

February 25, 2015

### **No distinction between biological and stepchildren**

**Q:** *I'm married to a U.S. citizen and I have a minor child with someone else. Can my U.S. citizen spouse file for my daughter as a "child," although her biological father supports her? My spouse, with the biological father's consent and knowledge, provides my daughter with clothing and enjoys a good relationship with her.*

**A:** Yes, your spouse can file for your daughter! Due to your marriage, a step relationship has been created between your spouse and your child. She is now considered his stepchild, and he can file an immigration petition for her as his daughter. (U.S. immigration law makes no distinction between a biological daughter and a stepdaughter.)

You mention that your daughter is a minor – this is important to the petition, as a child must be or have been under the age of 18 at the time the marriage took place in order to qualify as a child under the law.

It sounds like your daughter and your spouse have a good relationship. You may find it interesting to know, however, that there is no requirement that the stepchild and stepparent have an emotional relationship. In fact, they don't even need to have met. The relationship exists because the law says it exists – as long as the child is under the age of 18 on the wedding day.

There are three visa categories that can be used for the children of U.S. citizens. The most common one is the IR2 visa category for minor unmarried children. In this case, the petition should be filed before your daughter turns 21.

If the petition can't be filed before your daughter turns 21, your husband could file an F1 petition for the unmarried son or daughter of a U.S. citizen. If your adult daughter were to marry, she could still benefit from your husband's petition in the F3 category (married son or daughter of a U.S. citizen). We would point out, however, these visa categories have longer wait times. More information is available at the website managed by the U.S. Citizenship and Immigration Service, [www.uscis.gov](http://www.uscis.gov).

At the visa interview, your daughter might be asked to provide additional proof of cohabitation to support the relationship between you and your husband. Utility bills, tax returns, W2 forms, lease agreements, shared bank statements, insurance documents and copies of both driver's licenses are commonly used. If you can send her this documentation before the interview, the visa process may move more smoothly for your daughter.

*You can find more information about how to travel to the U.S. on our website, [www.kingston.usembassy.gov](http://www.kingston.usembassy.gov) and the website of our authorized service provider at <https://usvisa-info.com>. Keep on top of Embassy news on our Facebook page, <https://www.facebook.com/pages/US-Embassy-Jamaica> and by following @USEmbassyJA on Twitter. We also answer general visa questions on our Facebook and Twitter pages.*