In the following pages, you will find information about a variety of citizenship and immigration law issues. We have made our best effort to include up-to-date and accurate information in all our publications. However, immigration laws, forms, fees, regulations, procedures and policies are constantly changing, sometimes even retroactively and the information contained herein may not necessarily be complete or correct on the date of publication.

Many immigration practitioners have praised our book as a reference tool they use on a daily basis.

We hope that you find this book as useful too.

CUNY Citizenship Now!

Published May 2017
Dear Colleagues and Friends of CUNY Citizenship Now!,

Thank you for your participation in the 15th annual CUNY/Daily News Citizenship NOW! Call-In. New York and New York’s immigrants need you more than ever.

With the help of many hundreds of volunteers - attorneys, faculty, community activists, students, and interns - Citizenship NOW! has over the years provided information and assistance to more than 156,000 individuals. In the past, almost half of the calls came from permanent residents seeking information on how to become a U.S. citizen. With the many questions that have been raised on immigration issues this year, we expect to answer more calls than ever.

Special thanks to The New York Daily News, New York’s Hometown Paper, for partnering with CUNY and providing support for this program from its inception. Our collaboration has been a great asset to the city for many years now. Thanks also to CUNY Computing and Information Services and CUNY TV for their excellent work in helping make the call-in a success. I want to add a special thanks to the army of volunteer attorneys, community leaders, CUNY students, faculty and staff, whose assistance makes the call-in such a significant and useful event.

Finally, I would like to recognize CUNY Citizenship Now!’s dedicated staff for their tireless work in designing and implementing the call-in. And of course, thanks to John Jay President Jeremy Travis and the helpful staff for hosting the training session and the call-in.

As we do every year, we have revised this training manual to assist you in providing information to callers and as a resource for our volunteers. I am sure that you will find it a valuable tool.

I wish you every success as we continue to help New York’s immigrants realize their dreams.

James B. Milliken
Chancellor
The City University of New York
Many federal government agencies and courts are involved with the immigration process in some way. To help understand the immigration system in the United States, here is a basic overview of some of the government agencies you should know. Additionally, this chapter includes definitions of many immigration terms, abbreviations, and statuses used throughout this guide.

Federal Immigration Agencies

**Department of Homeland Security (DHS):** An agency within the Executive Branch of the U.S. federal government. DHS has many separate agencies within it, but three of these divisions are responsible for implementing and enforcing U.S. immigration law: United States Citizenship and Immigration Services (USCIS), United States Customs and Border Protection (CBP), and United States Immigration and Customs Enforcement (ICE). Until 2003, the United States Immigration and Naturalization Service (INS) was the agency responsible for all the functions of the immigration system. These functions now fall under DHS. The DHS website is [www.dhs.gov](http://www.dhs.gov).

**United States Citizenship and Immigration Services (USCIS):** The agency within DHS responsible for the adjudication of applications for immigrant benefits such as naturalization, adjustment of status, Temporary Protected Status (TPS) and others. USCIS determines whether the applicant qualifies for the desired benefit and, in many instances, interviews the applicant at an office in the United States. Many people refer to USCIS as “Immigration.” This is usually the first agency that U.S. family members or employers encounter when starting the process of applying for a green card or for other types of immigration benefits. The USCIS website provides free immigration forms and the most up to date information on fees, free forms, and the answers to other frequently asked questions. The USCIS website is [www.uscis.gov](http://www.uscis.gov).

**United States Customs and Border Protection (CBP):** CBP is another agency within DHS responsible for controlling access into the United States at and around international borders. CBP focuses on enforcing immigration laws near ports of entry and has the authority to investigate, arrest, and detain those requesting entry into the United States. CBP checks your passports and visas when you arrive in the United States to make sure you did not create or obtain the visa through fraud. The CBP website is [www.cbp.gov](http://www.cbp.gov).

**United States Immigration and Customs Enforcement (ICE):** ICE is the main agency within DHS responsible for enforcing immigration laws and removing (deporting) or arresting foreign nationals. ICE Attorneys represent the U.S. government in immigration court prosecutions. ICE and CBP enforce many of the same immigration laws, but each agency also has enforcement duties that belong exclusively to them. The ICE website is [www.ice.gov](http://www.ice.gov).

**United States Department of State (DOS):** DOS acts through U.S. embassies and consulates around the world. Not only does the DOS provide U.S. Citizens with services while living and traveling overseas, the DOS also issues U.S. passports. DOS consular officers decide both immigrant and
non-immigrant visa applications for foreign nations seeking to come to the U.S. The DOS website is www.state.gov.

National Visa Center (NVC): Part of the DOS. Except in adjustment of status cases, USCIS approves your immigrant visa petition for family and employment-based preference categories, then forwards your petition to the NVC. Family and employment-based categories have limits on how many are issued per year, so sometimes there are lengthy wait times before processing can begin. The NVC holds your petition until the priority date (see below) is likely to become current. The NVC will notify you when it is time to start processing your case. The NVC website is www.travel.state.gov.

Executive Office for Immigration Review (EOIR): EOIR is a separate agency within the DOJ that is charged with the federal enforcement of immigration laws through immigration courts. EOIR conducts immigration court proceedings, appellate reviews of immigration court cases and administrative hearings. When foreign nationals are placed in removal (deportation) proceedings, their court case is handled within EOIR. The EOIR website is https://www.justice.gov/eoir.

Terms and Definitions

245(i): A section of the Immigration and Nationality Act (INA) which allows certain people to apply for adjustment of status to Lawful Permanent Resident (LPR) despite certain immigration violations such as overstaying a visa, working without authorization, or entering without inspection. Although the law has expired, some people who qualified under the law can still benefit from it.

3-and-10 Year Bar(s) to Re-Entry: This is a ground of inadmissibility under the Immigration and Nationality Act (INA). It is a penalty applied to those unlawfully present in the United States that was established by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). A foreign national, who departs the United States after being unlawfully present in the United States for more than 180 days, but less than one year and before removal (deportation) proceedings begin, is barred from re-entering the United States for three years. Foreign nationals unlawfully present in the United States for one year or more who depart the United States are barred from returning to the United States for ten-years. The three and ten year bars are triggered when the foreign national departs the United States.

“A” number: The USCIS file number used to identify non-citizens’ immigration files. An individual should have their A-number ready whenever contacting USCIS so their file can be located. On newer versions of Permanent Resident cards, the “A” number is called the “USCIS” number. The “A” number is noted on the Alien Registration and Permanent Resident cards (green cards). It is an “A” or “USCIS#” followed by either eight or nine numbers. For example: A12 345 678 or USCIS# 200 345 678. The “A” number is also found on all official notices and communications from USCIS and immigration court.

Accredited Representative: An Accredited Representative is a person approved to represent immigrants before one of the bureaus of DHS: USCIS, ICE, and CBP and/or the immigration court. An accredited representative must work for a specific nonprofit, religious, charitable,
Abandonment of Residence: A determination made by USCIS or an immigration judge or BIA that effectively revokes a Lawful Permanent Resident's (LPR's) green card status. A determination of abandonment of residence can occur if, for example, the LPR’s primary residence is outside the United States, or year after year the LPR spends more time abroad than inside the United States.

Adjustment of Status: The process a person goes through inside the United States to change immigration status to become a lawful permanent resident. This is different from a “change of status” from one non-immigrant status to another (ex. F1 student to H-1B worker). For those applying for permanent residence outside of the United States, the process is called “consular processing.”

Admissible: Anyone who applies to enter the United States, no matter how long they plan to be here or whether they already have a green card, is checked to be sure they are admissible. This also applies to people inside the U.S. who are applying for a different immigration status, like permanent residency. This means that the person must not fall under any of the grounds of inadmissibility (see “Inadmissibility, grounds of”). An applicant for Lawful Permanent Resident (LPR) status, must be admissible in order to qualify for permanent residence.

Advance Parole: Before a non-citizen departs the United States, they can apply for prior authorization from USCIS to leave the United States temporarily and then re-enter the United States after certain types of trips. This is for people who have certain applications for immigration benefits pending (ex. adjustment of status or asylum) or who were already granted a temporary immigration benefit, such as Temporary Protected Status (TPS) or Deferred Action for Childhood Arrivals (DACA).

