



**NATIONAL  
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**IMMIGRATION**

**BASICS**

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## THE ABC'S OF U.S. IMMIGRATION

### Who Is an Immigrant?

According to U.S. law, an immigrant is a foreign-born individual who has been admitted to reside permanently in the United States as a Lawful Permanent Resident (LPR).

### How Do Immigrants Get Admitted to Permanently Reside Here?

Typically, a foreign-born individual seeking to become an LPR can do so in one of three ways:

Through **family-sponsored immigration**, a U.S. citizen can sponsor his or her foreign-born spouse, parent (if the sponsor is over the age of 21), minor and adult married and unmarried children, and brothers and sisters. A Lawful Permanent Resident can sponsor his or her spouse, minor children, and adult unmarried children.

Through **employment-based immigration**, a U.S. employer can sponsor an individual for a specific position where there is a demonstrated absence of U.S. workers.

By winning one of a limited number of immigrant visas available in the annual **diversity visa lottery** that is open to immigrants from certain countries.

### Who Is a Refugee?

A refugee is a person *outside* of the United States who seeks protection on the grounds that he or she fears persecution in his or her homeland. To obtain refugee status, a person must prove that he or she has a "well-founded fear of persecution" on the basis of at least one of five specifically-enumerated and internationally-recognized grounds. Those grounds include the person's *race, religion, membership in a social group, political opinion, or national origin*.

A person who has already entered the United States, and who fears persecution if sent back to his or her country, may apply for **asylum** here. Once granted asylum, the person is called an "**asylee**." Like a refugee, an asylum applicant must also prove that he or she has a "well-founded fear of persecution" based on the same enumerated grounds. Both refugees and asylees may apply to become LPRs after one year.

### Who Is an Undocumented Immigrant?

An undocumented immigrant is a person who is present in the United States without the permission of the U.S. government. Undocumented immigrants may enter the U.S. illegally without being inspected by an immigration officer or by using false documents. Alternatively, they may enter legally with a temporary visa, and then remain in the U.S. beyond the expiration date of the visa.

### Who Is a Non-immigrant?

A non-immigrant is an individual who is permitted to enter the U.S. for a period of limited duration. Non-immigrants include: students, tourists, temporary workers, business executives, diplomats, artists and entertainers, and reporters. Depending on where they are

from and the purpose of their visit, non-immigrants may be required to apply for and obtain a visa from the U.S. government. The application process entails an interview at the nearest U.S. consulate with a U.S. consular official, who has the sole authority to grant or deny a visa. Even if granted, the visa is merely a travel document. All non-immigrants—regardless of whether they have a U.S. visa—must also pass immigration inspection upon arrival in the U.S.

### **Who Is a Naturalized Citizen?**

Lawful Permanent Residents are eligible to apply for U.S. citizenship through a process called **naturalization**. To qualify for naturalization, applicants generally must reside in the U.S. for five years (three if they are married to a US. citizen) without having committed any serious crimes, show that they have paid their taxes, are of "good moral character," and demonstrate a knowledge of U.S. history and government as well as an ability to understand, speak, and write ordinary English.

## **FAMILY-SPONSORED IMMIGRATION**

Family-sponsored immigration is the way U.S. citizens and lawful permanent residents bring family members from other countries to live permanently in America. Citizens may sponsor only their spouses, children, parents (if the citizen is older than 21 years), and brothers and sisters (if the citizen is older than 21 years). Lawful Permanent Residents (LPRs) may sponsor only their spouses and unmarried children. Neither citizens nor LPRs may bring in more distant family members, such as aunts, uncles, and cousins. In all, nearly three-quarters of regular immigration to the U.S. is family-sponsored.

Our immigration system divides the family members eligible for sponsorship into two tiers. Immediate relatives of U.S. citizens—that is, spouses, unmarried minor children and parents, but not brothers and sisters or unmarried and married adult children—are admitted as their applications are processed. There is no ceiling on the number of immigrant visas allotted for immediate relatives. In recent years, approximately 500,000 have immigrated per year.

All other immigrants who come here through family sponsorship fall into the "family preference system" which has been capped at 226,000 visas per year since 1990.

