

“V” Visas for Spouses & Children of LPRs

It is relatively common for one spouse to have obtained status as a U.S. lawful permanent resident (more commonly known as a “green card” holder) (“LPR”), while his/her spouse and children continue to wait to receive that similar immigration benefit. Luckily, the U.S. government provides a means for such families to reunite, although certain other applications may remain pending.

A person may seek a V-1 or V-2 nonimmigrant status visa if the person (1) is married to an LPR, or is the unmarried child (under 21) of an LPR; (2) is the principal beneficiary of a relative petition, filed before December 21, 2000; and (3) the priority date of the filed petition is at least three years old, and it remains pending.

If the person seeking V visa status is in the U.S., she must file the required application and either pay the application fee, or request a waiver of the application fee. To file this application, the person must submit a fee for fingerprinting, in addition to the application fee. Further, the applicant must also undergo a medical examination and submit the sealed results to the U.S. Citizenship and Immigration Service (“USCIS”) with her visa application.

Importantly, persons in V-1, V-2, or V-3 visa status are eligible to apply for a work permit. The applicant must submit an additional application form and fee to USCIS to receive work authorization.

For a person who has obtained a V visa from a consular office abroad (for example: at the U.S. Consulate in Manila), she may be inspected and admitted into the U.S. in V visa status after traveling abroad, as long as she continues to possess a valid, unexpired V visa and remains eligible for V visa status.

If a person is granted V visa status in the U.S., by USCIS, she does not need to leave the U.S. But if such individual does leave the U.S., then she must obtain a V visa from a consular office abroad, in order to be inspected and re-admitted into the U.S. on V visa status after traveling abroad. (Significantly, she will not need to apply for a V visa abroad in order to be re-admitted, if she is traveling to a contiguous territory (such as Canada), has another valid visa (such as a B-1 visa), and is eligible for automatic revalidation.)

A V visa-holder with a pending U.S. Lawful Permanent Resident application does not need to obtain advance parole prior to traveling abroad. This means that an alien in V visa status may be re-admitted as a V visa holder despite the fact that she is an “intending immigrant” with a filed application for adjustment of status or an immigrant visa.

Attorney Rio M. Guerrero is the founding and managing partner of The Guerrero Law Firm. He is also an Adjunct Professor at The CUNY School of Professional Studies at The Graduate Center in Manhattan, where he teaches complex U.S. immigration law to other attorneys, paralegals and community leaders. He has also served as an

immigration legal expert witness in the New Jersey State court system. During his many years of legal practice, Atty. Guerrero has successfully represented thousands of clients in a wide range of immigration and nationality matters. You may contact Atty. Guerrero directly at (212) 481-2744 or e-mail him at rio@guerrerolawfirm.com. The above information is not, nor intended to be, legal advice. Nothing within this publication creates an attorney-client relationship with the reader. Applicability of the legal principles discussed above differs upon individual facts and circumstances.