leave the U.S. when you thought you would.

Or maybe you came from Ukraine to study, and then war broke out in your country.

These are some clear-cut examples where it’s obvious the intent upon entry was just to visit, but if there’s anything we can learn from 2020 until now it’s that things really do just happen.

The U.S. Department of State has a "90-day rule" in their Foreign Affairs Manual at 9 FAM 302.9. In summary, if you do anything that violates the terms of your visa within 90 days of your entry to the U.S., then the Department of State is going to assume you lied about your intent when you entered.

Their rule even includes a list of "inconsistent conduct":

Working unlawfully
Enrolling in school (if you didn't enter on a student visa)
Getting married
Anything else that's not allowed under the terms of your visa

But what if you engage in "inconsistent conduct" after 90 days? Well, the 90-day rule says there's a rebuttable presumption that you entered lawfully and that you did not misrepresent your intent under INA 212(a)(6)(C)(i) when you applied for your visa and entered the U.S.

What is a "Rebuttable Presumption"?

A rebuttable presumption is a legal term that simply means the government is going to give you the benefit of the doubt. Basically, you will be presumed to have entered lawfully, without immigrant intent. In other words, if you wait 90 days, then you are innocent until proven guilty.

But if you engage in inconsistent conduct within 90 days, then the burden is on you to prove your innocence and that you did not enter with immigrant intent.

As a result, one common strategy for people who enter on a visitor's visa to visit a boyfriend or girlfriend in the U.S. is to not get married until 90 days after their entry to the U.S.

Is this unlawful? If it was your plan to get married and remain in the U.S. from the beginning, then yes. However, in today's world it's not uncommon to meet people online, visit the other person in the U.S. to feel out the relationship, and then realize

"Hey, this works and I do want to spend the rest of my life with this person in the U.S.!"

When people in this situation reach out to us for a consult, if they haven't gotten married already, we advise them to wait until 90 days after the immigrant's entry to the U.S.

Does USCIS Still Follow the 90-Day Rule?

This is an important question to ask because while the Department of State makes decisions on letting you into the country in the first place, USCIS is the agency who will decide whether you can adjust status and get a green card inside the U.S.

In the past, USCIS specifically referenced the 90-day rule in its policy manual.

However, as of July 16, 2021, USCIS removed all references to the 90-day rule from its policy manual. In the section about misrepresentation it now simply reads:

Although conduct inconsistent with one's nonimmigrant status and prior representations does not automatically mean there is a misrepresentation, such evidence permits a reasonable person to conclude that the applicant may be inadmissible for fraud or willful misrepresentation, especially if the violation or conduct occurred shortly after the U.S. Department of State (DOS) visa interview or after admission.

USCIS Policy Manual, Volume 8 – Admissibility, Part J – Fraud and Willful Misrepresentation – Chapter 3 – Adjudicating Inadmissibility

In preparation for this article we checked the language in the prior version of the manual using the Wayback Machine website. (https://archive.org/web/). The language above essentially mirrors what the policy manual always said, but here's a link to the prior version of the policy manual for those who really want to read it.

Basically, USCIS is no longer referencing a rule that they previously said didn't apply to them anyway.

Some immigration lawyers online are even commenting that USCIS's approach seems more lenient than the 90-day rule.

To me it feels like USCIS's approach hasn't changed—they're just not referencing a rule anymore that was never official policy.

The take-away is that the 90-day rule is not a hard and fast rule, and that there are no guarantees in any legal process.

That being said, I have frequently relied on the 90-day rule over the past 10 years as I have advised our clients. I personally have never had a problem with clients who entered under a visitor's visa, who were honest about their intent when they entered, who were later married after 90 days of the immigrant's entry, and who then applied for a green card.

If you're an immigrant dealing with potential issues of immigrant intent or you're taking a hard look at the 90-day rule, we can help you manage the process the right way.