### **Immigration Based on Family Relationships**

<b>CATEGORY</b>	<b>U.S. SPONSOR</b>	<b>RELATIONSHIP</b>	<b>VISAS ALLOCATED</b>
Immediate Relative	U.S. Citizen	Spouses, unmarried minor children, and (if the U.S. citizen is 21 years or older) parents	Not numerically limited (approximately 500,000 have been issued annually in recent years)
1st Preference	U.S. Citizen	Unmarried adult children (21 years or older) and their minor children	23,400 visas/year, plus any visas left from the 4th preference
2nd A Preference	LPR	Spouses and minor children	87,900 visas/year. Unused visas from the 1st preference may be added to the 2nd.
2nd B Preference	LPR	Unmarried adult children (21 years or older)	26,300 visas/year
3rd Preference	U.S. Citizen	Married adult children and their spouses and children	23,400 visas/year, plus any left over from the 1st and 2nd preferences
4th Preference	U.S. Citizen (21 years or older)	Brothers and sisters, and their spouses and minor children	65,000 visas/year, plus any left over from the previous preferences

### **Worldwide Ceilings and Limits on Immigrants from One Country**

All "immediate relatives" plus all of the family preference categories must fit within an overall ceiling for family-based immigration of 480,000. This ceiling can be exceeded, however, due to the fact that a minimum of 226,000 visas per year are reserved for the family preference categories (non-immediate relatives), coupled with the fact that immediate relatives are not

capped. In addition to these category limits, the ceiling on the number of people we allow in from any one country is approximately 25,600. This ceiling includes immigrants in the family-preference categories and immigrants who are coming here through the sponsorship of an employer. There are some exceptions to the per country limits.

### Screening of Immigrants

When an immigrant inside the U.S. applies for an immigrant visa, he or she must submit information and documentation that is carefully checked by U.S. Citizenship and Immigration Services, an agency within the Department of Homeland Security. On the application form itself, there are questions asking about criminal activity. The immigrant must report all places of residence and employment over the past five years. Information about parents, spouse, and children are also collected on the application form. Along with the application, an immigrant must submit photos and a copy of his or her birth certificate. He or she must appear for fingerprinting, and these fingerprints are checked against an FBI database of persons with criminal records. Checks of other government databases are also performed. In some cases, police clearances must accompany the application. Finally, the immigrant must have a medical examination. Persons waiting outside the U.S. for an immigrant visa must go through a similar screening process performed by a State Department Consular Office.

### When Visas are Not Available

The law requires that family preference visas be issued to eligible immigrants in the order the petitions are filed. When there are more applicants applying for visas in a preference category than there are visas available, the preference category is considered "oversubscribed." Applicants must then wait until a visa becomes available before they can immigrate to the United States. Currently, all visa categories are oversubscribed to varying lengths. For example, an LPR wishing to reunite with a spouse or minor child must wait more than two years, at a minimum, before his or her family member can obtain a permanent immigrant visa. U.S. citizens petitioning for their siblings are waiting between 10 and 22 years, at a minimum, depending on their sibling's home country. In most cases, family members must wait outside the United States until a visa is available, and thus remain separated from their families. Typically, a foreigner with an application pending for an immigrant visa will not be allowed into the U.S. even for a visit with family members because the State Department, which issues visitor visas, may believe that the person will not leave when the visitor visa expires.

## **EMPLOYMENT-BASED IMMIGRATION**

The employment-based immigration system allows immigrants who have skills and talents needed in the United States to be admitted to work. Currently, immigration law allots 140,000 employment-based immigrant visas annually.

### **How Does the System Work?**

In most cases, a worker must have an employer petition U.S. Citizenship and Immigration Services on his or her behalf. Some workers—priority workers, investors, and certain special immigrants—may petition on their own behalf. Employment-based visas are divided into the following categories:

CATEGORY	U.S. SPONSOR
1st Preference	About <b>40,000</b> visas a year (28.6% of the employment preference total) may be issued to priority workers—people who have "extraordinary ability," are "outstanding professors and researchers," or are "certain multinational executives and managers." Any unused visas from the fourth and fifth preferences are added to this category.
2nd Preference	About <b>40,000</b> visas a year (28.6% of the total, plus any visas left over from the first preference) may be issued to persons who are "members of the professions holding advanced degrees or aliens of exceptional ability."
3rd Preference	About <b>40,000</b> visas a year (28.6% of the employment total, plus any visas left over from the first and second preferences) may be issued to skilled workers, professionals, and other workers. The "other workers" category covers workers who are "capable of performing unskilled labor," and who are not temporary or seasonal. Workers in this category are limited to <b>5,000</b> visas per year. Skilled workers must be capable of performing skilled labor requiring at least two years training or experience.
4th Preference	About <b>10,000</b> visas a year (7.1% of the employment preference total) may be issued to certain special immigrants, including ministers, religious workers, and others.
5th Preference	About <b>10,000</b> visas a year (7.1% of the total) may be issued to persons who will invest between \$500,000 and \$1 million in a job-creating enterprise. At least ten U.S. workers must be employed by each investor. The amount of money varies depending on which area of the country will benefit from the investment.