Aggravated Felony: A term used in immigration law to refer to a broad category of criminal offenses that carry certain severe immigration consequences. They are the most damaging type of criminal convictions for immigration purposes because they can prevent people from obtaining asylum, legal permanent resident status, citizenship, relief from removal (deportation) proceedings and can trigger mandatory detention. Some examples of aggravated felonies include murder, rape, sexual abuse of a minor, misdemeanor marijuana sales, certain domestic violence convictions and certain theft offenses. The term “aggravated felony” does not have the same meaning when used in the criminal justice system.

Asylum: The status granted to a person who has left his/her home country due to a well-founded fear of persecution and who applies for protection while at the border or in the United States. A well-founded fear of persecution means that the person has been or may be victimized for his/her political opinion, race, nationality, religion or membership in a particular social group. A person granted asylum in the United States is referred to as an “asylee.” [See also the definition of “Refugee”]

Beneficiary: The immigrant who is petitioned for or sponsored by a family member (U.S. citizen, LPR, or Asylee) or an employer.
**Bona Fide**: Meaning real or good faith application, petition, or relationship. For example, for a marriage to be bona fide, the couple’s goal when they married must have been to enter into a real marital union, not solely to get a green card.

**Cancellation of Removal**: To apply for Cancellation of Removal you must have an open deportation or removal case in immigration court. Only an immigration judge can grant Cancellation of Removal. There are two types of Cancellation of Removal. One type is only available for permanent residents in deportation/removal proceedings who have been LPRs for at least 5 years, have lived in the United States continuously for 7 years after having been admitted in any immigration status, have not been convicted of an aggravated felony, and have not been granted cancellation of removal or suspension of deportation before [formerly known as “212(c) relief”]. The other type is for non-citizens other than permanent residents in deportation/removal proceedings who have lived in the United States for at least 10 years, have had good moral character for that time, and who have a U.S. citizen or LPR spouse, parent or child who would suffer exceptional and extremely unusual hardship if the non-citizen were deported [formerly referred to as “suspension of deportation”]. The status of non-citizens other than permanent residents who are granted cancellation of removal is adjusted to LPR.

**Child**: This term has many meanings throughout different immigration contexts. For green card purposes, this is an unmarried person under age 21 who has a child-parent relationship recognized by USCIS. Step-children qualify as “children” if the marriage that creates the relationship took place before the child was 18. Adopted children qualify as a “child” if adopted before age 16 and if they have been in the legal and physical custody of the adoptive parents for two years. Adopted orphans qualify as “children” if petitioned for before age 16 and the parents meet various requirements. Illegitimate children qualify as “children” if they immigrate through their mother or if they can show that the father is the biological father and that there is a formal or informal parent/child relationship before the child reaches age 21. To qualify for derivative citizenship, a child must be under 18 years old.

**Conditional Permanent Residence**: Status granted for two years to individuals who immigrate or adjust status through a U.S. citizen or LPR spouse within two years of the date of the marriage. In the 90 days prior to the expiration of the conditional green card, the couple must file a joint petition for the spouse to remove the conditions on the green card. There are circumstances and exceptions under which the conditional resident may request a waiver of the joint petition requirement and self-petition to remove the conditions of residence. These circumstances include divorce, abuse or extreme cruelty by the spouse toward the conditional resident, or situations where it would cause an extreme hardship if the conditional resident were deported.

**Consular Processing**: The process by which a person who is outside the United States applies for an immigrant visa at a U.S. consulate overseas. An alternate process, for those who qualify and are inside the United States is “adjustment of status.”

**Crime Involving Moral Turpitude (CIMT)**: Generally a conviction or admitted commission of a crime which involves crimes that are inherently “base, vile, and depraved” as opposed to other offenses that are crimes merely because they are against the law. Non-citizens who have committed CIMTs may be inadmissible, removable, or ineligible for citizenship. Any person with criminal contacts
or convictions should speak to an authorized immigration law expert before filing any applications or petitions with USCIS.

**Deferred Action**: An exercise of prosecutorial discretion by the U.S. Department of Homeland Security (DHS) not to enforce the immigration law against a non-citizen. The decision to grant Deferred Action permits the non-citizen to remain in the United States temporarily and apply for a work permit.

**Deferred Action for Childhood Arrivals (DACA)**: On June 15, 2012, President Obama announced a program implementing a process for granting “deferred action” to undocumented youth who meet certain requirements. Those granted deferred action are temporarily protected from deportation and are eligible for permission to work in the United States. [See Section 6 for DACA]

**Deferred Enforced Departure (DED)**: The President has the authority to designate certain groups to not be removed (deported) from the United States for a certain period of time. Very often the President will issue a directive granting DED to nationals who will soon have their Temporary Protected Status (TPS) expire. For example, the President directed that certain Liberians whose TPS will expire should receive DED effective through March 31, 2018.

**Deportability, Grounds of**: A list of reasons a foreign national admitted into the United States, can be expelled (deported) from the United States. In general, the government through the U.S. Department of Homeland Security (DHS) has the burden to prove that the foreign national must be deported from the United States. The grounds of deportation are listed in section 237 of the Immigration and Nationality Act (INA). Some common grounds of deportation include: (1) crimes, (2) overstaying a temporary visa, (3) violating the terms of a temporary visa, (4) smuggling immigrants into the United States, (5) engaging in marriage fraud to get a green card, etc. (Compare with “Inadmissibility, Grounds of”)

**Entry without Inspection (EWI)**: It is unlawful to enter the United States without being inspected and admitted by Customs and Border Protection (CBP) (ex. Sneaking across the U.S. border or hiding in the trunk of a car as it drives through a U.S. port of entry). This should not be confused with making a fraudulent entry into the United States using fake or someone else’s documents.

**Expeditied Removal Proceedings**: Administrative removal proceedings for non-citizens who have not yet entered the United States (usually meaning they were caught at the border), or who entered the United States without inspection and have been living in the country for two years or less. Expedited removal is not typically used for individuals already in the United States. It is undertaken by the Department of Homeland Security (DHS) officers, not judges. The person may prove they are admissible [see “Admissible”] or ask for asylum, or ask to withdraw her/his application for admission. If you are in expedited removal proceedings, there are no other forms of relief you can request to remain in the United States.

**Expungement**: A legal process by which an arrest or conviction may be erased from a criminal record. A person still must disclose expunged crimes or arrests for immigration purposes.

**Extreme Hardship**: The standard that must be met for certain waiver applications to be approved. Individuals must show that if their waiver is not granted and they are not allowed to remain in
the United States it will cause extreme hardship (hardship above and beyond what a person will
normally suffer) to certain qualifying relatives.

**Felony**: Criminal law usually defines a felony as a crime that may be punished by a year or
more in prison. In immigration law, an “aggravated felony” is a crime with serious immigration
consequences. Note that some misdemeanors are also considered an “aggravated felony” for
immigration purposes.

**Fiancé(e) Petition**: The way in which U.S. citizens (but not LPRs) may bring a fiancé(e) into the
country in order to marry the fiancé(e) within 90 days. After the marriage, the fiancé(e) can apply
for adjustment to LPR status.

**Good Moral Character (GMC)**: For many immigration benefits it is necessary to show that a
person has “good moral character” over a certain period of time up through the processing of
the application. Generally, to prove GMC, people must show that they do not fall within certain
categories of bad behavior. For purposes of naturalization, an applicant must show GMC for the
five years prior to filing the application (or three years if applying based on marriage to a U.S.
citizen) all the way through the oath of allegiance to the United States. GMC includes payment
of child support, payment of taxes, and (for certain males) registration with the U.S. Selective
Service System.

**Green Card**: Refers to the Alien Registration Card or Permanent Resident Card. This card is
evidence of lawful permanent residence. Older cards may or may not be green and may not list
an expiration date. Since 2010, USCIS issues permanent resident cards that are green. The card
is issued for a validity period of 10 years as opposed to conditional resident cards issued for a
validity period of only two years. The “A” number or “USCIS” number appears on the green card.

**I-94 Form (Arrival-Departure Record)**: The white or green paper card issued by U.S. Department
of Homeland Security (DHS) to non-immigrants, parolees, and asylees. Under the DHS, an I-94
may be issued by either USCIS or U.S. Customs and Border Protection (CBP). An I-94 includes
information such as the non-immigrant’s status at the time of admission, and the length of time
for which the foreign national is admitted. DHS sometimes issues a Form I-94 for other purposes.
As of April 30, 2013, CBP began automating the I-94 online. For certain foreign nationals
arriving at air and sea ports of entry, CBP will put a stamp in their passports and the person can
access an electronic copy of the I-94 on the CBP website at www.cbp.gov/I94. These people will
no longer get a hard-copy (paper) I-94. People arriving at land border ports of entry will continue
to receive a hard copy I-94.