Nonimmigrant Visas that Allow for Immigrant Intent

One final quirk to point out is that some nonimmigrant visas are considered "dual intent" visas, which means you are allowed to enter the U.S. with the intention to one day become a permanent resident. A fiancé visa is a classic example of this.

Technically, you're coming to the U.S. to get married. While living as a permanent resident in the U.S. is implied by the process, it's not the express purpose of the visa. Additionally a fiancé visa is temporary—it's only valid for 90 days within which you MUST get married. Because it's temporary, and its purpose is to get married, it's considered a nonimmigrant visa.

Other dual-intent nonimmigrant visas include H, L, and O visas. If you entered on one of those visas but now plan to apply for a green card as an immediate relative, you don't need to worry about immigrant intent or 90-day issues at all.

Chapter 4: Obstacles, Inadmissibility & Waivers

You have to be admissible to get a green card in the U.S. INA 212 lists 10 reasons you might be inadmissible.

As an immediate relative, some grounds of inadmissibility are automatically waived.Other grounds of inadmissibility are more challenging to overcome.

Not everyone who wants to apply for a green card can file an application to waive their inadmissibility. However, as an immediate relative, your relationship gives you the opportunity to ask the U.S. government to forgive even more than what is automatically waived.

Lawyer Required

If you are inadmissible, hire a lawyer. Even though this guide attempts to give you basic information on immigration waivers, it is by no means comprehensive. We believe everyone should hire a lawyer for their green card process, but this is especially true if you need a waiver.

It may be expensive, but you will save time and money in the long run if you are inadmissible and you start your process with a competent lawyer.

3-Year, 10-Year, and Permanent Bars

You might have heard about the 3-year or 10-year bars. The 3-year bar to getting a green card is imposed after an immigrant has been in the U.S. without legal status for six months. A 10-year bar is imposed after a year of undocumented living in the U.S.

As an immediate relative applying for adjustment of status, the 3 and 10-year bars are automatically waived.

If you don't have a lawful entry but are married to a U.S. citizen, you can still resolve your status and get a green card. It just means that you can't adjust status, and you'll have to leave the country and then re-enter with a green card instead.

A permanent bar to getting a green card is imposed if you were 1) present unlawfully in the U.S. for more than 1 year, left the U.S., and then re-entered without documentation, or 2) were deported and then re-entered unlawfully.

If you're inadmissible under the permanent bar you can't adjust status either. Still, based on your immediate relative relationship you will qualify for "consent" to come back to the U.S. after 10 years outside of the U.S.

Criminal History Bars

If you have a criminal history you need to hire a lawyer.

We sometimes get questions about whether the criminal history of the U.S. citizen matters in the immigrant's green card process.

Most of the time that doesn't matter unless the U.S. citizen has a conviction for any sexual crimes against minors. While the U.S. citizen can file a waiver in this scenario, they are extremely complicated and rarely granted.

Because it is a very nuanced and specialized area, our office does not do waivers for U.S. citizens with a history of sexual assault against minors.

However, we regularly file waivers when the immigrant has a criminal history.

Some criminal convictions have no impact on your ability to apply for a green card. Other convictions are not waivable at all.

For crimes that make you inadmissible, but not completely ineligible, we can help if you have an immediate relative relationship.

In most immediate relative scenarios you can probably still adjust status and get a green card in the U.S.

It is impossible to describe here the impact that different criminal convictions could have on your ability to adjust status (though if we ever publish an ultimate guide on that topic we'll link to it here).

What you need to know is this: If you're an immigrant married to a U.S. citizen who entered the U.S. lawfully, and you have a criminal history, you need to consult a competent immigration attorney to help you with your process.

That being said, most waivers are going to focus on whether the qualifying U.S. family member will suffer "extreme hardship" if the immigrant were removed from the country.

In the waiver context, "hardship" is a specific term with legal significance. Below, we'll take a look at what extreme hardship looks like.

What Does Hardship Look Like?