As with family-sponsored immigrants, employer-sponsored immigrants must submit extensive information about their identities and histories, and are screened for any past criminal activity before being issued green cards.

### **How are U.S. Workers Protected?**

Before visas can be issued in the second and third preference categories, the employer must obtain a "labor certification" from the U.S. Department of Labor confirming that there are not sufficient U.S. workers who are able, qualified, and willing to perform the work. The Labor Department must also confirm that employment of the alien will not adversely affect the wages and working conditions of U.S. workers. When applying for a labor certification, the

employer must provide notice to the union representing the employer's employees or to other workers at the site. Any member of the public may challenge an application for a labor certification by showing that sufficient U.S. workers are available to perform the work, or by demonstrating that the employer is offering wages or working conditions that adversely affect U.S. workers.

### **What are Temporary Workers?**

In addition to visas given to those coming to the U.S. to live permanently, visas are also given to individuals coming to the U.S. to fill the temporary needs of U.S. employers.

One category of non-immigrant worker visa is the "H-1B" visa given to highly-skilled individuals for a renewable period of three years. Many of these workers are employed in computer-related fields. Currently, there is a cap of 65,000 of these temporary visas for foreign professionals. However, up to 20,000 H-1B visas can be issued outside of this cap to graduates of U.S. universities who have earned at least a masters degree. Companies of more than 25 employees applying for H-1B temporary workers must pay a fee of \$1,500 per worker (\$750 per worker for smaller employers), most of which is used for education and training programs for U.S. workers so that they might eventually fill the labor gaps. There are also processing and "anti-fraud" fees.

Another category of visa issued to temporary non-immigrant workers is the H-2 visa. H-2A visas are issued to temporary or seasonal agricultural workers. H-2B visas are issued to temporary or seasonal workers in industries other than agriculture. (A ski resort, for example, might seek H-2B workers during ski season, if American workers are not sufficiently available.) There is an annual limit of 66,000 visas that may be issued to H-2B workers. Employers wishing to bring in workers under the H-2 visa category must demonstrate that the workers' duties are temporary or seasonal, and that their employment will not displace American workers or adversely affect their wages.

Persons being brought to the U.S. by employers seeking to fill temporary jobs must fill out a visa application in which they must account for potential problems in their history, such as criminal activity, past visa problems, or affliction with a communicable disease. In most cases, they also must provide evidence that they are not intending to immigrate permanently to the U.S.

### **Insufficient Number of Visas Available**

The number of visas available for workers able to meet the needs of American employers is insufficient in several visa categories. This is most notable in the category reserved for workers coming to fill jobs that don't require high skills. Only 5,000 visas are available per year for permanent workers (a subset of the 3rd preference), and this has created a demand for the labor of undocumented immigrants. During the boom years of the late 1990's, demand for unskilled immigrant workers exceeded the supply of legal visas by several hundred thousand.



## REFUGEES AND ASYLEES

### What's the Difference Between a Refugee and an Asylee?

Refugees and asylees are people seeking protection in the U.S. on the grounds that they fear persecution in their homeland. A refugee applies for protection while outside the United States. An asylee differs from a refugee because the person first comes to the United States and, once here, applies for protection. Refugees generally apply in refugee camps or at designated processing sites outside their home countries. In some instances, refugees may apply for protection within their home countries, such as in the Former Soviet Union, Cuba, and Iraq. If accepted as a refugee, the person is sent to the U.S. and receives assistance through the "refugee resettlement program."