**Immediate Relative**: Certain immigrants who receive special priority when applying for permanent
residence. This category includes the spouse of a U.S. Citizen, unmarried children under 21 of a
U.S. citizen, the parents of a U.S. citizen where the child is over the age of 21, or, under certain
circumstances, the widow(er) of a U.S. citizen.

**Immigrant Visa**: A visa that permits a foreign national to travel to a port of entry in the United
States and apply for admission as a lawful permanent resident. This visa is different from a “non-
immigrant visa,” which is issued to a foreign national coming to the United States temporarily or
for limited purposes. (See “non-immigrant visa”).
**Immigration and Nationality Act (INA) of 1952:** The formal name of the immigration law (statute) that, among other things, governs the immigration of foreign nationals to the United States, the naturalization of foreign nationals, and the removal of foreign nationals from the United States. The INA is also known as the McCarran-Walter Act after the name of its sponsors in Congress. This law has been amended numerous times since its enactment in 1952.

**Inadmissibility, Grounds of:** A list of the reasons under which a non-citizen can be refused admission to the United States. Refusal can occur at a port of entry or inside the U.S. when applying to adjust status. In general, the non-citizen has the burden to prove that they are admissible. The grounds of inadmissibility can be found at INA §212. Some of the grounds are for crimes, public charge, fraud or misrepresentation, lack of appropriate documents, and health-related reasons. (see “Admissible”).

**Legalization:** The process of giving an undocumented non-citizen in the United States legal status. Congress has the ability to pass laws for undocumented individuals to gain legal status. The last legalization program was part of the Immigration Reform and Control Act (IRCA) of 1986 and is generally referred to as “Amnesty”.

**Lawful Permanent Resident (LPR):** A non-citizen who has been granted the right to live and work permanently in the United States. An LPR can still be deported or found inadmissible returning from travel abroad if they violate immigration law. An LPR is also called a permanent resident, resident alien, or green card holder.

**Marriage Fraud Interview:** A second, more in-depth interview sometimes conducted by USCIS when one spouse is adjusting status, to determine if the marriage is real (bona fide) and not solely to obtain an immigration benefit. In New York, this is called a “Stokes interview”.

**Non-immigrant Visa:** Multiple types of temporary visas fall under this category, such as tourist, student, temporary worker, etc. To get a non-immigrant visa, the applicant must usually show the intent to return to their home country and not to reside permanently in the United States. These visas allow people to come to the U.S. for a temporary time period and for a limited purpose.

**Notice to Appear (NTA):** The formal legal document that charges a person with being a removable alien. In this notice, DHS must state the conduct that violates the law, the legal authority under which DHS is conducting the proceedings, and the provision of the law that the person violated. Generally, DHS starts removal (deportation) proceedings against a foreign national by filing the NTA with the immigration court.

**Out-of-Status:** A term that defines a non-citizen who entered the United States legally but has lost lawful status. This may be because the person violated the terms of their visa or remained beyond the period of authorized stay.

**Parole:** For immigration purposes, this is when DHS physically allows a person to come into the United States without having been legally “admitted.” Parolees do not have the same rights as people who have been admitted. This is different than parole in the criminal law context which refers to the conditional release of a convicted criminal after completing part of a prison sentence and demonstrating good conduct.
**Petitioner**: This is the person or employer who is requesting that a relative, employee, or prospective employee, be granted lawful permanent resident status in the United States.

**Priority Date**: For relative preference petitions, the priority date is the date the I-130 petition was filed. It is not the date the petition is approved. Because there are more petitions filed than immigrant visas available every year, the “priority date” system determines the order of available immigrant visas in the employment and family preference categories. When an immigrant visa (or green card) is available, the priority date is “current” and any beneficiary with an approved petition filed before that date may apply for an immigrant visa or adjustment of status.

**Prosecutorial Discretion**: Refers to DHS's authority to prioritize the enforcement of the immigration law against certain categories of people (ex. violent criminals and terrorists, etc.) over other categories of people (ex. certain undocumented youth or parents of U.S. citizens and LPRs).

**Provisional Waiver**: Also known as the Stateside Waiver. As of March 4, 2013, USCIS began accepting applications from certain immediate relatives of U.S. citizens requesting a waiver of unlawful presence. This waiver does not waive all grounds of inadmissibility (for example crimes, fraud, etc.) Instead, it waives ONLY the ground of inadmissibility for unlawful presence. This process allows a family member to apply for the waiver and wait for a decision inside the United States before leaving to apply for their immigrant visa at a U.S. consulate abroad. The family member must prove extreme hardship to his/her U.S. citizen spouse and/or parent (NOT his/her U.S. citizen child) in order for the provisional waiver to be granted.

**Public Charge**: A person who has become or is likely to become primarily dependent on the government for financial assistance or long-term care. The public charge ground of inadmissibility is a standard applied to most individuals seeking admission to the United States or seeking to adjust status to that of a permanent resident. To determine whether a foreign national is likely to become a public charge a number of factors are considered including age, health, family status, assets, resources, financial status, education and skills. In order to overcome the public charge ground of inadmissibility, an applicant must show that the petitioner or another U.S. citizen or permanent resident willing to be a joint sponsor has income or resources of at least 125% of the Federal Poverty Guideline.

**Reentry Permit**: USCIS recommends that green card holders who are planning to be outside the U.S. for a year or more apply for a Reentry Permit at least 60 days before they leave the U.S. A reentry permit establishes that a lawful permanent resident did not intend to abandon U.S. residency. A permanent resident card (green card) becomes invalid for reentry into the U.S. when a green card holder is outside the United States for a year or more. The reentry document allows the permanent resident to apply for admission to the U.S. after traveling abroad for up to two years without having to obtain a returning resident visa because their green card is no longer valid. A reentry permit cannot be applied for while outside the U.S.

**Refugee**: A person who is outside the United States and cannot return to his/her country because of a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion. The requirements are similar to those for asylum.
However, asylees are already in the United States when given this classification, while refugees apply from another country. [See also the definition of “Refugee”]

**Refugee Travel Document:** A document, generally used in place of a passport, which allows an asylee or refugee to return back to the United States after travel abroad.

**Retrogression:** Each month the DOS publishes the Visa Bulletin, which summarizes the dates when immigrant visas become available. When a priority date cutoff in the immigrant visa preference categories goes backwards in time it is known as retrogression. The visa/green card application process for those in the preference categories may move forward smoothly, stall, jump forward, or even reverse course. Sometimes, so many people apply after a certain Priority Date is published that the State Department gets overwhelmed. The State Department needs to process the applications already submitted so they may move the priority date in certain visa categories backward until they catch up with processing applications. [See also the definition of “Priority Date”]

**TPS (Temporary Protected Status):** A temporary status for immigrants from countries designated unsafe to return to because of ongoing armed conflict, an environmental disaster, or other extraordinary and temporary condition. At the time of this publication, some of the countries designated for TPS are: El Salvador, Guinea, Haiti, Honduras, Liberia, Nepal, Nicaragua, Sierra Leone, Somalia, South Sudan, Sudan, Syria and Yemen.

**Unauthorized Practice of Law (UPL):** By law, only authorized individuals may give legal advice or represent people before the immigration courts or DHS; Attorneys who are licensed and in good standing to practice law in at least one state of the United States, or non-attorney representatives who are accredited. Legal advice includes advising people on how to answer questions on their immigration forms or telling people what immigration options they may – or may not – have regarding their immigration status. Individuals who are not authorized to practice law often refer to themselves as immigration consultants or “notarios.” They may file false or inaccurate applications with USCIS on an immigrant’s behalf, which may have severe consequences – the immigrant may end up in removal (deportation) proceedings. Engaging in the unauthorized practice of law is a crime in New York State.

