



Embassy of the United States of America
100 Duke & Young Streets, Kingston, Georgetown, Guyana

Ask the Consul Installment One Hundred Eleven Frequently Asked Questions

This *Ask the Consul* article addresses questions that have been asked during recent interviews at the U.S. Embassy in Georgetown or by e-mail.

I am a U.S. citizen and have filed a petition for my unmarried child. His priority date is current, so he will be invited to interview; however, he will get married soon. What happens next?

U.S. immigration law differentiates between married and unmarried children of U.S. citizens. An unmarried child under 21 is considered an immediate relative and does not have to wait for a visa to become available. If the unmarried child is over 21, they are no longer considered an immediate relative and will fall in the first preference category. A limited number of visas are issued each year under this category. Currently, visas in the first preference category are available for people who applied by May 2004. A married son or daughter is considered third preference; visas for that category are limited as well, and are currently available for those who applied by June 2001.

If your child marries, their category changes. If they were under 21 at the time of filing, they will likely have to wait many years for a visa to become available in their new category. If they were over 21, expect an additional few years as well. Most applicants waiting for a visa choose to postpone marriage plans until after they have immigrated to the U.S. for this reason.

A U.S. citizen son is going to sponsor his Guyanese parents, who adopted a child in Guyana. Will they be able to bring the adopted child with them to the U.S.?

Parents of U.S. citizens are considered immediate relatives. Each parent requires a separate petition to be approved by the Department of Homeland Security before they will be called for an interview. It is best to file them at the same time. When they are scheduled for an interview, please let the Embassy know that they will travel together, and we will do our best to coordinate the applications.

Unfortunately, there is no derivative status for the adopted child of the citizen's parents, meaning that the child will not be granted a visa based on their parent's petition. However, the U.S. citizen son may file a petition for their adopted brother or sister as a sibling. Unfortunately, siblings are not considered immediate relatives. Visas are currently available for people in this category for petitions that were filed in March 2000.

Another option is for the parents to petition for their adopted child once they immigrate to the U.S. The adopted child would be considered second preference, which currently means a three to four year wait for the visa to become available. It is important to remember that for an adopted child to be considered for this benefit, the child must have been adopted while under the age of 16 and must have been in the legal custody of, and residing with, the adopting parent(s) for two years.

I am acting as a joint sponsor for a relative. Is it absolutely required to provide copies of the Affidavit of Support and accompanying tax returns to my relative to physically bring to the interview?

No, it is not an absolute requirement to provide copies of financial information to your relative to bring to the interview. The National Visa Center (NVC) collects and forwards financial information to the Embassy in advance of the visa interview. It is not required for the applicant to bring the I-864 Affidavit of Support from the petitioner or joint sponsor, or the I-864-A from members of household.

However, we have found that many cases are delayed because up to date financial information was not included in the package from the NVC. If any of the financial information is missing from the case file at the time of the interview, we will let the visa applicant know. The applicant will have an opportunity to bring back the requested information at a later date. For this reason, many applicants choose to bring copies of this information with

them, which can prevent delays in processing their cases. Please note, we are requesting 2010 tax information.

I petitioned for my spouse of three years while I was a U.S. legal permanent resident and was told by U.S. Citizenship and Immigration Services (USCIS) that I didn't need to petition for our five year old daughter because she had derivative status. I recently became a U.S. citizen and upgraded the petition to immediate relative. According to USCIS, as a citizen I need to file separate petitions for my spouse and daughter, hence a new petition for my daughter. However, USCIS told me to contact the consulate to determine if this was necessary, if the original petition would hold, or if separate petitions for my wife and daughter can be processed concurrently so they can travel together.

You are correct. A lawful permanent resident of the United States may file for their spouse, and the spouse may bring derivative children. However, a U.S. citizen must file a separate petition for each member they are sponsoring as an immediate relative. The spouse of a U.S. citizen is an immediate relative and not bound by numerical visa limitations. Unmarried children of U.S. citizens are also immediate relatives.

If you filed as a permanent resident, and then naturalized, you will need to file a new I-130 for your child or step child (to be considered a step child for immigration purposes, the child must have been under eighteen when the marriage took place). The Embassy will make every effort to interview the child and spouse together.

“Ask the Consul” is a bi-weekly column from the U.S. Embassy answering questions about U.S. immigration law and visa issues. If you have a general question about visa policy please email it to us at AskGeorge@state.gov. We select questions every other week and publish the answers in Stabroek News and on our website at <http://georgetown.usembassy.gov/ask-the-consul.html>. Information about visas and travel can be viewed at <http://georgetown.usembassy.gov>, <http://travel.state.gov>, and at <http://www.dhs.gov>. Applicants are strongly encouraged to prepare their own documents and avoid third-party advice. U.S. Consular rules change frequently and non-US government advisors often provide inadequate or inaccurate information.

Other than the questions we select, we DO NOT respond to questions sent to Ask the Consul. Please contact the visa inquiries unit (email visageorge@state.gov or call 225-7965 between 8 am and 4 pm Monday through Friday) if you have questions about a specific case.