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I-129F Fiancé / Spouse Petition Overseas

→ Who can file for a fiancé visa (K-1/K-2)?

Petitioner must be a U.S. Citizen

Petitioner must have met Fiancé “face-to-face” at least once in the last two years before applying

Petitioner must have sufficient income, or have a joint sponsor

Petitioner must not have committed certain crimes in the past

You can also file a spouse visa (K-3/K-4) if you have already filed a relative petition (Form I-130) with USCIS and have a receipt. Doing this will allow your spouse (and their children) to wait for the I-130 approval in the U.S.

→ How long does my Fiancé hold that nonimmigrant status when they arrive to the U.S.?

The nonimmigrant fiancé and the U.S. petitioner fiancé must marry within 90-days of the nonimmigrant fiancé’s arrival to the U.S.

Once married, an adjustment of status application for a conditional green card will need to be filed with USCIS.

→ My Fiancé was denied a Visitor visa, can they also be denied a fiancé visa?

Visitor visa and fiancé visa are two separate things.

Visitor visa is discretionary. Fiancé visa is a process when a U.S. petitioner fiancé files an application with the USCIS and DHS to bring his/her nonimmigrant fiancé to the U.S. The U.S. Consulate/Embassy generally only denies fiancé petitions if they suspect fraud (even if fraud was committed in obtaining visitor visa), or they don’t believe the genuineness of the relationship, or perhaps believe the fiancé will become a public charge (will likely seek public/government assistance) because of showing no sufficient income to support the case.

→ What are the steps?

The petition is first filed with USCIS. Once approved, it will be sent to the National Visa Center for visa processing and final approval.

→ My Fiancé and I didn’t get married, can he/she marry someone else to stay in the U.S.?

If the U.S. petitioner fiancé and the nonimmigrant fiancé did not marry within 90-days from the nonimmigrant fiancé’s arrival to the U.S., the nonimmigrant fiancé falls out of status and should not remain in the U.S. past the 90-day period. If they remain in the U.S. without a valid status, they will be placed in removal proceedings. It is best that the nonimmigrant fiancé returns to their country of citizenship timely.

A nonimmigrant fiancé cannot keep their K-1/ K-2 status if they don’t marry the U.S. petitioner fiancé within the 90-day period but marry someone else because their K-1/K-2 visa was approved based on marriage to the U.S. petitioner fiancé who filed the petitioner with USCIS.

→ My fiancé petition failed/we never got married. Can I file another fiancé petition?

A U.S. Citizen has a limit of 2 fiancé petitions. You have to wait 2 years to file a second petition with USCIS, but may request a waiver.

→ How many applications do I need to file if there are nonimmigrant children included?

One petition will include all children (under 21).

→ What’s faster, to file a fiancé or a marriage petition?

It depends. We will need to check the USCIS processing times, categories, and the NVC Visa Bulletin at the time of when you want to file.

Notice: This document shall not be construed as legal advice. This is only general information to commonly asked questions.