**Unlawful Presence:** A person who remains in the United States beyond their authorized period of stay or any person who is present in the United States without being admitted or paroled is unlawfully present. If you are unlawfully present in the U.S. for more than 180 days but less than one year and you depart the U.S. before removal (deportation) proceedings begin, you may trigger the 3-year bar to admission. If you are unlawfully present in the U.S. for one year or more and you depart the U.S. you may trigger the 10-year bar to admission. [See 3 and 10 year bars to re-entry]

**Visa Bulletin:** The Visa Bulletin is a monthly publication by the Department of State (DOS). It summarizes the list of Visa Preference Categories and waiting periods for both family and employment based categories. Each year the U.S. government allows a certain number of immigrant visas in each preference category. The chart helps you track based on the date your petition was received, when you can apply for a visa and the date when the visa can be given to you. The Visa Bulletin can be found online at www.travel.state.gov/visabulletin.
**Visa (Immigrant) Petition**: Step one of the green card application process by which a U.S. citizen, LPR (green card holder), or employer applies for their relative or an employee to immigrate to the United States.

**Voluntary Departure (VD)**: Permission obtained from DHS for a person to leave the United States voluntarily instead of being removed (deported). An immigration judge during removal proceedings can issue an order of voluntary departure (VD) either at the beginning or end of removal proceedings. Whether DHS grants VD or the immigration judge issues an order of VD, this avoids receiving a removal order, which has negative future immigration consequences. Voluntary departure requires willingness and ability to leave within the time period designated, sufficient money to pay for transportation, and good moral character. This is the most common alternative to removal. In a removal case, if the non-citizen does not depart the United States within the VD time period granted by the immigration judge, then the VD automatically converts to a removal order, they are subject to a fine, and are barred for ten years from eligibility for cancellation of removal, adjustment of status, change of status, and registry.
You can become a United States citizen in a few ways: Birth in the United States or one of its territories, birth to U.S. citizen parents (acquisition of citizenship), naturalization (becoming a citizen after applying and swearing the oath of allegiance), or through naturalization of your parents (derivation of citizenship). This section will explain becoming a U.S. citizen through naturalization. The next section will explain acquisition and derivation.

This part explains the basic requirements for naturalization.

To naturalize you must:

1. Be a lawful permanent resident (LPR),
2. Meet the continuous residence and physical presence requirement,
3. Have lived for at least three months in the state or USCIS District where the naturalization application will be filed,
4. Be a person of good moral character,
5. Pass a test of U.S. history and government (civics),
6. Read, write, and speak basic English,
7. Be at least 18 years old at the time you file your application, and
8. Be willing to take the oath and express allegiance to the United States.

There are some exceptions to the above requirements. Please speak with an authorized immigration law expert for more information about the requirements and exceptions.

Attention! You should see an authorized immigration law expert before filing an application if any of the following apply to you:

- You have ever received a citation, were temporarily detained, and/or arrested by a law enforcement officer,
- You have ever lied to an immigration officer, consular official, or government official,
- You have ever failed to support your dependents or to pay alimony,
- You are a male who lived in the United States at any time between your 18th and 26th birthdays, other than as a lawful non-immigrant, and failed to register with the Selective Service,
- You married someone only to obtain permanent residence (get a green card) and/or obtained your permanent residence by providing false information,
- Since becoming a lawful permanent resident, you have spent a lot of time outside the United States, especially periods over six months and/or,
- Since becoming a lawful permanent resident, you failed to file an income tax return.
Continuous Residence Requirement

To naturalize, you must have continuously resided in the United States as a permanent resident for at least five years. If you are the spouse of a U.S. citizen, you can naturalize three years after becoming a permanent resident if you have been married to and living with that U.S. citizen for the entire three-year period. Your spouse must have been a U.S. citizen for the three-year period as well. The five or three years required are called the ‘statutory period’.

Continuous residence does not mean that you must have been in the United States without ever leaving during the statutory period. It means that during the statutory period all of the following were true:

- You did not abandon your permanent resident status,
- You maintained your primary place of residence in the United States,
- You have not been out of the country for one year (365 consecutive days) or more at a time. An absence of one year breaks the continuity of your residence.

If you have been out of the country for more than six months at a time, but less than one year, you may have to prove that you did not intend to abandon your residence in the United States. Such proof might include having close family, a house or apartment, a job, and bank or utility accounts in the United States.

Absences Longer than One Year

If you are a lawful permanent resident who has been outside the United States for more than one year at a time, even with a reentry permit (see Common Terms), you automatically break your continuous residence for naturalization purposes. You must wait four years and one day from the date of your return to the United States (or two years and one day if applying based on marriage to a U.S. citizen) to apply for naturalization. If you did not have a reentry permit while you were outside the United States for over a year, speak with an authorized immigration law expert about potential abandonment of permanent residence.

Physical Presence Requirement

In addition to continuous residence, you must have been physically present in the United States for half of the statutory period before applying to become a citizen. You will need to list your trips outside the country and count the total number of days you have spent outside the U.S. during the five or three year period. That means that the total number of days you spent outside the United States cannot be more than 913 days in the last five years (or 548 days total outside the United States in the last three years). The law allows exceptions for some religious workers, seamen, people serving in the military, and people working for the U.S. government abroad.

Physical Presence Requirement Met if Total Days Outside the U.S.

- 5-year Rule: less than 913 Days
- 3-year Rule: less than 548 Days
Good Moral Character Requirement

To naturalize, you must prove you are a person of good moral character. If you have a criminal record, failed to pay required family support, had problems with alcohol or drugs, been involved in illegal gambling or prostitution, failed to pay your taxes, willfully failed to register with the Selective Service, or lied to immigration officials to gain immigration benefits, it is possible you will not meet the good moral character requirement.

Parking tickets, disorderly conduct convictions, and many other minor offenses usually will not prevent you from proving that you have good moral character. However, USCIS may argue that you do not have good moral character if you have repeated convictions for minor violations. If you have a criminal record, you should speak with an authorized immigration law expert before filing your naturalization application.

You can naturalize even if you have been receiving means-tested public benefits, as long as you were entitled to receive them. This includes benefits such as food stamps or Medicaid, which are available only to individuals whose income is below a certain level.

Criminal Activity

If you have ever been arrested or charged or convicted of a crime (even abroad), you need to get information about your criminal record before an authorized immigration law expert can help you determine whether you qualify for U.S. citizenship. See Section 10 of this manual for more information about how to obtain your Certificate(s) of Disposition or an MTA Adjudication Letter. A Certified Court Disposition is an official court document that shows the current status of a case or its final outcome. For crimes abroad, consult with your consulate to determine how to acquire a copy of your criminal record.

Ordinary traffic stops or tickets will not prevent you from naturalizing. You do not need to submit evidence of these minor offenses unless a traffic incident was alcohol or drug related or caused serious injury to another person. You do not need to submit documentation for traffic fines and incidents that did not involve an actual arrest if the only penalty was a fine of less than $500 and did not result in points on your driver’s license.

If you have been convicted of certain serious crimes called aggravated felonies, you may be permanently barred (prohibited) from naturalizing and could be placed into removal (deportation) proceedings. Other crimes may not be a permanent bar to naturalization, but may be grounds for immigration authorities to remove you from the United States or may have other serious consequences.

Child Support

If you purposely fail to meet your child support obligations, USCIS will find that you are not a person of good moral character and may deny your application. Child support refers to financial support you provide to your minor children when they do not live with you, even if they live abroad.
How does USCIS know whether you are meeting your child support obligations?

On Form N–400, Application for Naturalization, you are asked whether you are separated or divorced and whether you are living with or apart from your spouse. You are also asked how many children you have and where they reside. Your interview notice will ask you to bring in your divorce papers and any papers relating to your divorce, if applicable. You may be required to produce documentation, such as canceled checks, to prove that you have met or are meeting your child support obligations. Even if there is no child support ordered by a judge, get a letter to bring to your naturalization interview from the person caring for your child confirming you are supporting your child.

Other Common Indications of a Lack of Good Moral Character

In addition to criminal history, other activities or circumstances can prevent you from showing good moral character. These include being a habitual drunkard, a user or dealer of drugs, a polygamist (the belief or practice of having many wives), earning income from illegal gambling or prostitution, failing to pay taxes, and smuggling someone into the United States. If you have been arrested for one of these activities and currently have no visible means of support, USCIS may question whether you are engaging in illegal activities. Some of these activities may also make you deportable.

Civics Requirement

To become a U.S. citizen, you must have a basic understanding of U.S. history and government (civics). At your interview, you must answer six out of ten questions correctly from a list of 100 questions provided by USCIS.

