
From: jeffrey E. <jeevacation@gmail.com>
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To: [REDACTED]

Immediate family members present in the United States and included in the original asylum application automatically receive asylum together with the principal applicant. "Immediate family members" include the asylee's opposite sex spouse and unmarried children under 21 years of age. As with all other areas of immigration law, same sex marriages are not recognized for purposes of derivative asylum. Likewise, transgender applicants may or may not have their marriages recognized, depending on how complete the transgender spouse's transition is and on what happens in this developing area of U.S. immigration law. (See www.immigrationequality.org/template.php?pageid=4 <<http://www.immigrationequality.org/template.php?pageid=4>> for updated information on this issue.)

Note: if the asylee won based on sexual orientation, but is still legally married to a spouse abroad, he is technically permitted to file a derivative application for her, but the application, acknowledging an ongoing opposite sex relationship, could lead to the underlying asylum application being reopened. If the applicant has minor children abroad, and testified about the opposite sex relationship that resulted in the children, he should be able to apply for derivative status for the children. The asylee must petition for immediate relatives within a two-year period after being granted asylum. This period may be extended for humanitarian reasons.

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p=ease note

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