



Obergefell Expands The Number Of Individuals Potentially Eligible To Apply For Immigration Benefits

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08.24.2015

Obergefell effectively expands the number of individuals who would be eligible to submit immigration applications on behalf of a same-sex spouse because same sex marriage is now legal across the country, rather than in a handful of states. U.S. Citizens and Lawful Permanent Residents in a same-sex marriage with a foreign national can now sponsor their spouses for family-based immigrant visas, otherwise known as “green cards,” by filing a Form I-130 and any applicable accompanying applications. U.S. Citizens can also file fiancé visa applications if their future spouse lives abroad and does not currently have a visa. According to the U.S. Citizenship and Immigration Services (USCIS), such family-based applications will be determined according to applicable immigration law and the same-sex nature of the marriage will not be a basis for denial of the green card or fiancé visa application. Lastly, regarding nonimmigrant visas, the U.S. Department of State issued guidance confirming that same-sex spouses and their children are also equally eligible for “derivative visas.” For example, if one spouse has an H-1B Visa, the other could obtain an H-4 Visa, which is the visa for dependent spouses of H-1B Visa holders. Similarly, spouses of L-1 Visa holders would be eligible for an L-2 visa.

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