### How many Refugees Does the U.S. Accept?

The United States accepts a limited number of refugees each year. This number is determined by the President in consultation with Congress. In Fiscal Year 2010, for example, 80,000 refugees allocated among five regions of the world will be permitted to come to the U.S. The regions and the numbers of admissions are:

- Africa—15,500
- Europe and Central Asia—2,500
- East Asia—17,000
- Near East/South Asia—35,000
- Latin America and the Caribbean—5,000

In addition, there is an "unallocated reserve" (not allocated to any region) of 5,000. The number of refugees that the president and Congress decide to admit is a target number. In fact, fewer refugees may be admitted by the end of the year. In Fiscal Year 2008, there were 60,192 refugees admitted to the U.S.

### How Does Someone Gain Refugee Status?

To qualify for refugee resettlement in the U.S., a person must come from a country designated by the Department of State. The person must meet the definition of a refugee by proving that she has a **well-founded fear of persecution**. The refugee applicant must prove that this fear is based on the possibility of persecution because of her *race, religion, membership in a social group, political opinion, or national origin*. In addition, a refugee must fit into one of a set of "priority" categories, which factor in degree of risk to the refugee's life, membership in certain groups of special concern to the U.S., and existence of family members in the U.S.

A person claiming refugee status must undergo a vigorous screening process before being resettled in the U.S. First, the person is screened by the United Nations High Commissioner for Refugees (UNHCR) to determine if she qualifies as a refugee under international law. If she qualifies, she next is screened by the U.S. embassy in the host country, which contracts with private organizations to collect personal information about refugees. The embassy will check the name of the refugee in its Consular Lookout and Support System (CLASS), which contains the names of millions of persons who have been denied visas or who may be

otherwise ineligible for entry into the U.S. If she passes that test, an officer from U.S. Citizenship and Immigration Services (USCIS) conducts a face-to-face interview and reviews the file. The refugee is then photographed and fingerprinted by the State Department. Certain refugees must receive clearance from the FBI. If no problems arise in all of this screening, the refugee proceeds to the U.S., where an inspector from U.S. Customs and Border Protection conducts one more interview and compares information presented by the refugee with the host country U.S. embassy records.

After refugees have been in the U.S. for one year, they are eligible to become permanent residents. There is no limit to the number of refugees who may adjust to permanent residents each year.

### What Benefits Do Refugees Receive?

The circumstances under which refugees leave their country are different from those of other immigrants. Often they are fleeing persecution without the luxury of bringing personal possessions or preparing themselves for life in a new culture. Recognizing this fact, the federal government provides transitional resettlement assistance to newly arrived refugees.

In the first 90 days, private voluntary agencies contract with the Department of State to provide for a refugee's food, housing, employment, medical care, counseling, and other services to help the refugee make the transition to economic self-sufficiency. Certain refugees are entitled to a special program of Refugee Cash and Medical Assistance, provided by the U.S. Department of Health and Human Services and administered by the state in which the refugee resides.

While most newly arriving immigrants are barred from receiving Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), and Medicaid until they become citizens (and Food Stamps for their first five years), refugees are exempt from the ban on TANF for the first five years after they gain refugee status, and from the ban on SSI and Medicaid for seven years. (Certain refugees may gain an extension of SSI and Medicaid benefits for up to an additional three years.) They are eligible for Food Stamps as well.

### How Does Someone Become an Asylee?

Like a refugee, an asylum applicant must also prove that he has a "well-founded fear of persecution" based on his *race, religion, membership in a social group, political opinion, or national origin*. Once granted asylum, the person is called an "asylee."

Individuals **inside the U.S.** may apply for asylum in one of two ways. The application may be submitted "**affirmatively**" by mailing it to a USCIS Service Center. The USCIS will schedule an interview with a specially-trained asylum officer in one of eight asylum offices in the U.S. A "**defensive**" application is submitted when an asylum seeker is in removal proceedings. In defensive cases, an Immigration Judge decides the application. In either instance, the application must be submitted within one year of entry to the U.S., or the person will be found automatically ineligible. Exceptions are allowed for extraordinary circumstances.

Like refugees, asylum seekers must, in addition to proving a well-founded fear of persecution, be screened to ensure they are not inadmissible to the U.S. for some reason, such as criminal activity. Applicants for asylum must submit fingerprints, and they are subject to a check of all appropriate records and information databases, including FBI, Department of Homeland Security, and State Department databases.

