

2013-06-28

## Fråga-svar

### USA. Uppehållstillstånd och medborgarskap

#### Fråga

Frågan gäller en familj där föräldrarna är Mexikanska medborgare medan deras femåriga dotter är amerikansk medborgare. Jag vill få reda på om föräldrarna har uppehållsrätt i USA i och med att deras dotter har medborgarskap i USA. Har de rätt att söka. Får föräldrarna ansöka om medborgarskap eller uppehållstillstånd i USA.

#### Svar

#### Uppehållstillstånd

U.S. Department of State, *Family-based Immigrant Visas* [odaterad]:

"Overview - Family-based Immigrant Visas

Two groups of family based immigrant visa categories, including immediate relatives and family preference categories, are provided under the provisions of United States immigration law, specifically the Immigration and Nationality Act (INA).

Immediate Relative Immigrant Visas (Unlimited): These visa types are based on a close family relationship with a United States (U.S.) citizen described as an Immediate Relative (IR). The number of immigrants in these categories is not limited each fiscal year.

Immediate relative visa types include:

- IR-1: Spouse of a U.S. Citizen
- IR-2: Unmarried Child Under 21 Years of Age of a U.S. Citizen
- IR-3: Orphan adopted abroad by a U.S. Citizen
- IR-4: Orphan to be adopted in the U.S. by a U.S. citizen
- IR-5: **Parent of a U.S. Citizen who is at least 21 years old"**

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"U.S. Sponsor Minimum Age Requirement

U.S. citizens must be age 21 or older to file petitions for siblings or parents. There is no minimum age for a sponsor to file petitions for all other categories of family based immigrant visas. However, a U.S. citizen or lawful permanent resident (LPR) must be at least 18 years of age and have a residence (domicile) in the U.S. before he or she can sign an Affidavit of Support, Form I-864 or I-864-EZ. This form is required for an immigrant visa for a spouse and their relatives of U.S. sponsors. "

U.S. Citizenship and Immigration Services, *Green Card for a Family Member of a U.S. Citizen* [2011]:

"To promote family unity, immigration law allows permanent residents of the United States (green card holders) to petition for certain eligible relatives to come and live permanently in the United States. A permanent resident may petition for his/her spouse and unmarried child(ren) of any age to immigrate to the United States. Congress has limited the number of relatives who may immigrate under these categories each year so there is generally a waiting period before an immigrant visa number becomes available. If your family relationship qualifies you as an eligible relative of a U.S. permanent resident, then you are in what is called a "family preference category.""

U.S. Citizenship and Immigration Services, *I Am a Permanent Resident. How Do I ... Help My Relative Become a U.S. Permanent Resident?*, January 2013:

sid. 1

"A permanent resident of the United States can file a petition for the following relatives:

- Husband or wife; and
- Unmarried child(ren), regardless of age.

Note: Only U.S. citizens may petition for married children.

When you submit your petition, you are required to provide evidence to prove your relationship to the person for whom you are filing."

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sid. 2

"Can my relative wait in the United States until he or she can become a permanent resident?

No. Your relative's approved petition gives your relative a place in line among those waiting to immigrate. It does not give permission for your relative to live or work in the United States while he or she is waiting to apply for permanent residence. If he or she enters or stays without legal status, it will affect his or her eligibility to become a permanent resident upon reaching his or her place in line for issuance of a visa."

Immigration and Refugee Board of Canada, *United States: The process for obtaining permanent residency status in the United States (US) by marriage or family reunification; whether one needs to leave the US to complete the process, and if so, whether a sojourn in a third country is sufficient* (2005-2008), February 2008-02-19:

"Citizens and lawful permanent residents of the United States (US) must undertake a three-step process to sponsor their relatives to immigrate to the US (US n.d.a). First, a US citizen or permanent resident must file an immigrant visa petition (1-130 Petition for Alien Relative) on behalf of the relative who wishes to immigrate (US n.d.b). The sponsor must prove the relationship with the prospective immigrant (ibid.). The sponsor must also prove that he or she is a citizen or lawful resident and can support the relative at 125 percent above the poverty line (ibid.). The US Citizenship and Immigration Services (USCIS) website provides the following information with respect to which relatives may be sponsored:

\* If the sponsor is a U.S. Citizen, they may petition for the following foreign national relatives to immigrate to the U.S.:

- Husband or wife
- Unmarried child under 21 years of age
- Unmarried son or daughter over 21
- Married son or daughter of any age
- Brother or sister, if the sponsor is at least 21 years old, or
- Parent, if the sponsor is at least 21 years old.