If you are 65 years of age or older and you have been a permanent resident for at least 20 years (65/20 rule) at the time you submit your application for naturalization, you may take a simplified civics test (and have your interview in the language of your choice). You will need to answer six out of ten questions from a list of 20 questions. For a list of the 20 civics questions in English, Spanish, Chinese, Arabic, Korean, Tagalog and Vietnamese, visit www.uscis.gov. The N-400 form has a box to check to show you qualify to take this simplified exam.

English Requirement

You must have a basic knowledge of English in order to become a U.S. citizen. However, certain applicants are exempt from the English language requirement because of their age and length of time as a permanent resident. You are exempt from the English language requirement if at the time you are filing your application you are 50 years of age or older and a permanent resident for at least 20 years (50/20 rule). You are also exempt if you are 55 years of age or older and a permanent resident for at least 15 years (55/15 rule) at the time you submit your application for naturalization. If you are exempt, you must still pass the civics test, but USCIS will test you in your native language. You can indicate in the appropriate space on Form N-400 that you qualify for these exemptions.

If you cannot learn due to an impairment or disability, you can apply for an exemption from the English and/or civics test. Your licensed medical doctor, psychiatrist or clinical psychologist
must properly and completely fill out **Form N-648, Medical Certification for Disability Exceptions**. This completed form is submitted with your **Form N-400, Application for Naturalization**. You must also indicate on Form N-400 that you are requesting a waiver of the test. USCIS will decide whether to approve or deny your request at the interview.

### Be Willing to Take the Oath

The final step in becoming a U.S. citizen is taking the oath of allegiance to the United States Constitution and form of government.

If you are unable to understand or are unable to take the oath because of a disability or medical condition, you can apply for a waiver of the oath requirement. A request for a waiver of the oath can be submitted with the N-648 Form, but a detailed written evaluation completed by your medical doctor or clinical psychologist in addition to other documentation may be needed. The evaluation must explain why and how you are unable to understand the Oath of Allegiance. You must also have a court appointed guardian who can take the oath on your behalf.

### Allegiance to the U.S. Government Requirement

It is not until you take the Oath of Allegiance that you actually become a citizen. Part of the Oath is giving up allegiance to other countries. Some countries will still allow you to keep your citizenship after you take the oath (see “Dual Citizenship” on page 19 of this guide). To check your country's rules on dual citizenship, contact your country’s embassy or consulate in the United States.

You must also demonstrate your allegiance to the United States by being willing to either bear arms on behalf of the United States or perform some form of military service or civilian work of national importance. There are some exceptions to the oath requirement for individuals with certain deeply held beliefs. Speak to an authorized immigration law expert for more information about this exception.

### Exceptions for Veterans and those in the U.S. Military

If you are a U.S. military veteran or someone in the Army, Navy, Air Force, Marine Corps, Coast Guard, or other qualifying member of the Armed Forces, you may be able to naturalize without meeting the normal residence and physical presence requirements. You are also exempt from paying the application and biometrics (fingerprinting) fees.

Individuals presently serving in the U.S. military during time of war qualify for naturalization regardless of immigration status. More information for members of the military and their families is available on the USCIS website at [www.uscis.gov/military](http://www.uscis.gov/military) or by calling the USCIS military helpline at 877-CIS-4MIL (877-247-4645).

### Completing Form N-400 Application for Naturalization

Completing and submitting the **Form N-400, Application for Naturalization** is the first step for a permanent resident in becoming a U.S. citizen. Eligibility for citizenship is based on the accuracy and completeness of USCIS Form N-400. Most of the form is very straightforward, but
some questions require care in answering. Form N-400 is a legal document requiring truthful answers under penalty of perjury (a criminal offense consisting of deliberately making false statements under oath.) In addition to truthfulness, consistency is important, because your N-400 will be compared to other immigration forms and supporting documents (such as taxes) you previously filed with USCIS.

**Filing Form N-400 (For Individuals in New York, New Jersey, Connecticut and Pennsylvania)**

File **Form N–400, Application for Naturalization** with a check or a money order for $725 ($640 application fee plus $85 biometrics fee) payable to: “U.S. Department of Homeland Security” or you must submit a fee waiver request. Naturalization applicants 75 years of age or older are exempt from having to pay the fingerprinting fee of $85. These applicants need only submit a check or money order for $680. As of October 1, 2004, there is no filing fee for applicants who apply for naturalization based on service in the U.S. Armed Forces. To qualify for a fee waiver, you must prove your inability to pay. For those that qualify, a partial fee waiver (or reduced fee) of $405 is available. (See Section 7 of this guide for more information on full and partial fee waivers.)

**Note:** Fees listed as of 12/23/2016. For updated fees, check [www.uscis.gov/forms](http://www.uscis.gov/forms).

You must also submit a copy front and back of your green card or other evidence of your permanent resident status. Remember to keep a copy of everything you send to USCIS, your postal receipts, receipts for the money order (if applicable), and any other supporting documents you submitted.

To determine how long USCIS expects it to take to make a decision on your application, you can check the USCIS website for N-400 processing times. Do this by visiting [www.uscis.gov](http://www.uscis.gov), clicking on “Tools.”

USCIS will send you a document checklist to prepare for your interview. Any documents that are not in English must be translated and must include a certification by the translator that they are competent to translate and that the translation is complete and accurate.

**Biometrics Appointment**

After mailing your application, USCIS will send you a receipt notice advising you to appear for biometrics (fingerprinting and photographs). You must go to this appointment with a photo ID and your appointment notice. If you fail to go to this appointment, USCIS will deny your application. Applicants 75 years or older will not be fingerprinted but, still must appear in person to the designated Application Support Center (ASC) to have their photograph taken. The purpose of the biometrics appointment is to capture your fingerprints and photograph so that the government can conduct a background check on you and use the photograph for your naturalization certificate. After the background check is completed, you will receive a notice for an interview with a USCIS officer.
The USCIS Interview

About two to three months (sometimes longer) after your fingerprints are taken you will be scheduled for your naturalization interview. You will receive form I-797C Notice of Action in the mail with the time, date and location of your scheduled interview with a USCIS officer. Be sure to bring all the documents USCIS requests along with your naturalization interview appointment notice (originals and copies).

All individuals should bring the following documents to the interview:

- Permanent Resident Card (green card). You should attend even if you have lost your green card,
- Valid government-issued photo identification (such as a driver’s license),
- All Passport(s) and any travel documents,
- All tax returns filed during the five (or three year) statutory period, including any documents relating to payment arrangements,
- All marriage certificates and divorce judgments/decrees, and/or
- Any additional documents requested by USCIS on the interview notice.

Bring an extra copy of all documents including copies of any documentation submitted with the naturalization application in case the USCIS officer requests to keep them on file.

Males between the ages of 18 and 31 should bring proof of registration with the Selective Service System to their interview. If you did not register when you were required to do so, males between ages 18 and 31 should also bring a Status Information Letter with them to the interview. Instructions for requesting the Status Information letter are online at www.sss.gov/instructions.html.

Individuals unable to take the full oath of allegiance because of religious reasons should bring a letter from their church or other religious institution explaining how their religious beliefs prevent them from taking the full oath.

Individuals who have ever been arrested should bring a certificate of disposition for each arrest, including arrests that are sealed or expunged, or that occurred in another country.

Individuals with minor children who do not reside with them should bring evidence of their payment of financial support, such as canceled checks, money order receipts and bank drafts, along with copies of any court orders relating to the required payments.

Individuals applying under the three year rule as the spouse of a U.S. citizen must bring proof that their spouse has been a U.S. citizen for the last three years, such as a birth certificate, naturalization certificate of citizenship, U.S. passport, marriage certificate, proof of termination of any and all prior marriages of both the applicant and the spouse, and evidence of living with the U.S. citizen spouse for the last three years, such as lease agreements, home ownership documents, and joint tax returns.

At the interview, a USCIS officer will review your N-400 application to be sure you meet the qualifications for citizenship, and will test you on civics and on your ability to understand, speak, read and write English (unless you meet one of the exemptions). USCIS is also reviewing your entire immigration history, so it is important to be consistent.
At the start of your interview, the USCIS officer will ask you to swear that all the information you are about to give is true. After you have taken this oath, the USCIS officer will review your application to make sure the statements you made in it are accurate. The officer will update your file with any changes that may have occurred since you submitted your application, such as marriage, travel abroad, or change in employment.

