



Frequently Asked Questions: Family Reunification Options for Afghans Feb. 13, 2023

More than 80,000 Afghans have been evacuated and are residing in the United States since the Taliban took over Afghanistan in August 2021. The majority were paroled into the United States, and many have now been granted asylum, Temporary Protected Status (TPS), or permanent residency based on the Special Immigrant Visa (SIV) program.

Many of these Afghan immigrants are now seeking to reunify with family members left behind in Afghanistan or who are residing in third countries. Family reunification has been particularly challenging for many Afghans because there is no U.S. consulate or embassy in Afghanistan and up to this point there has been little assistance for those looking to leave Afghanistan. Traditional pathways for family reunification may be available to them, including the filing of I-130 petitions by lawful permanent residents (LPRs) or U.S. citizens, or I-730 petitions by asylees or refugees. The U.S. government has also opened new programs for refugee processing for the immediate family members of certain Afghans and has announced expanded efforts to help individuals in Afghanistan depart the country. This FAQ provides an overview of both the traditional pathways as well as the new avenues for refugee processing and family reunification available to Afghan evacuees.

Where can I find more information on family reunification for Afghan parolees?

USCIS maintains a dedicated webpage for Operation Allies Welcome (OAW) evacuees, available at <https://www.uscis.gov/humanitarian/information-for-afghan-nationals>. In addition, the State Department has recently opened a new webpage for family reunification for Afghans, which outlines the possible paths available for Afghans seeking to reunite with certain family members. The webpage is available at <https://www.state.gov/afghanistan-family-reunification/>.

SIV Processing for Derivatives

How can an Afghan LPR who obtained status through the SIV program bring a spouse or children to the United States?

If the LPR's relationship with the spouse or children existed before the client became an LPR, the spouse or children are eligible to immigrate as derivatives of the SIV case. If the relationship did not exist at the time the LPR obtained permanent residency, the LPR will need to file a Form I-130, Petition for Alien Relative, for the spouse and children. More information about I-130 processing is provided below.

According to the State Department's new family reunification [website](#), the U.S. government may be able to offer departure assistance for an SIV applicant's spouse and children who remain in Afghanistan. The State Department will contact family members with departure options from Afghanistan after the National Visa Center (NVC) has notified family members that their SIV applications are ready for interview. Valid passports will be required in order for applicants to attend their interviews. This is challenging for Afghans without passports, as many report that processing of a passport application is slow and expensive.

Only children who meet the definition of "child" for immigration purposes can immigrate as derivatives. Immigration law defines a "child" as one who is unmarried and under the age of 21. However, the Child Status Protection Act (CSPA) applies to Afghan SIV applicants, so some children whose biological age is over 21 will still be able to immigrate as SIV derivatives if certain conditions are met. For more information on the CSPA and how it applies to Afghan SIV applicants, please see CLINIC's advisory, Age Out Rules for Afghan SIV Derivative Children, available at <https://cliniclegal.org/resources/humanitarian-relief/age-out-rules-afghan-siv-derivative-children>.

What steps must an LPR who adjusted status in the United States through the SIV program take to assist a spouse and minor children abroad?

If the LPR adjusted status in the United States through the SIV program, the first step is to file Form I-824, Application for Action on an Approved Application or Petition. There is no filing fee for Form I-824 for Afghan special immigrants with LPR status who check the box in Part 2, Item 1.c., "USCIS to notify a U.S. Consulate through the NVC about my adjustment to permanent resident in the United States." It is also possible for the applicant to file Form I-485, Application to Register Permanent Residence or Adjust Status, at the same time the I-824 is submitted. This is advisable in many cases to assure age-out protections for derivative children.

Once the I-824 is approved, the case will be transferred to the NVC, where the derivatives can submit immigrant visa applications and required civil documents. There are no filing fees required for derivative SIV applicants. Once the required civil documents are received, the NVC will notify the applicants that a case is ready to be scheduled for interview at the consulate or embassy.

What steps can an individual who obtained an immigrant visa overseas through the SIV program take to assist a spouse and minor children abroad?

If the Afghan LPR obtained an immigrant visa at a U.S. consulate overseas and included the spouse and unmarried children under the age of 21 on the original SIV application, the family members may be processed as SIV “follow-to-join” family members. In this case, there is no need to file Form I-824. The communication to move the case forward will be through the Department of State — either through the NVC or the embassy or consulate where the individual wishes to process, depending on where the case is pending.

What is the best way for a practitioner to communicate with the NVC about an SIV following-to-join case?

