

Domicile

Petitioners and sponsors for family-based immigrant visas are required to be domiciled (live) in any of the States of the United States, the District of Columbia, or any territory or possession of the United States.

Can a U.S. citizen or lawful permanent resident (LPR) petitioner who is not domiciled (residing) in the United States be a sponsor?

No. The law requires a sponsor who is 1) a citizen/ national or a LPR of the United States; 2) at least 18 years of age; 3) domiciled in the United States; 4) the petitioner, and 5) meets certain income requirements. To be domiciled in the United States a sponsor must live or reside in any of the States of the United States, the District of Columbia, or any territory or possession of the United States.

If the petitioner does not have a domicile in the United States, can a joint sponsor file an I-864?

No. Under the law, a joint sponsor cannot sponsor an immigrant when the petitioner does not have a domicile in the United States. The petitioner must first meet all the requirements for being a sponsor, except those related to income, before there can be a joint sponsor.

How is domicile determined?

Domicile is a complex issue and must be determined on a case by case basis. To qualify as a sponsor, a petitioner who is residing abroad must have a principal residence in the United States and intend to maintain that residence for the foreseeable future. Lawful permanent resident (LPR) sponsors must show they are maintaining their LPR status.

Many U.S. citizens and LPRs reside outside the United States on a temporary basis, usually for work or family considerations. "Temporary" may cover an extended period of residence abroad. The sponsor living abroad must establish the following in order to be considered domiciled in the United States:

- He/she left the United States for a limited and not indefinite period of time;
- He/she intended to maintain a domicile in the United States; and
- He/she has evidence of continued ties to the United States.

An American citizen or LPR spouse or dependent who has maintained a residence in the United States and/or whose spouse/parent works in one of the categories listed below would also qualify as a sponsor.

Individuals living abroad temporarily due to their employment may be considered domiciled in the United States. What kind of employment abroad can be counted as U.S. domicile?

- Employment by the U.S. government;
- Employment by an American institution of research recognized by the Attorney General;
- Employment by an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce with the United States, or a subsidiary of such a firm;
- Employment with a public international organization in which the United States participates by treaty or statute;
- Employment by a religious denomination/group having a genuine organization within the United States and is stationed abroad with that religious denomination; or
- Employment as a missionary by a religious denomination/group or by an interdenominational mission organization within the United States and is stationed abroad with that religious denomination.

There may be other circumstances in which a sponsor can show that his or her presence abroad is of a temporary nature, and the sponsor has a domicile in the United States. The sponsor must satisfy the consular officer that he/she has not given up his/her domicile in the United States and established his/her domicile abroad.

How can a petitioner establish a domicile in the United States?

When a sponsor has clearly not maintained a domicile in the United States, he/she will need to re-establish a U.S. domicile in order to qualify as a sponsor. The sponsor may take a number of steps to show that he/she is establishing his/her principal residence in the United States. Some examples of steps one can take to establish domicile include:

- Finding a job in the United States;
- Locating a place to live in the United States;
- Registering children in U.S. schools;
- Making arrangements to give up (relinquish) residence abroad; or
- Providing other evidence of a U.S. residence.

If the sponsor establishes U.S. domicile, it is not necessary for the sponsor to go to the United States before the sponsored family members. However, the sponsored immigrant may not enter the United States before the sponsor returns to the United States to live. The sponsored immigrant must travel either with the sponsor or after the sponsor has returned to the United States.

Some documents which may establish proof of domicile are listed below:

- Checking account statements showing daily activity in the USA over an extended period of time.
- Doctors, medical, and/or pharmacy bills covering an extended period of time.
- A lease agreement or utility bills in the petitioner's name.
- Voter registration cards (U.S. citizens only)
- Advance parole and/or re-entry permit (Legal Permanent Residents only).