Your ability to speak and understand English is determined during this interview based on the way you answer the questions the USCIS officer asks you. The officer will also assess your English reading and writing ability and civics knowledge, during the interview. The USCIS officer will ask you to read up to three sentences in English and write up to three dictated sentences in English. You will be tested orally with up to ten questions on civics. As previously mentioned, some older, long-time resident applicants and some disabled residents are not required to read, write, and speak basic English in order to become U.S. citizens. USCIS has designed many online materials to provide an overview of the naturalization interview and test. These materials are available on www.uscis.gov.

An applicant who fails the English or civics tests will be scheduled for another appointment to retake the test within 90 days and will not have to pay another fee or resubmit a fee waiver. If the applicant fails the test a second time, your application will be denied. There is no limit to how often you can re-apply for citizenship. Keep in mind that each time you apply you will be required to pay the filing fee or submit a new fee waiver request.

**After the Interview**

The USCIS officer will usually decide your case at the interview, but not always. The law requires USCIS to make a decision within 120 days of the date of the interview. If your case is not decided within this amount of time, you have the right to file an application with the federal district court to get your case resolved. If USCIS approves your naturalization application during the interview and you are applying under the military provisions or are elderly or disabled, the USCIS officer should give you the choice of (1) waiting in the office to be sworn in, or (2) having USCIS mail you the swearing-in notice. For all others who pass the exam, the USCIS will either give the applicant the notice of the swearing-in ceremony immediately after the exam or mail it to the applicant later.

At the time of the swearing-in ceremony, you will take the Oath of Allegiance to the United States and become a naturalized citizen. If on your application for naturalization you requested a name change, a Federal Judge or Magistrate will swear you in. If you did not request a name change, you will be sworn in by a USCIS officer. If your name was previously changed through marriage or divorce, you will also be sworn in by a USCIS officer and your Certificate of Naturalization will be issued in this new name. You become a U.S. citizen when you complete the swearing-in ceremony and receive your Certificate of Naturalization.

**Appealing A USCIS Denial of Naturalization**

If USCIS denies your application, the USCIS officer must inform you in writing that you have 30
days to request a hearing before an immigration officer. If you are unsuccessful at that hearing, you may seek a review of the decision in federal court.

What to do if Your Address Changes?

**Address Changes**

If you are likely to change your address while you have an application pending with USCIS, use a post office box or the mailing address of a friend or relative, because your mail may not get to you at your new residence. If you do move, you must update your address. To do so, visit [www.uscis.gov](http://www.uscis.gov) and follow instructions to complete **Form AR-11, Change of Address**.

Inform the post office that you have moved. You can do this online at [www.usps.com](http://www.usps.com) or by visiting your local post office.

**Note:** The law requires all individuals who are not U.S. Citizens, Legal Permanent Residents, or in A or G status to report a change of address to USCIS within 10 days of moving. Completing the necessary USCIS **Form AR-11, Alien’s Change of Address Card** to abide by this legal requirement does not update an address on any applications pending with USCIS. Individuals with pending cases must visit [www.uscis.gov](http://www.uscis.gov) and follow all the steps listed.

Also note that one of the residence requirements for naturalization requires that you reside in the state or USCIS District for at least 3 months prior to examination by the USCIS officer.

**Dual Citizenship**

The countries below have laws on dual citizenship (being a citizen of two countries at the same time). Many countries have restrictions regarding losing or acquiring additional citizenship and for that reason they are not listed below. The countries marked with an asterisk (*) have restrictions. For more information about losing your present citizenship when you naturalize as a U.S. citizen, speak with a representative of your government. Even if your country allows dual citizenship you are required by U.S. law to use a U.S. passport to leave and re-enter the United States after becoming a U.S. citizen.

**Dual Citizenship Generally Allowed after U.S. Naturalization**

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<th>Afghanistan</th>
<th>Belize</th>
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<td>Central African Republic</td>
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<td>Angola</td>
<td>Bosnia and Herzegovina</td>
<td>Chad, Republic of Chile</td>
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<td>Antigua and Barbuda</td>
<td>Brazil</td>
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<td>Argentina</td>
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<td>Armenia</td>
<td>Burkina Faso</td>
<td>Croatia</td>
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### Dual Citizenship Generally Allowed after U.S. Naturalization Continued

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### Dual Citizenship Generally Not Allowed After U.S. Naturalization

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<td>Cuba</td>
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## Dual Citizenship Generally Not Allowed After U.S. Naturalization Continued

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These lists were last revised on March 2015.
Any child born in the U.S. or its territories is a U.S. citizen. Some children born outside the U.S. are or can become U.S. citizens and can get proof of U.S. citizenship, too.

This part explains three ways a child born outside the U.S. may already be or can become a U.S. citizen:

1. *By acquiring citizenship.* Immigration law calls this acquired citizenship. This is when a child born abroad automatically becomes a U.S. citizen if one (or both) of the parents is or was a U.S. citizen when the child was born.

2. *By deriving citizenship.* Immigration law calls this derivative citizenship. This is when a child born abroad automatically becomes a U.S. citizen when their parent becomes a U.S. citizen, as long as the child meets certain requirements.

3. *By applying for citizenship.* USCIS calls this citizenship by application. This is when a child born abroad applies based on a parent’s U.S. citizenship.

Use Charts A, B and C starting on page 27 to help figure out the different rules that determine whether children born outside the U.S. are or can become citizens.

**Acquired Citizenship**

If you were born abroad and one (or both) of your parents is or was a U.S. citizen, you are automatically a citizen, too. If your parents were not married when you were born, the rules may be different.

**Check the Requirements**

The rules for acquiring citizenship have changed over time. To know if you qualify, check the requirements that were in effect when you were born. If you meet those requirements, it doesn’t matter how old you are now. You may still be able to acquire citizenship through your parent(s).

**Ask Yourself These Questions**

1. Was your biological mother or father a U.S. citizen on the day you were born?
2. If yes, were your parents married?
   - If yes, your parents were married, see Chart A (page 27).
   - If no, they were not married, see Chart B (page 28).
3. Use your date of birth to see if your parents met the residence requirement specified in Charts A or B. (Some children born between January 14, 1941 and December 24, 1952 had to live in the U.S. for some time to keep their U.S. citizenship.)
Proof of U.S. Citizenship

If you meet the requirements, you acquired citizenship automatically. You do not need to apply to become a citizen. For proof of your U.S. citizenship, you may apply to U.S. Citizenship and Immigration Service (USCIS) for a Certificate of Citizenship or the Department of State for a U.S. passport. See below.

Derivative Citizenship

If you were under 18 when one (or both) of your parents became a U.S. citizen, you automatically became a citizen, too, if you met these requirements when your parent became a citizen:

- You (the child) were not married,
- You lived in the U.S. with your U.S. citizen parent,
- You had a green card, and
- The parent who became the U.S. citizen is your biological or legal adoptive parent – not a stepparent, unless that stepparent was also your legal adoptive parent at that time.

Note: If your parents were not married when you were born and were not married by your 16th birthday, your father becoming a U.S. citizen (naturalization), for example, is not enough for you to derive citizenship.

The rules for deriving citizenship have changed over time. To know if you qualify, you must see if you met the requirements that were in effect when your parent was naturalized. See Chart C (page 29) to know which rules apply to you.

Here are some changes to the rules over time:

**Rules for Children who turned 18 on or after February 27, 2001**

In 2001, the law changed so that for children who turned 18 on or after February 27, 2001:

- Just one parent had to become a U.S. citizen, and
- Only biological children and legally adopted children who met all of the other requirements could derive citizenship from their U.S. citizen parent. For a stepchild to derive citizenship, the stepparent had to legally adopt the stepchild.

**Rules for Children born between October 6, 1960 and February 27, 1983**

A child born during this period is automatically a U.S. citizen if:

- A parent became a U.S. citizen before the child turned 18,
- The child was unmarried and got a green card before turning 18,

and one of these conditions was also true:

The child's other parent:

- Is and was a U.S. citizen when the child was born,
- Became a U.S. citizen before the child turned 18,
- Was dead,
- Was not married to the mother when the child was born and did not acknowledge his paternity of the child,*
- Was not married to the mother when the child was born; the father acknowledged his
paternity of the child while the child was in his legal custody and before the child turned 16; the naturalized parent was the father and either the mother was also naturalized or the mother is dead. If the mother was not naturalized or is alive, the child cannot derive citizenship, or

- The parents were divorced or legally separated and the naturalized parent had legal custody of the child after the divorce or legal separation.