The NVC can be contacted over email at nvcsiv@state.gov. Representatives should attach a G-28 and include a brief, succinct summary of the case, being sure to include the applicant’s name, date of birth, and NVC case number. There is also an SIV specific phone number for the NVC: 1-603-334-0828.

What is the best way for a practitioner to communicate with a U.S. embassy or consulate about an SIV following-to-join case?

If the case is no longer at the NVC, the representative should contact the consulate where the individual will process. Since there is no U.S. embassy in Afghanistan, the derivative applicants may process through any consulate where they are able to travel or where they currently reside. They do not have to physically be in a third country if they can show an ability to travel to that country. A list of all U.S. consulates and embassies is available at this website: <https://www.usembassy.gov/>.

Each overseas mission maintains a dedicated website that includes information on immigrant visa processing for that country. It is advisable to search the website for the contact information for the immigrant visa section. Some consulates have a dedicated email address for the immigrant visa section, while some have a “contact us” form for immigrant visa inquiries. As with communication with the NVC, representatives should attach a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, and include a brief summary of the case, being sure to include the applicant’s name, date of birth, and NVC case number. Representatives should make clear what it is they are requesting that the consulate do in a particular case (for example, transfer a case, schedule an interview, or expedite an interview). Since the consulates receive a high volume of communication, a short summary of the case will be more helpful than a lengthy description that includes unnecessary procedural history.

I-130 Processing for Derivatives

How can an LPR or U.S. citizen immigrate Afghan family members?

To begin immigrant visa processing for a relative overseas, the LPR or U.S. citizen files an I-130 petition. There are different categories of family-based immigration. Immediate relatives include spouses of U.S. citizens, unmarried minor children of U.S. citizens, and parents of U.S. citizens aged 21 or older. There is no numerical quota on the number of immigrant visas issued each year to immediate relatives.

The family preference system allows the following family members to immigrate:

- F-1 category: unmarried sons and daughters of U.S. citizens;
- F-2A category: spouses and children of LPRs;
- F-2B category: unmarried sons and daughters of LPRs;
- F-3 category: married sons and daughters of U.S. citizens; and
- F-3 category: brothers and sisters of U.S. citizens aged 21 or older.

A limited number of visas is available in the family-based preference categories, which often leads to years-long waits for visa availability.

Do any special procedures exist for I-130 petitions for Afghan citizens?

U.S. Citizenship and Immigration Services (USCIS) has announced a temporary fee exemption for nationals of Afghanistan through Sept. 30, 2023. Thus, no I-130 filing fee is required. USCIS will base the fee exemption on the beneficiary's place of birth and notes that if the petitioner is submitting an I-130 on behalf of an Afghan national whose country of birth in Part 4, Item 7 is not Afghanistan, that the petitioner should write "OAW" at the top of the Form I-130 to be considered for a fee exemption. I-130 petitioners seeking this fee exemption can only file the petition through the mail. USCIS is also expediting I-130 petitions filed for Afghan nationals, although there is no exemption from the statutorily-mandated quotas that limit immigration in the family-based preference categories.

What happens after the I-130 petition is approved?

Upon approval of the petition, the case is transferred to the NVC for submission of an immigrant visa application and supporting documents. Once the NVC confirms that all documents have been received and accepted, the case is considered "documentarily qualified." The NVC then schedules the immigrant visa interview and forwards the case to the appropriate U.S. consulate. As with SIV applicants, the U.S. government may be able to offer departure assistance for I-130 beneficiaries who remain in Afghanistan. The State Department will

contact family members with departure options from Afghanistan after the NVC has notified family members that their immigrant visa applications are ready to be scheduled for an interview.

I-730 Processing for Derivative Asylees

How can an Afghan asylee file for family members who remain overseas?

An Afghan asylee may file Form I-730, Refugee/Asylee Relative Petition, with USCIS for a spouse or children under the age of 21. Under the CSPA, the child's age is frozen as of the date that the principal filed for asylum, provided that the child was listed on the Form I-589, Application for Asylum and Withholding of Removal, before it was adjudicated. If the parent failed to list the child on Form I-589, then the child's age is frozen as of the date that the Form I-730 is filed.

The I-730 petition must be filed within two years of the grant of asylum, although some humanitarian exceptions do exist. For more information on I-730 processing, consult CLINIC's I-730 manual, available at <https://cliniclegal.org/resources/asylum-and-refugee-law/i-730-refugeeasylee-family-reunification-practice-manual>.

What happens after the I-730 petition is approved?

