

Immigration Law Answers Blog

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Permanent Residency Based on Employment & Family

A frequent question that arises is whether a foreign national living in the United States for a certain number of years can obtain permanent residency based on the years of living in the United States. There is no law or regulation currently in place allowing foreign nationals to automatically obtain permanent residency based on the number of years residing in the United States. There are however, many ways foreign nationals can immigrate and obtain permanent resident status. Two ways to obtain permanent resident status are based on employment and family sponsorship.

One of the ways foreign nationals can obtain permanent residency is based on employment. The U.S. employer will sponsor the employee to qualify under a certain visa category. Specifically, the foreign national may qualify under one or more of the employment-based “EB” visa preference categories that are divided into four separate categories.

The four EB visa preference categories are:

- EB-1: Extraordinary Ability, Professors, Researches, or Executives, filed on form I-140
- EB-2: Exceptional Ability in the Sciences, Arts or Business, filed on form I-140
- EB-3: Skilled Worker, Professional, Or Unskilled Worker, filed on form I-140
- EB-4: Immigrant Religious Worker, filed on form I-360

Another process to obtain lawful permanent residence in the U.S. is through family sponsorship. That is, either a U.S. citizen or permanent resident family member or as a fiancé to a U.S. citizen and subsequent marriage. The process begins by either the U.S. citizen or lawful permanent resident relative filing form I-130 Petition for Alien Relative or form I-129F Petition for Alien Fiance with U.S. Citizenship and Immigration Service (USCIS). Just as in employment-based sponsorship, there are visa preference categories in family-based sponsorship. Family-based “FB” preference categories are divided into four categories.

- FB-1: Unmarried sons and daughters of U.S. Citizens
- FB-2A: Spouses and children of lawful permanent residents of the U.S.

FB-2B: unmarried sons and daughters of permanent residents of the U.S.

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FB-3: Married sons and daughters of U.S. Citizens.

<http://www.jdsupra.com/post/documentViewer.aspx?fid=76986323-163c-4eba-8de3-ed5eb5c938bf>

FB-4: Brothers and sisters of U.S. Citizens who are at least 21 years old.

The above preference categories are subject to a numerical limitation. More information on these visa categories is available at the U.S. Department of State's visa bulletin at:

www.travel.state.gov

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