*Each state has its own procedures for acknowledging paternity, also called legitimation. To be valid, the father must have followed the legal procedures in the state of his or the child’s legal residence. To derive citizenship, the father must have acknowledged paternity before the child turned 16 and while the child was in his legal custody.

The Citizenship by Application Process

If you don’t qualify by acquiring or deriving citizenship, you may qualify to apply for what is called Citizenship by Application. You may apply for U.S. citizenship for your child under 18 by filling out USCIS Form N-600K (Application for Citizenship and Issuance of Certificate Under Section 322).

Download an application for your child from:

www.uscis.gov/forms, or

Call: 800-870-3676 (toll-free)

To qualify, the child must:

- Be under 18,
- Have one parent who is a U.S. citizen,
- Have entered the U.S. legally, for example on a tourist visa*,
- Be in the legal and physical custody of a U.S. citizen parent and that custodial parent (or that parent’s parent) must have been physically present in the U.S. for 5 years, two of which were after the parent’s 14th birthday**, and
- Be your biological or legally adopted child. If the child is adopted, she or he must have been adopted before age 16. Follow the special instructions on page 2 of the application.

*You may apply even if the child’s visa is expired now. Note: The child does NOT have to have a green card to apply.

** Note: If your application will use a U.S. citizen grandparent’s presence, talk to an authorized immigration law expert before you apply.

If USCIS approves your application, they will send you a Certificate of Citizenship. This document proves that the child became a U.S. citizen through the Citizenship by Application process.

Tip: Make copies of your Certificate of Citizenship. Keep them in a safe place.
How to Prove You Are a U.S. Citizen

A child who becomes a U.S. citizen automatically by acquiring or deriving citizenship may apply for a Certificate of Citizenship or a U.S. passport to prove they are a U.S. citizen.

To Apply for a Certificate of Citizenship

Complete Form N-600, Application for Certificate of Citizenship.
Download this form from:
www.uscis.gov/forms, or Call: 800-870-3676

To Apply for a U.S. Passport

Complete Form DS-11, Application for U.S. Passport.
Download this form from: www.travel.state.gov.
Or get an application from any passport agency, post office or facility listed at the U.S. Department of State website.
First-time applicants must apply in person. All of your documents will be returned to you.

To Renew a U.S. Passport

See page 84. You will have to show proof of U.S. citizenship, identity, and pay a filing fee.
If you need your passport quickly, there is an extra fee for expedited processing.

Can't afford the Filing Fee?

Ask for a Fee Waiver. See section 7.
## Chart A: Determining Whether Children Born Outside the U.S. Acquired Citizenship at Birth

(If child born out of wedlock, see Chart B) — Please Note: A child cannot acquire citizenship at birth through an adoption.

<table>
<thead>
<tr>
<th>Period</th>
<th>Parents</th>
<th>Residence / Physical Presence Required for USC Parent</th>
<th>Residence / Physical Presence Required for Child</th>
</tr>
</thead>
<tbody>
<tr>
<td>Born prior to 5/24/34</td>
<td>Father or mother citizen</td>
<td>Citizen parent had resided in the U.S.</td>
<td>None</td>
</tr>
<tr>
<td>Born on/after 5/24/34 and prior to 1/14/41</td>
<td>Both parents citizens</td>
<td>One had resided in the U.S.</td>
<td>None</td>
</tr>
<tr>
<td>Born on/after 1/14/41 and prior to 12/24/52</td>
<td>One citizen and one alien parent</td>
<td>Citizen had resided in the U.S.</td>
<td>Either: 1) 2 years continuous physical presence between the ages of 14 and 28, 2) if begun before 12/24/52, 5 years residence in U.S. or its outlying possessions between the ages 13 and 21, or 3) if begun after 10/27/72, 5 years continuous physical presence between the ages 14 and 28. Individuals unaware of potential U.S. citizenship may fulfill the retention requirement through constructive physical presence. No retention requirements if either alien parent naturalized and child began to reside permanently in U.S. while under age 18, or if parent employed in certain occupations such as the U.S. Government. Individuals who failed to meet physical presence requirements can regain citizenship by taking an oath of allegiance.</td>
</tr>
<tr>
<td>Born on/after 12/24/52 and prior to 11/14/86</td>
<td>Both parents citizens</td>
<td>One had resided in the U.S. or its outlying possessions.</td>
<td>None</td>
</tr>
<tr>
<td>Born on/after 11/14/86</td>
<td>Both parents citizens</td>
<td>One had resided in the U.S. or its outlying possessions.</td>
<td>None</td>
</tr>
</tbody>
</table>

**Produced by the ILRC (October 2016) -- Adapted from the INS Chart**

This Chart is intended as a general reference guide.

The ILRC recommends practitioners research the applicable laws and guidance for additional information.

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### Chart B: Acquisition of Citizenship Determining if Children Born Abroad and Out of Wedlock Acquired U.S. Citizenship at Birth

**PART 1: Mother was a U.S. citizen at the time of the child’s birth.**

**PART 2: Mother was not a U.S. citizen at the time of the child’s birth and the child was legitimated or acknowledged by a U.S. citizen father.**

*A child cannot acquire citizenship at birth through an adoption.*

**PART 1: MOTHER IS A U.S. CITIZEN AT THE TIME OF THE CHILD’S BIRTH**

<table>
<thead>
<tr>
<th>Date of Child’s Birth:</th>
<th>Requirements:</th>
</tr>
</thead>
</table>
| Prior to 12/24/52: | Mother was a U.S. citizen who resided in the U.S. or its outlying possessions at some point prior to birth of child.  
**EXCEPTION:** The child will not acquire citizenship through the U.S. citizen mother if s/he was legitimated by the father under the following circumstances:  
1. The child was born before 5/24/34;  
2. The child was legitimated before turning 21; AND  
3. The legitimation occurred before 1/13/41. |
| On/after 12/24/52: | Mother was U.S. citizen physically present in the U.S. or its outlying possessions for a continuous period of 1 year at some point prior to birth of child. |


<table>
<thead>
<tr>
<th>Date of Child’s Birth:</th>
<th>Requirements:</th>
</tr>
</thead>
</table>
| Prior to 1/13/41: | 1. Child legitimated at any time after birth, including adulthood, under law of father’s domicile.  
2. If so, use CHART A to determine if child acquired citizenship at birth.  
| On/after 1/13/41 and prior to 12/24/52: | 1. Child legitimated before age 21 under law of father’s domicile, or paternity established through court proceedings before 12/24/52.  
2. If so, use CHART A to determine if child acquired citizenship at birth unless paternity established through court proceeding.  
| On/after 12/24/52 and prior to 11/15/68: | 1. Child legitimated before age 21 under law of father’s or child’s domicile.  
2. If so, use CHART A to determine if child acquired citizenship at birth.  
| On/after 11/15/68 and prior to 11/15/71: | 1. Child/father blood relationship established by clear and convincing evidence;  
2. Father must have been a U.S. citizen at the time of child’s birth;  
3. Father, unless deceased, must provide written statement under oath that he will provide financial support for child until s/he reaches 18; and  
4. While child is under age 18, child must be legitimated under law of child’s residence or domicile, or father must acknowledge paternity of child in writing under oath, or paternity must be established by competent court.  
5. If #s 1–4 are met, use CHART A to determine if child acquired citizenship at birth.  
| On/after 11/15/71: | 1. Child/father blood relationship established by clear and convincing evidence;  
2. Father must have been a U.S. citizen at the time of child’s birth;  
3. Father, unless deceased, must provide written statement under oath that he will provide financial support for child until s/he reaches 18; and  
4. While child is under age 18, child must be legitimated under law of child’s residence or domicile, or father must acknowledge paternity of child in writing under oath, or paternity must be established by competent court.  
5. If #s 1–4 are met, use CHART A to determine if child acquired citizenship at birth. |

Produced by the ILRC (October 2016)

This Chart is intended as a general reference guide. The ILRC recommends practitioners research the applicable laws and guidance for additional information.
### Chart C: Derivative Citizenship – Lawful Permanent Resident Children Gaining Citizenship through Parents’ Citizenship