Hardship can mean a lot of things. What you're trying to prove though is that, in your specific case, removal of the immigrant family member will cause more hardship than normally occurs when someone is deported.

We all know that deportation is hard on the immigrant, hard on spouses, hard on children, and hard on families generally.

But you have to prove that things will be even worse in your situation.

Examples of clear-cut hardship could include a U.S. citizen spouse in a wheelchair, a child with a disability or medical condition, or a elderly U.S. citizen parent who needs ongoing care.

Mental health hardship can also count. We've won cases where stepchildren had a history of delinquency until the immigrant family member entered their life, the spouse has a history of prior abusive

relationships, or a U.S. citizen parent lost other children to disease or accident and can't bear to lose another child to deportation.

All of these factors go above-and-beyond what is typical in a deportation scenario. That's what we try to identify when we prepare a waiver.

How Do I Prove Hardship?

Proving hardship can be very difficult.

If the waiver argument centers on a physical health hardship, then medical records are the most direct evidence we could present.

However, in most cases we will direct our clients to visit with a psychologist to obtain a mental health evaluation. In our experience, cases that don't seem particularly strong at first begin to develop a stronger legal argument after getting a mental health evaluation. A trained counselor or therapist can regularly draw out additional factors that tend to be very helpful in a hardship analysis.

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Finally, every facet of your life needs to be considered to best understand what kind of hardship you might experience in the event of a deportation. And so we generally ask for tax returns, bills, paystubs, bank statements, letters from children's teachers, employer letters, pastor letters, and on and on.

When we prepare a waiver application we look for every bit of evidence that is likely to persuade a reviewer that your situation is unique and that you merit a positive result—that your family needs you. Because they do.

We've never lost a waiver application—I'm sure we will some day, but it hasn't happened yet. If you need a waiver, or you think you might need one, get a lawyer.

Chapter 5: Honoring Military Families - Green Card Options for Family

When it comes to our nation's immigration laws, the idea is to help immigrant family of service members as much as possible to avoid additional stress and anxiety for our military.

We want them ready to serve our country; not spend all day worrying about whether their family will be deported while they're deployed.

As a result, there are significant advantages for any immigrant who qualifies as the immediate relative o a U.S. citizen member of the military.

Benefits for Family of Military

Perhaps the most important advantage for immediate relatives of family of the military is the option to get a lawful entry from inside the U.S., even if you didn't actually enter the U.S. lawfully.

The adjustment of status law we cited earlier, INA 245(a), says that to be eligible to adjust you had to be "inspected and admitted or paroled" into the U.S.

Well, by virtue of being the immediate family of our armed forces, we will parole you right where you are in the U.S. These benefits apply to family of active duty military, reservists, and veterans.

Thank you for your family member's service.

Getting a Lawful Entry Through Parole in Place

In a pair of memos in 2013 and 2014, USCIS clarified their stance and issued rules stating that being the immediate relative of a service member "weighs heavily in favor of parole in place."

To apply, you file form I-131, without a filing fee, to your local USCIS office. You want to do this before you apply for adjustment of status. This is because you're actually not eligible to adjust until you've been paroled.

We'll typically have our clients in this situation file just the I-130 petition (if they haven't already) at the same time they file the I-131. For now, you'll need to wait on the I-485 application.

You should file your parole-in-place application with "[e]vidence of any additional favorable discretionary factors" that you want considered. As a result, our office approaches military-based parole-in-place applications like a "waiver lite" application. We take them seriously; while you don't have to prove the same level of hardship factors you would for a traditional waiver, we want to submit enough documentation to make sure parole in place is granted.

Yes, being family of a service member "weighs heavily" in your favor, but it's not the only thing USCIS will review. And any time our nation's immigration laws give a bureaucrat discretion, we want to

overwhelm them with positive evidence.

Similar to waiver applications, we highly recommend you hire a lawyer to help you manage your application for parole in place.