The petition is transferred to the NVC and later to a consular post for scheduling of an interview. Afghans with approved I-730 petitions who are pursuing derivative asylum status may be contacted by the State Department with departure options and assistance in leaving Afghanistan.

Refugee Processing for Derivatives

What other options exist for Afghan parolees to reunite with family members?

On Jan. 12, 2023, the Department of State announced the launch of [Form DS-4317](#), Family Reunification Assistance for Afghan Parolees' Immediate Family Members Outside the United States. This form starts the process for Afghan parolees to seek family reunification with a spouse or unmarried child under the age of 21.

Form DS-4317 is limited to those Afghans who are currently in parole status or who were paroled into the United States and subsequently granted TPS. In those circumstances, the U.S. government may be able to offer departure assistance for the Afghan parolee's spouse and unmarried children under the age of 21 who are outside the United States. The State Department landing page clarifies that a parolee may apply for children who are unmarried and were under the age of 21 on August 14, 2021.

Once the DS-4317 has been completed through the website, the Department of State will contact the parolee with departure options for family members from Afghanistan. At that point, the family member will travel to a country where they can be considered for refugee status through the United States Refugee Admissions Program (URSAP). At that time, each family member will require a valid passport, although the DS-4317 may be completed before the family member obtains one.

What if my client files a DS-4317 on behalf of family members and is later granted asylum or LPR status?

The family can continue with refugee processing since the State Department considers the individual's status at the time of filing the DS-4317. However, the family member can also consider filing an I-730 or I-130 petition so that the family member can pursue multiple routes to permanent residency at the same time. Pursuing any of these routes should qualify the applicants for departure assistance from Afghanistan.

Who can access the P-3 refugee program?

Afghanistan is currently designated for P-3 processing for refugee status. The P-3 category of the USRAP affords access to members of designated nationalities who have immediate family members (known as "anchor" relatives) in the United States who entered as refugees or were granted asylum, even if they later became LPRs or U.S. citizens. Recently, the program was also opened to Afghan SIV holders to serve as the anchor relatives. Parents, spouses and unmarried children under the age of 21 of the U.S. anchor can participate in this program.

The process starts with the filing of Form DS-7656, Affidavit of a Relationship (AOR), at a resettlement agency. A list of resettlement agencies is available at <https://www.acf.hhs.gov/orr/map/find-resources-and-contacts-your-state>. The P-3 AOR program requires the overseas family members to be outside of their country of origin before an application is submitted. With some exceptions, they also must be registered as refugees with UNHCR or with the country of asylum. Those processing out of certain countries, including Pakistan, do not require a proof of registration.

The anchor relative in the United States and each of his or her biological parents and children listed in Section II of the AOR must submit to DNA testing to confirm their biological relationship and present documentation such as birth certificates and marriage certificates. An AOR must be filed within five years of the anchor's arrival in the United States.

Can the new private refugee sponsorship program, Welcome Corps, assist Afghan family members living overseas?

It is too soon to tell. In January 2023, the State Department [announced](#) a new refugee sponsorship program called [Welcome Corps](#). While the initial group of refugees to be resettled will primarily come from sub-Saharan Africa, there are plans to expand the private refugee sponsorship program in mid-2023 to allow private sponsors to identify refugees in need who they wish to sponsor and refer them to the U.S. Refugee Admissions Program. This may allow Afghans in the United States to start a process to refer certain family members to the USRAP program, although the specific details have not yet been announced.

Humanitarian Parole

Can an Afghan client file for humanitarian parole for a relative who remains overseas?

Advocates should carefully consider the unique circumstances of each applicant's case when deciding whether to file a humanitarian parole application. Advocates have been critical of the strict criteria that USCIS has applied to Afghan humanitarian parole applications, which has led to denials in even compelling cases. USCIS has wide discretion in determining whether to grant or deny a humanitarian parole application, and there are no guarantees of approval. Family members overseas who have a possible pathway to immigrate through the family-based immigration process, asylum, SIV or the newly announced refugee processing programs are strongly encouraged to pursue those options instead, given the high standard that USCIS has applied to Afghan humanitarian parole applications. Humanitarian parole should be an option of last resort, as the application is expensive to file, time-consuming to prepare and the likelihood of success small.

There may be unique cases, however, where humanitarian parole may be the only option available for a family member in Afghanistan. These cases may involve vulnerable family members who face targeted harm due to age, disability, or sexual orientation. For more information on filing applications for humanitarian parole, please see CLINIC's All About Parole Practice Advisory available at <https://cliniclegal.org/resources/parole/all-about-parole-practice-advisory>.