In fiscal year 2009, nearly 12,000 asylum applications were approved by USCIS asylum officers, while an additional 10,000 gained asylum in defensive applications. Like refugees, asylees may apply for permanent resident status after one year.

In recent years, the concept of what constitutes a **social group** that may be targeted for persecution has evolved. For example, some women seeking asylum have based their claims on domestic violence. In this case, the civil authorities of the country have been unwilling to intervene in life-threatening situations, leaving the woman totally at the mercy of her abuser unless she flees for her life. Sexual orientation has also served as the basis for successful asylum claims in some cases. In either case, it is not only direct persecution by the government that serves as the basis for an asylum claim, but also the unwillingness of the government to protect someone in a particular social group who is in serious danger.

Individuals seeking to apply for asylum upon arriving at a U.S. airport or other port of entry are subject to a procedure called **expedited removal**. If an asylum seeker arrives with false or no documents, he must express a fear of persecution in an on-the-spot interview before an immigration officer, or face immediate deportation. If successful in expressing a fear of persecution, he may be referred to an asylum officer to establish a credible fear of persecution. If successful at that stage, the asylum seeker is referred to a hearing before an immigration judge. An immigration judge may review a negative decision within seven days.

The use of expedited removal was most recently expanded in 2004, when the Department of Homeland Security announced it would apply expedited removal to non-citizens who are encountered within 100 miles of the Mexican or Canadian borders, and who have been in the U.S. 14 days or less. (Citizens of Mexico and Canada are not subject to these procedures.) This expansion of expedited removal means that Border Patrol agents make important legal decisions regarding whether or not an individual is a refugee fleeing persecution if the individual is caught in this 100-mile area. Such important decisions should only be made by trained asylum officers or immigration judges.

In February 2005, the United States Commission on International Religious Freedom released the results of its study on expedited removal and found serious problems with the process as it is being implemented "which undermine the protections for asylum seekers." Such flaws have also been identified in reports by other groups as well.

## NON-IMMIGRANT VISAS

"Non-immigrants" are tourists, students, and other persons who come temporarily to the U.S. for pleasure, business, study, diplomacy, or other purposes on an alphabet soup of visa categories. The total number of immigrants—family-sponsored, employment-based, and diversity immigrants—is small compared to the number of people who come here for short periods of time. These non-immigrants outnumber immigrants by more than 150 to 1. In fiscal year 2009, nearly 163 million persons came to this country temporarily. The majority cross the border as tourists and business travelers from Canada, or as holders of Border Crossing Cards for Mexico. These visitors are not required to fill out the I-94 Arrival/Departure Record. The immigration agency has detailed data only for non-immigrants who are required to fill out the I-94 (about 22% of total admissions, or 36 million.) Of those, more than 32 million came here as tourists or business visitors. Other categories of non-immigrants coming to the U.S. in 2009 included:

CATEGORIES	DESCRIPTION	NUMBER OF PEOPLE
Students	F and M visas	952,000
Exchange visitors	Participating in programs approved by the Secretary of State such as teaching, research, and consulting, J visas	459,000
Temporary workers and trainees	Registered nurses, seasonal agricultural workers, internationally recognized athletes, information technology workers, entertainers, and others, H, O, P, Q, R, and TN visas (including spouses and children)	936,000
Foreign government officials	Including families and A visas	323,000
Intra-company transferees	Those employed by international companies and come to the U.S. temporarily for the same employer as managers or executives, or who have specialized knowledge, L visas	494,000

### Visas for Tourists and Business Visitors

The vast majority of people coming to the U.S. temporarily do so for tourism or business. In most countries, these individuals must obtain a visa from a U.S. embassy or consulate. In reviewing an application for a temporary visa, U.S. immigration law requires consular officers to ensure that the applicant does not intend to stay permanently. Therefore, a visa applicant must prove that he or she plans to return on or before the time the visa expires. The applicant can do this by showing that he or she has a residence outside the U.S. and other ties that will insure he or she will return before the expiration date of the visa. In addition to proving they are not "intending immigrants," visa applicants are fingerprinted and photographed, and information about them is checked against government databases of persons who are ineligible to enter the U.S. because of criminal activity, past visa problems, or links to terrorist groups.

Mexicans who qualify for a visa to visit the U.S. may obtain a Border Crossing Card with special security features, good for 10 years.

