

Visa for Fiancée (K-1) or Spouse (K-3) of a U.S. Citizen

The K-1 visa is for the fiancée of a U.S. citizen. The K-3 visa is for the spouse of a U.S. citizen. These visas allow the applicant to enter the United States to apply for permanent residence based on the marriage to the U.S. citizen. These visas allow the fiancée or spouse to come to the U.S. to live and work while the immigrant visa petition is processing.

Relatives that Qualify for K-1 and K-3 Visa

Fiancée of a U.S. citizen. A U.S. citizen who will be marrying a foreign national in the United States may petition for a fiancée classification (K-1) for their fiancée.

Both parties must be unmarried, and any previous marriages have ended through divorce, annulment or death. You must have met with your fiancée in person within the last two years prior to filing for the visa. This requirement can be waived only if meeting your fiancée in person violates long-established customs, or if meeting your fiancée creates an extreme hardship for you. You must marry within ninety (90) days of your fiancée entering the United States. You may also apply for your fiancée's unmarried minor children (under 21), to the United States.

* After entry to the U.S. as a fiancée, the *only* way to apply for permanent residence is through the marriage to the petitioning U.S. citizen.

Spouse of a U.S. Citizen. A U.S. citizen who is married to foreign national may file for a nonimmigrant K-3 Visa. The relative petition, Form I-130 must be *filed* prior to applying for the K-3 visa. The relative petition does not need to be approved prior to applying for the K-3 visa.

Application for the K-1 or K-3 Visa

The form to file for the K-1 or K-3 is Form I-129F. We must include documentary evidence of the relationship. For the K-1 we must show evidence of meeting in person in the last 2 years. For the K-3, evidence of the filing of the relative petition Form I-130. After the visa petition is approved, the USCIS will cable notification to the U.S. consulate for the fiancée or spouse to apply for visa issuance.

Immigrant Visa Petition in the United States

After entering the United States, the immigrant visa petition for an alien relative can be filed. The Petitioner must show proof of U.S. citizenship and documentary evidence of the qualifying relationship to the Beneficiary. The Application for Permanent Residence can be filed with a request for work authorization and travel authorization. Please note that if a fiancée applicant received work authorization prior to the marriage, another request for employment authorization must be filed after the marriage.

K-1 Visa Petition Document List

K-1 Petitioner

- U.S. passport or Naturalization Certificate
- Birth Certificate
- Divorce Decree(s) if applicable
- Passport photo
- Latest U.S. tax return, W-2, Employment Letter

K-1 Beneficiary

- Passport (current and expired)
- Birth Certificate or Certificate of Unavailability
- Divorce Decree(s)
- Evidence of relationship and meeting within last 2 years (photographs, correspondence, evidence of travel)
- Passport Photo

K-3 Visa Petition Document List

K-3 Petitioner

- U.S. passport or Naturalization Certificate
- Birth Certificate
- Marriage Certificate and Divorce Decree(s)
- Income Tax Returns for past 3 years
- Job verification letter
- Passport photo

K-3 Beneficiary

- Passport (current and expired)
- Birth Certificate or Certificate of Unavailability
- Marriage Certificate and/or Divorce Decree(s)
- Evidence of marriage (wedding photos, insurance policies, accounts in both names)
- Passport Photo

Fong•Ilagan, LLP works with clients to simplify the K-1 and K-3 visa process. If you would like us to assist with your petition, please contact our office at 713.772.2300.