



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

### **Ask the Consul Installment 147**

The United States Supreme Court recently ruled that Section 3 of the Defense of Marriage Act (DOMA) was unconstitutional. This edition of Ask the Consul addresses common questions regarding same-sex immigrant petitions.

**I am a U.S. citizen or lawful permanent resident in a same-sex marriage to a foreign national. Can I now sponsor my spouse for a family-based immigrant visa?**

Yes, you can file the petition for your spouse using Form I-130. You can find detailed information on the process and requirements at the websites <http://georgetown.usembassy.gov> and [www.uscis.gov](http://www.uscis.gov). Your eligibility to petition for your spouse and your spouse's admissibility as an immigrant will be determined according to applicable immigration law and your spouse will not be automatically denied as a result of the same-sex nature of your marriage.

**I am a U.S. citizen who is engaged to be married to a foreign national of the same sex. Can I file a fiancé or fiancée petition for him or her?**

Yes. In this case, you should file a Form I-129F. Provided all other immigration requirements are met, a same-sex engagement would allow your fiancé to enter the United States for marriage.

**Do I have to wait until United States Citizenship and Immigration Services (USCIS) issues new regulations, guidance or forms to apply for benefits based upon the Supreme Court decision?**

No, you don't have to wait. You may petition for these benefits now.

**I know that the immigration laws allow discretionary waivers of certain inadmissibility grounds under certain circumstances. For some of those waivers, the person has to be the “spouse” or other family member of a U.S. citizen or of a lawful permanent resident. In cases where the required family relationship depends on whether the individual or the individual’s parents meet the definition of “spouse,” will same-sex marriages count for that purpose?**

Yes. Whenever the immigration laws condition eligibility for a waiver on the existence of a “marriage” or status as a “spouse,” same-sex marriages will be treated exactly the same as opposite-sex marriages.

**Note:** These responses provide only a broad guideline and are not comprehensive. Each case must be considered independently. For further details, please refer to the following websites <http://georgetown.usembassy.gov> and/or [www.uscis.gov](http://www.uscis.gov).

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*“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](mailto: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](mailto:visageorge@state.gov) or call 225-7965 between 8 am and 4 pm Monday through Friday) if you have questions about a specific case.*