### Visas for Students

Nearly one million students come to the U.S. each year. A person is considered a student if he or she comes to the U.S. to enroll in coursework of 18 hours or more per week. To obtain a student visa, a person must first apply to a U.S. academic institution, be accepted, and receive an "I-20" immigration form from the school. The student must then apply for a visa at a U.S. Consulate in his or her home country. Among the things the student may need to show in the visa application process are acceptance to a U.S. school, availability of sufficient funds to cover all expenses for the entire course of study without resorting to employment in the U.S., evidence of family and/or economic ties to the home country sufficient to induce him or her to return after completing the coursework and, if required by the school, proficiency in English. Students are usually allowed to remain in the U.S. for the duration of their studies. If there is any change in the student's status—that is, if his or her coursework drops below the minimum required, or if the student changes field of study—the school is required to report this information to the government.

Information about foreign students is collected via the Student and Exchange Visitor Information System (SEVIS), an internet-based system which maintains immigration status information, such as admission at a port of entry, as well as personal and academic information about students, such as their course load, field of study, current address, and other information. Any change in this information must be reported to the government by the school, using SEVIS.

The schools themselves must have permission to enroll foreign students. Most U.S. colleges and universities have been approved by the government to enroll foreign students. With the requisite permission, other institutions—including vocational schools, junior colleges, public high schools, and language training schools—may also enroll foreign students.

### Visitors Not Required to Obtain Visas

Canadians crossing over the U.S. border are generally not required to have a visa, as well as residents from Bermuda for most travel up to 180 days. They must, however, show a passport or a card from a "trusted traveler" program operated by the Department of Homeland Security.

Citizens from the 36 participating countries in the Visa Waiver Program also are not required to obtain a visa if they are planning to come to the U.S. for business or pleasure for a period of 90 days or less. However, there are strict conditions under which people may come to the U.S. under the Visa Waiver Program—they must have valid, machine-readable, passports; their stay is limited to a maximum of 90 days; they must have round-trip tickets if they arrived by air or sea; and they must have proof of financial solvency. If they do not have a machine-readable passport, they must apply for and obtain a visitor visa. Prior to travel, visitors coming under the visa waiver program must apply for travel authorization through the Electronic System for Travel Authorization, (<https://esta.cbp.dhs.gov/>) an automated, Web-based system that determines the eligibility of visitors to travel to the U.S.

The U.S. places strict rules on the participating countries before they are admitted to the Visa Waiver Program. First, the non-immigrant visitor visa refusal rate (the rate of visa applications denied by U.S. consular officers) must be three percent or less for the previous fiscal year. Second, the participating country must offer reciprocal visa-free travel for U.S. citizens. Third, the country must have a machine readable passport program in place. Fourth, the country must be politically and economically stable. Fifth, the participating country must have effective border controls for its own borders. Sixth, law enforcement agencies in the participating country must be cooperating with their U.S. counterparts. Finally, the U.S. considers any possible security concerns that might be raised, should a country be admitted to the program.

Countries participating in the Visa Waiver Program are: Andorra, Australia, Austria, Belgium, Brunei, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, The Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, and the United Kingdom.

Regardless of whether they have a visa, arriving foreigners are fingerprinted and photographed through the US-VISIT program, which eventually will be deployed to become a regular part of the inspection procedure at all land, air, and sea ports of entry. Foreigners leaving the country will again have to check in with US-VISIT so that the Department of Homeland Security will have information on whether the visitor complied with the terms of his or her stay. By June 2010, the program had not been fully implemented. In the future, all visitors who are photographed and fingerprinted entering the country will have to do the same upon departure.

## OTHER IMMIGRATION CATEGORIES

Family-sponsored and employment-based immigration, refugee resettlement, and asylum are the chief avenues by which foreign-born persons come to reside permanently in the U.S. However, there are other ways by which people can immigrate to the U.S. or are allowed to stay here temporarily for extended periods of time in a sort of refugee-like status. The Diversity Visa Lottery program and Temporary Protected Status are two ways in which people from other countries come to the U.S. or stay here for varying lengths of time.

### Diversity Visas

In 1990, Congress established an annual diversity visa lottery program to set aside a certain number of immigrant visas for people from countries that send relatively few immigrants to the U.S. The program has worked to prevent all of our immigrant visas from being awarded to persons from just a handful of countries. Those lucky enough to win a diversity visa are permitted to come to the U.S. to reside permanently, even if they do not already have close relatives in the U.S. to sponsor them.