Once your application for parole in place is approved, you can adjust status in the United States and get your green card!

Your parole in place approval counts as a lawful entry to the United States for the purposes of our immigration laws. That means you can go ahead and file Form I-485, even if your I-130 petition is still pending.

Chapter 6: Experience Peace of Mind: Why Tingen Law is Your Best Choice

Thank you for reading this guide. We hope it has helped you, and we're so grateful for each interaction with our clients and potential clients.

If this guide has been helpful for you we hope you have two takeaways.

First, even though it's possible to file for residency on your own, there are a lot of reasons to hire a lawyer. We absolutely believe you should hire a lawyer with your residency application, even if you believe you have an "easy" case.

Second, we hope you hire us.

Can I Hire Tingen Law?

Because immigration law is "federally preempted" you can hire us even though we're in Virginia and you're in any other state. (And if you're in Virginia, great! Come see us in the office.).

We routinely consult and represent clients in other states and in countries throughout the world. We'd love the opportunity to help you too!

To get started with us, either give us a call, or visit our website.Once you submit that form, we'll be calling you.

In that first phone call, our reception team will ask some simple questions to make sure we're the right fit for each other, and then they'll schedule the initial consult.

We know what we're doing and we do it very well. For immigration matters, our consults are completely free.

Consult: Determining Eligibility

At your consult we'll make sure that you're eligible to adjust status. We'll also discuss any questions you might have about the process or how we operate. We're happy to discuss topics related to your immigration status, your entry to the U.S., or whether or not you need a waiver for any inadmissibility issues.

We will not answer questions about how to fill out immigration forms. We assume the consult is your first step in hiring us, and that is the focus of the conversation. If you only want to ask questions about how to fill out the immigration forms, we will end the consult and you will not get a refund.

In addition, because we believe in creating a superior experience not only for our clients, but our staff too, we'll make sure you're the right fit for our firm as well.

If we like each other, we'll move forward to the next steps.

Onboarding: Forms & Evidence

At the end of the consult, we go over pricing, payment plans, expected deadlines, and we also schedule an onboarding appointment with one of our paralegals.

Our staff will help you fill out all government forms, help collect and organize evidence, and schedule all follow up appointments needed to move your case from beginning to end.

For most immediate-relative green card cases we only need 1 to 2 appointments to get what we need from you. The rest of the work we'll take care of in the background.

If your case is more complex and a waiver or parole in place application is needed, we schedule what we call an attorney analysis meeting instead. This is a meeting with you, a paralegal, and one of our attorneys.

We find that it's very helpful to do this in more com-

plex matters. Gathering all the details that might be relevant to your case and planning deadlines and evidence expectations is vital to a smooth and efficient process. Even though some immigration processes might take years, especially if they include a waiver, it's best to map out from the beginning exactly what your process will look like.

Once we have the information we need from you to file your application, we'll send it out. From there it's a bit of a waiting game.

We'll receive receipt notices, there will likely be an appointment you'll need to attend where they'll take your fingerprints, but that's about it.

While we wait for the approval we're happy to answer questions you may have about your process. But most of the time we're just waiting.

