

Reasons Not to Seek a K-1 Fiancé Visa



Immigration Blog

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U.S. immigration law uses alphanumeric designations starting with A and ending with V to delineate various temporary non-immigrant classifications. K-1 visas permit entry to the U.S. of fiancé(e)s of U.S. citizens. The strict rules around the K-1 visa make it a challenge for many who might otherwise want to consider it.

When a fiancé(e) of a U.S. citizen seeks to become a lawful permanent resident (LPR) in the U.S., things to consider are timing, processing and travel plans. Any one of these might make the happy couple want to consider progressing toward a green card as a spouse instead of as a fiancé(e).

The K-1 process begins with the U.S. citizen petitioner filing a petition with U.S. Citizenship and Immigration Services (USCIS) containing evidence of the relationship with the fiancé(e). The processing times for these petitions vary from year to year and from office to office. Eventually, the information on the USCIS website shows at least an eight-month processing time. Approval of the petition leads to the filing of a visa application with a U.S. embassy or consulate, and to longer processing times.

Once the visa is issued, it must be used for entry to the U.S. before it expires. These visas are single entry visas,

meaning once you enter the U.S., there is no leaving with an expectation of quick return without taking specific action.

The first action to be taken is to get married, within 90 days of entry to the U.S., only to the sponsoring fiancé(e). Any variation can cause problems with the process. After marriage, the foreign fiancé(e) must file to adjust status from K-1 to LPR. This comes with additional fees and processing times, during which the foreign national must remain in the U.S. and cannot work without filing and waiting out the processing time for an Employment Authorization Document.

With all these variable processing times, it becomes impossible for a couple to plan a wedding with guests, a venue and catering. As a result, many couples will ignore the K-1, get married and apply for LPR status (the green card) afterward. This carries with it processing times and fees and possible travel restrictions, but it does not come with the stress of having a wedding that one party cannot get to, or the wedding proceeding properly and cancelling out the fiancé(e) visa processing, to start toward LPR status all over.

Anyone thinking about marriage to a U.S. citizen with a desire for LPR status should consider speaking with immigration counsel before making plans. Our immigration practice team at Lippes Mathias is here to help. Please contact Elizabeth M. Klarin (eklarin@lippes.com) or Eileen M. Martin (emartin@lippes.com) with any questions.

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