This lottery program is much simpler than other immigration programs. The State Department designates which countries' residents are eligible to enter the lottery. For 2011, the State Department has excluded residents from the 19 countries that sent the highest number of immigrants in the past five years—*Brazil, Canada, China* (mainland-born, but not Hong Kong, Macau and Taiwan), *Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, India, Jamaica, Mexico, Pakistan, Peru, Philippines, Poland, South Korea, United Kingdom* (and its dependent territories, except Northern Ireland), and *Vietnam*. Residents from eligible countries must either have a high school education or its equivalent or, within the past five years, have two years of work experience in an occupation that requires at least two years of training or experience. During a designated period of time, applicants must fill out a form on the State Department's Web site, giving their name, address, some biographical information, and information about their spouse and children (if any). They must also submit a digital photo with their application. Only one lottery entry per person per year is allowed. Entries are randomly selected by the State Department. Those selected are reviewed to ensure they meet the criteria mentioned above, and are screened against FBI, State Department, and other government databases to ensure that there is no reason—such as a criminal record—that they would not be eligible for an immigrant visa. 50,000 diversity visas are awarded each year.

### Temporary Protected Status

Temporary Protected Status (TPS) is sometimes granted to nationals of countries in crisis who are presently in the U.S. The Secretary of the Department of Homeland Security (DHS) may designate a country for TPS if the people from that country who are currently in the U.S. would face "on-going armed conflict," natural disaster, or "extraordinary temporary conditions" that would place them in danger if they were to be returned to their home country. People are granted TPS if they can prove they are from a designated country and that they were present in the U.S. on or before the date the DHS Secretary made the designation. A country's designation for Temporary Protected Status may last for 6, 12, or 18

months. Persons with TPS will not be deported, and may live and work legally in the U.S. until the designated period expires. TPS can be renewed if the Secretary of DHS determines that unsafe conditions in the country persist. As of June 2010, nationals of six designated countries were protected by TPS. Those countries were: *El Salvador, Haiti, Honduras, Nicaragua, Somalia, and Sudan.*

### **Deferred Enforced Departure**

Similar to Temporary Protected Status, Deferred Enforced Departure (DED) is a humanitarian designation to delay the deportation of groups of individuals who would otherwise be placed in danger should they be deported to countries where there is instability for political or other reasons. DED is designated by the President, and is generally granted to nationals of a country for 12 or 18 months. During this time, persons are allowed to work in the U.S. if they obtain employment authorization, for which a fee is charged. First used in 1990, DED has been used only five times thus far. As of June 2010, nationals of Liberia have a grant of DED.

### **Parole**

In certain cases, the government will allow an individual to enter the country, even though he or she may not appear to meet the conditions for gaining admission to the U.S. through regular immigration or refugee channels. Such persons may be admitted for urgent humanitarian reasons or significant public benefit. Parolees are not formally admitted to the U.S., and are not eligible for the benefits received by refugees. Individuals, on a case-by-case basis, receive parole for a temporary period of time, although some may eventually become eligible to adjust to permanent resident status while they are in the U.S.



## NATURALIZATION

Naturalization is the process by which eligible legal immigrants become U.S. citizens. Through the naturalization process, immigrants display a willingness to become full members of our society. The process is not an easy one. It requires that immigrants live in the U.S. for a certain number of years, learn our language, study our history and government, show that they are of "good moral character" and have not committed serious crimes and, finally, swear allegiance to the United States. Over time, most immigrants become citizens.

### The Naturalization Process

**Eligibility:** An applicant for citizenship must be at least 18 years of age, and must have resided continuously in the U.S. as a Legal Permanent Resident for at least five years prior to filing. Permanent residents who have been married to a U.S. citizen for three years are eligible to apply for citizenship. There are special expedited provisions for immigrants serving in the armed forces during a designated period of armed conflict. Children who are adopted from another country automatically have U.S. citizenship conferred to them as long as one or both parents are U.S. citizens, the child is under 18, and the child is legally residing in the U.S. with the U.S. citizen parent or parents.