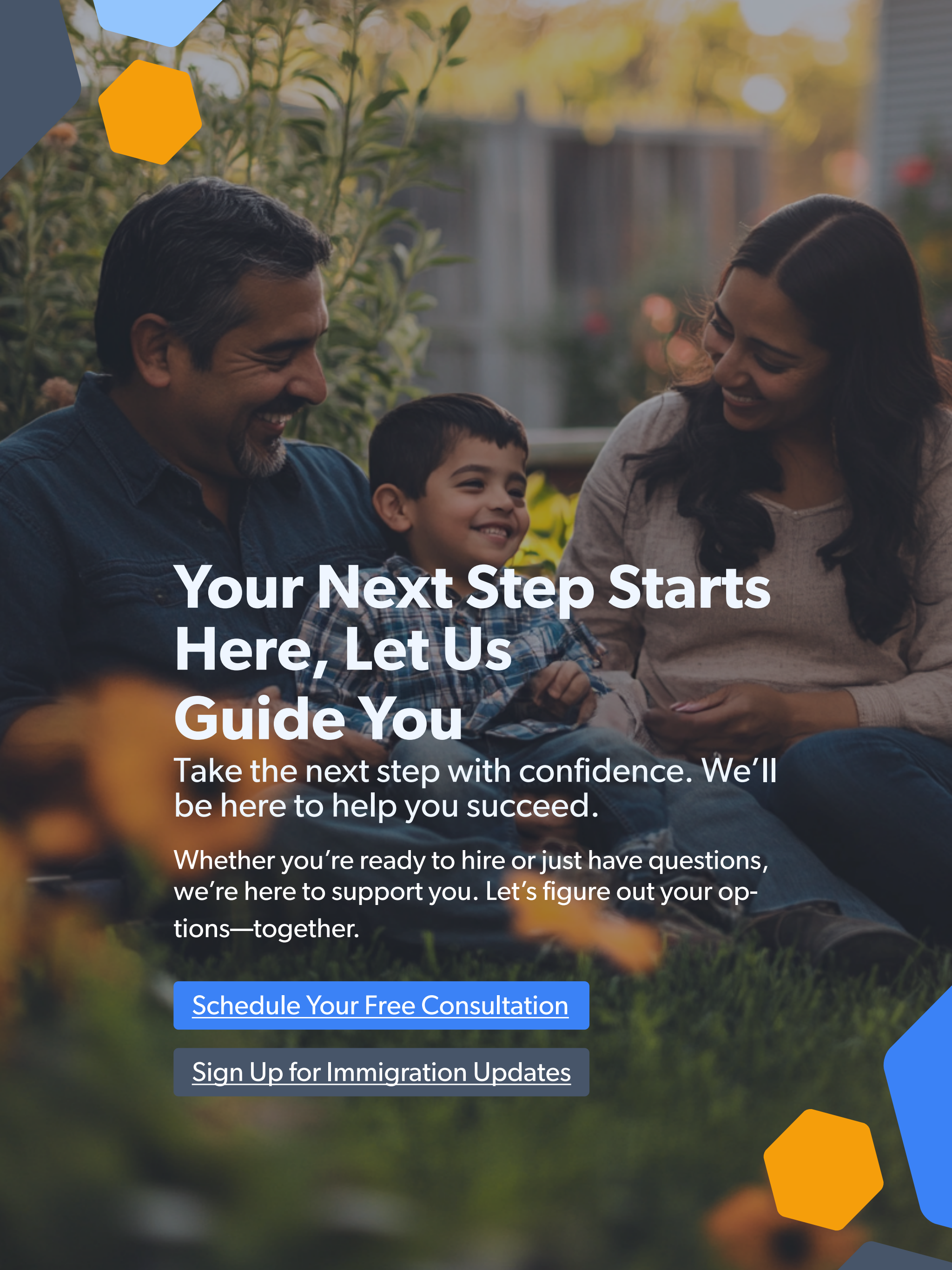
Ultimately, when your green card comes we'll discuss any final questions you have and we'll celebrate together with you!

Conclusion

We have extensive expertise when it comes to getting a green card in the U.S. We've explained the adjustment of status process immediate relatives in detail. We provide more transparency than just about any other law firm I'm aware of. And to top it all off, we provide reasonable payment options to help you afford a superior client experience.

We've helped thousands of clients since I first launched my practice. And now, we want to help you.

We look forward to speaking with you at your consult.



Your Next Step Starts Here, Let Us Guide You

Take the next step with confidence. We'll be here to help you succeed.

Whether you're ready to hire or just have questions, we're here to support you. Let's figure out your options—together.

Schedule Your Free Consultation

Sign Up for Immigration Updates