

Fiancees are a unique category of family immigration law. Unique because they permit a United States citizen to bring to the United States a person who is not a relative based on a promise to marry that person within 90 days of the person's arrival in the United States. Lawful Permanent Residents cannot petition for fiancees. The fiancee process involves the four steps described below. Three of those steps involve legal processes with CIS or the Department of State. If any step is not done correctly it can mean substantial delays in the process or the denial of the foreign fiancee's permission to travel to the United States. **Perez & Associates** will help you navigate these processes and help you avoid the pitfalls so you and your fiancee can be together as soon as possible.

THE PROCESS

One: The sponsor must meet their foreign fiancee in person.

To be able to sponsor a foreign fiancee you, the sponsor, must demonstrate that you have met your foreign fiancee in person some time during the two year period just before the filing of the petition with the U.S. Citizenship and Immigration Services (CIS) in the United States. This means that even if you have identified your fiancee through correspondence, phone calls or a family arrangement, a trip abroad to meet your fiancee in person must take place within the two years prior to the commencement of the legal process. Because of this requirement, when you visit your foreign fiancee, you must make sure you obtain evidence to prove that you met your fiancee in person. This can include copies of airline tickets, hotel receipts, and pictures of the two of you together.

Two: You must petition for your fiancee.

Once you have taken a trip abroad to meet your fiancee, you are ready to begin the legal process with CIS. The first part of this process is the filing of a Fiancee Petition. This petition is filed with CIS in the United States and where it is filed depends on where you live. Processing times also depend on where you live, but generally it takes 60-90 days to receive a decision. If there are documents or other information missing from the petition CIS will request the additional information before making a decision. This can add another 60-90 days so it is important that the petition be filed correctly the first time.

Three: The foreign fiancee must be interviewed by the U.S. Consulate in their home country.

Once the Fiancee Petition is approved CIS will send out a Notice of Action letting you know that the petition has been approved. At this point CIS will forward the file to the U.S. Department of State's National Visa Center (NVC). Once CIS has rendered a decision on the Fiancee Petition and sent the file to the NVC its involvement in the process ends. The NVC will in turn forward the file to the U.S. Consulate in the country where your fiancee lives. The NVC or the Consulate will then send out additional documentation and forms that need to be completed by the you and your fiancee and submitted to the Consulate before they will schedule your fiancee for a visa interview.

Approvals of Fiancee Petitions are only good for four months, although they can be extended for an additional four months. Because the validity is for a relatively short duration no time can be lost preparing the forms and satisfying the other conditions required for the scheduling of a visa interview at the Consulate.

The interview at the Consulate will be the most difficult part of the entire process. Because many Fiancee Petitions involve couples who have only met in person once, there is an elevated level of suspicion among Consular Officers. This is one of the most important reasons for having an attorney represent you. Your fiancee must be carefully prepared to answer the types of questions that typically come up at these interviews. It is highly recommended that you attend the visa interview to address any additional questions raised by the Consular Officer.

At the successful conclusion of the visa interview your fiancee will be issued a K-1 Fiancee Visa. Once the K-1 Visa has been issued your fiancee will be able to travel to the United States.

Four: You must marry your fiancee within 90 days of his or her arrival in the United States and after marrying an application must be filed with CIS to obtain the fiancee's residency.

The law requires that you and your fiancee marry within 90 days of your fiancee's arrival in the United States. Any legal marriage ceremony is acceptable. If it is impossible to plan a big wedding within 90 days, have a civil marriage within the 90 days and the larger wedding some time thereafter.

Because a K-1 Fiancee Visa was used to enter the United States the fiancee may only marry you. The fiancee will not be able to come to the United States, marry someone else, even another United States citizen, and remain in the United States.

Once the marriage takes place you must file a residency petition on behalf of your new spouse. Concurrent with the residency petition your foreign spouse must file a residency application. Together with these your foreign spouse will also be able to file applications for employment and travel authorization. The length of this process will, again, depend on where you live. Generally, the receipts of filing arrive within three weeks. Once these arrive your foreign spouse will be able to get a driver's license. Travel authorization will usually be granted in about thirty (30) days and work authorization in 60-90 days. The final part of the process will be an interview before an Immigration Officer. At the end of this interview your foreign spouse will be made a Conditional Resident of the United States.