Immigrants must be of "good moral character," usually determined by checking with the FBI for any record of a criminal background. A person must also demonstrate an ability to speak, read, and write ordinary English and have a general understanding of U.S. government and history. Long-time older permanent residents are exempt from the English requirement if they are 50 years or older and have been living in the U.S. for at least 20 years, or if they are 55 years or older and have been living in the U.S. for at least 15 years. These immigrants must still demonstrate knowledge of U.S. history and government, but they may do so in their native language. Certain persons with disabilities are exempt from the requirement to demonstrate knowledge of U.S. history and government.

**Interview:** After submitting an application and fee to U.S. Citizenship and Immigration Services (USCIS), an appointment is made with the applicant to take his or her fingerprints, which are checked by the FBI. An interview is then scheduled with the applicant, during which an immigration examiner reviews the application and determines if the applicant meets the requirements for U.S. citizenship. To demonstrate English proficiency and knowledge of U.S. history and government, the applicant must be prepared to answer several history and civics questions. They may also be asked to read a sentence or brief passage from a USCIS textbook, and to write a sentence dictated by the examiner.

**Oath and Swearing-In:** Approved candidates for citizenship must take an Oath of Renunciation and Allegiance, giving up foreign allegiances and titles and swearing to support and defend the Constitution and laws of the U.S. If the person has a severe disability preventing him or her from understanding, or communicating an understanding of, the meaning of the Oath, the person may obtain a waiver of the Oath requirement. The final step in the naturalization process is the swearing-in ceremony, which can take place before a judge or in an administrative ceremony.

In the government's Fiscal Year 2009, nearly 750,000 immigrants became citizens.

### **Rights and Responsibilities of New Citizens**

When an immigrant becomes a citizen, he or she acquires new rights and responsibilities. These include the right to:

- Vote, hold elected office, and sit on a jury;
- Apply for and hold certain government and private jobs requiring a security clearance;
- Bring spouses, minor unmarried children, and parents to the U.S. without long waits;
- Travel abroad for unrestricted periods of time; and
- Access restricted federal programs.

## IMMIGRANTS AND PUBLIC BENEFITS

### What Public Benefits Do Immigrants and Refugees Receive?

Determining whether or not an immigrant qualifies for public benefits is a complicated matter. Eligibility for benefits depends on a number of factors, among them: her immigration status; whether or not she entered the U.S. before or after the 1996 welfare reform law was enacted (August 22, 1996); length of residence in the U.S.; her income and resources and the income and resources of the family member who sponsored her; work history; whether she is a child or adult; her state of residence; and the various other eligibility requirements of the particular benefits program.

Most benefits programs are open only to long-term, lawful immigrants. A small number of programs (such as school lunch programs and emergency medical services) are open to all people in need.

For federal means-tested public benefits, newly-arrived legal immigrants generally are: 1) barred for their first five years in the U.S.; and 2) subject thereafter to a process called "**deeming**" where the income and resources of the U.S. citizen or Lawful Permanent Resident sponsor of the immigrant are added to the immigrant's own income to determine whether the immigrant is poor enough to qualify for the benefit under the program's financial guidelines. Deeming continues until the new immigrant either becomes a citizen or works 40 "qualifying quarters" (at least 10 years). The work of a spouse (or of a parent in the case of a child under 18) also counts towards the 40 quarters. After becoming naturalized citizens, or working for 40 quarters, legal immigrants are generally eligible for federal and state programs provided they meet the general program criteria.

### Financial Responsibility of Family Members for an Immigrant

U.S. citizens or Lawful Permanent Residents wishing to sponsor an immigrant relative for admission to the U.S. must earn enough (125% of the poverty level for the family size, including the immigrant) to demonstrate that they are financially capable of supporting the immigrant so that the immigrant does not need to rely on public benefits. They also must sign a legally-enforceable **affidavit of support**. This document makes the sponsor liable for the immigrant's use of means-tested benefits until the arriving immigrant obtains citizenship or works 40 "qualifying quarters" (at least 10 years) without using means-tested services.

### Undocumented Immigrants and Federal Government Services

While immigrants who are not here legally are ineligible for nearly all federal benefits, they are still eligible for certain very basic kinds of assistance, including: emergency Medicaid, immunizations, testing and treatment for the symptoms of communicable diseases, short-term non-cash disaster relief, school lunches and breakfasts, and certain other programs essential to public health and safety.

*For detailed information about particular immigrants' eligibility for particular public benefits programs, visit the Web site of the National Immigration Law Center at <http://www.nilc.org>.*