\* If the sponsor is a lawful permanent resident, they may petition for the following foreign national relatives to immigrate to the U.S.:

- Husband or wife, or
- Unmarried son or daughter of any age.

In any case, the sponsor must be able to provide proof of the relationship. (US n.d.b, emphasis in original)"

Immigration and Refugee Board of Canada, *United States of America: Information on the right to citizenship or other status of a foreign-born parent of a US citizen who is a minor*, 1996-09-01:

"The following information was provided in a 23 September 1996 telephone interview with an immigration attaché of the Embassy of the United States of America in Ottawa.

**A parent of a minor who is a US citizen has no right to reside, live or work in the the United States, although the minor who is a US citizen has the right to reside, live, work or collect welfare benefits in the United States.** If a parent of a minor who is a US citizen is found living in the United States illegally, the parent can be deported. However, the source is aware of situations where it is known that parents are living illegally in the United States while the child is collecting welfare benefits for the family."

## Medborgarskap

U.S. Citizenship and Immigration Services, *I Am a Permanent Resident. How Do I... Apply for U.S. Citizenship?*, February 2013:

sid. 1

"Generally, to be eligible for naturalization you must:

- Be age 18 or older; and
- Be a permanent resident for a certain amount of time (usually 5 years or 3 years, depending on how you obtained status); and
- Be a person of good moral character; and
- Have a basic knowledge of U.S. government (this, too, can be excepted due to permanent physical or mental impairment); and
- Have a period of continuous residence and physical presence in the United States; and
- Be able to read, write, and speak basic English. There are exceptions to this rule for someone who at the time of filing:
  - Is 55 years old and has been a permanent resident for at least 15 years; or
  - Is 50 years old and has been a permanent resident for at least 20 years; or
  - Has a permanent physical or mental impairment that makes the individual unable to fulfill these requirements."

Migrationsverket, *Förenta Staterna. Medborgarskap*, 2001-06-01

" A. Barn födda i Förenta Staterna

Barn förvärfvar amerikanskt medborgarskap förutsatt att barnet är underkastat Förenta Staternas jurisdiktion."

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Denna sammanställning av information/länkar är baserad på informationssökningar gjorda under en begränsad tid. Den är sammanställd utifrån noggrant utvalda och allmänt tillgängliga informationskällor. Alla använda källor refereras. All information som presenteras, med undantag av obestridda/uppenbara fakta, har dubbelkontrollerats om inget annat anges. Sammanställningen gör inte anspråk på att vara uttömmande och bör inte tillmätas exklusivt bevisvärde i samband med avgörandet av ett enskilt ärende. Informationen i sammanställningen återspeglar inte nödvändigtvis Migrationsverkets officiella ståndpunkt i en viss fråga och det finns ingen avsikt att genom sammanställningen göra politiska ställningstaganden. Refererade dokument bör läsas i sitt sammanhang.

## Källförteckning

Immigration and Refugee Board of Canada, *United States of America: Information on the right to citizenship or other status of a foreign-born parent of a US citizen who is a minor*, 1996-09-01  
<http://www.refworld.org/docid/3ae6ac185e.html>

Immigration and Refugee Board of Canada, *United States: The process for obtaining permanent residency status in the United States (US) by marriage or family reunification; whether one needs to leave the US to complete the process, and if so, whether a sojourn in a third country is sufficient (2005-2008)*, February 2008-02-19  
<http://www.refworld.org/docid/4804c0e2c.html>

Migrationsverket, *Förenta Staterna. Medborgarskap*, 2001-06-01  
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<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=f63da6c515083210VgnVCM100000082ca60aRCRD&vgnnextchannel=f63da6c515083210VgnVCM100000082ca60aRCRD>

U.S. Citizenship and Immigration Services, *I Am a Permanent Resident. How Do I ... Help My Relative Become a U.S. Permanent Resident?*, January 2013  
<http://www.uscis.gov/USCIS/Resources/B1en.pdf>

U.S. Citizenship and Immigration Services, *I Am a Permanent Resident. How Do I ... Apply for U.S. Citizenship?*, February 2013  
<http://www.uscis.gov/USCIS/Resources/B3en.pdf>

U.S. Department of State, *Family-based Immigrant Visas*, [odaterad]  
[http://travel.state.gov/visa/immigrants/types/types\\_1306.html#members](http://travel.state.gov/visa/immigrants/types/types_1306.html#members)