#### Date of Last Act

<table>
<thead>
<tr>
<th>Date of Last Act</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Prior to 5/24/34:</strong></td>
<td>a. Either one or both parents must have naturalized prior to the child’s 21st birthday; b. Child must be lawful permanent resident before the child’s 21st birthday; c. Illegitimate child may derive through mother’s naturalization only; d. Legitimated child must have been legitimated according to the laws of the father’s domicile; e. Adopted child and stepchild cannot derive citizenship.</td>
</tr>
<tr>
<td><strong>5/24/34 to 1/13/41:</strong></td>
<td>a. Both parents must have naturalized and begun lawful permanent residence in the U.S. prior to the child’s 21st birthday; b. If only one parent naturalized and s/he is not widowed or separated, the child must have 5 years lawful permanent residence in the U.S. commencing before the 21st birthday, unless the other parent is already a U.S. citizen; c. Child must be lawful permanent resident before the child’s 21st birthday; d. Illegitimate child may derive through mother’s naturalization only, in which case the status of the other parent is irrelevant; e. Legitimated child must have been legitimated according to the laws of the father’s domicile; f. Adopted child and stepchild cannot derive citizenship.</td>
</tr>
<tr>
<td><strong>1/13/41 to 12/23/52:</strong></td>
<td>a. Both parents must naturalize, or if only one parent naturalizes, the other parent must 1) be a U.S. citizen at the time of the child’s birth and remain a U.S. citizen, 2) be deceased, or 3) the parents must be legally separated and the naturalizing parent must have legal custody; b. Parent or parents must have naturalized prior to the child’s 18th birthday; c. Child must have been lawfully admitted for permanent residence before the child’s 18th birthday; d. Illegitimate child can derive only if, while s/he was under 16, and on or after 1/13/41 and before 12/24/52, s/he 1) became a lawful permanent resident, and 2) the mother naturalized; e. Legitimated child must be legitimated under the law of the child’s residence or place of domicile before turning 16 and be in the legal custody of the legitimating parent; f. Adopted child and stepchild cannot derive citizenship.</td>
</tr>
<tr>
<td><strong>12/24/52 to 10/5/78:</strong></td>
<td>a. Both parents must naturalize, or if only one parent naturalizes, the other parent must 1) be a U.S. citizen at the time of the child’s birth and remain a U.S. citizen, 2) be deceased, or 3) the parents must be legally separated and the naturalizing parent must have legal custody; OR in the case of a child who was born out of wedlock and has not been legitimated, it must be the mother who naturalizes; b. Parent or parents must have naturalized prior to the child’s 18th birthday; c. Child must have begun to reside permanently in U.S. (defined in most places as having been admitted for lawful permanent residence) before the child’s 18th birthday; d. Child must be unmarried; e. Adopted child and stepchild cannot derive citizenship.</td>
</tr>
<tr>
<td><strong>10/5/78 to 2/26/01:</strong></td>
<td>a. Both parents must naturalize, or if only one parent naturalizes, the other parent must 1) be a U.S. citizen at the time of the child’s birth and remain a U.S. citizen, 2) be deceased, or 3) the parents must be legally separated and the naturalizing parent must have legal custody; OR in the case of a child who was born out of wedlock and has not been legitimated, it must be the mother who naturalizes; b. Parent or parents must have naturalized prior to the child’s 18th birthday; c. Child must have begun to reside permanently in U.S. (defined in most places as having been admitted for lawful permanent residence) before the 18th birthday; d. Child must be unmarried; e. Adopted child may derive citizenship if the child is residing in the U.S. at the time of the adoptive parent(s)’ naturalization, is in the custody of the adoptive parent(s), is a lawful permanent resident, and adoption occurred before s/he turned 18. Stepchild cannot derive citizenship.</td>
</tr>
</tbody>
</table>

Anyone who, on or after 2/27/01, meets the following requirements, is a U.S. citizen. Another way to look at it is anyone born on/after 2/28/83 and meets the following requirements is a U.S. citizen. a. At least one parent is a U.S. citizen either by birth or naturalization; b. In the case of a child who was born out of wedlock, the mother must be the one who is or becomes a citizen; OR if the father is a U.S. citizen through naturalization or other means then the child must have been legitimated by the father under either the law of the child’s or father’s residence or domicile and the legitimation must take place before the child reaches the age of 16; c. Child is under 18 years old; d. Child must be unmarried; e. Child is a lawful permanent resident; f. Child is residing in the U.S. in the legal and physical custody of the citizen parent; g. Adopted children qualify so long as s/he was adopted before the age of 16 and has been in the legal custody of, and has resided with, the adopting parent(s) for at least two years. An adopted child who qualifies as an orphan under INA § 101(b)(1)(F) also will qualify for derivation.

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The steps to becoming a green card holder vary and also depend on whether you live in or outside the United States.

**This section explains:**
- What is a green card (lawful permanent resident status)
- Who can get a green card (become a permanent resident)

**What is a Green Card (Lawful Permanent Resident Status)?**

Lawful Permanent Residents (LPR) are non-citizens granted the right to live and work permanently in the United States. An LPR is also called a permanent resident, resident alien, or green card holder.

The document used to prove LPR status is commonly referred to as a “green card.” Permanent resident status is only available to certain categories of people and is usually a two-step process. The first step is a “petition” filed through a family member who is a U.S. citizen or LPR, or by a U.S. employer. A small group of immigrants group can obtain a green card through special programs, such as through the diversity visa lottery or after being granted asylee or refugee status.

The second step to becoming a permanent resident is proving that you are eligible for the green card, that is, that you are admissible. This process is done either inside the U.S. or outside the U.S. If you apply for permanent residence while in the United States, the process is called “adjustment of status.” Applying for lawful permanent residence outside the United States at a U.S. consulate or embassy is called “consular processing.” If USCIS grants your application for LPR status they will give you an immigrant visa that permits you to travel to and enter the United States as a lawful permanent resident. Your status as a green card holder never expires, but your card will have an expiration date that must be renewed until you become a U.S. Citizen. See Section 5 for more information.

**Who Can Get a Green Card?**

This section explains more about step-one in the process of getting a green card, the visa petition. Eligibility to become a permanent resident starts with a petition made on your behalf by a family member, an employer or belonging to a special category of immigrants.

**Family-Based Categories**

There are several categories of family members who can file a visa petition on your behalf. For immediate relatives of U.S. citizens, there is no limit to the number of immigrant visas issued in this category and there is no wait time for a visa to become available. Each year there is a
maximum of 226,000 immigrant visas that are divided among four family based preference categories:

**Family-Based Preference Categories are:**

- **Immediate Relatives (IR):** The spouse of a U.S. Citizen, unmarried children under 21 of a U.S. citizen, the parents of a U.S. citizen where the U.S. citizen child is over the age of 21, or, under certain circumstances, the widow(er) of a U.S. citizen.

Qualifying relatives in the remaining categories need to wait for a visa to become available before they can apply for permanent residency. The family-based preference categories are:

- **First Family-based Preference (F1):** Unmarried sons and daughters (age 21 or older) of U.S. citizens.
- **Second Family-based Preference A (F2A):** Spouses and unmarried children (under age 21) of lawful permanent residents.
- **Second Family-based Preference B (F2B):** Unmarried sons and daughters (age 21 or older) of lawful permanent residents.
- **Third Family-based Preference (F3):** Married sons and daughters (any age) of U.S. citizens, their spouses and minor children.
- **Fourth Family-based Preference (F4):** Brothers and sisters of U.S. citizens who are age 21 or older, their spouses and minor children.

For purposes of petitioning for a family member, USCIS defines a “child” as someone who is unmarried and under 21-years-old. “Sons and daughters” generally refers to children 21 and older. The definition of “child” includes not only children born to a married couple but also certain adopted children, orphans, stepchildren and children born out of wedlock. Individuals under 21 who get married are no longer considered children and will not qualify as “Immediate Relatives” of a U.S. citizen.

**Employment-Based Categories**

U.S. immigration law attempts to recognize the value of immigrant labor to U.S. global competitiveness and job creation. Green cards are set aside each year for immigrants with advanced education and unique skills, outstanding talent, or even willingness to work at a job that U.S. workers are not willing and able to fulfill. You may also qualify for a green card by investing in a business. Immigrant visas in this category are called “employment-based visas.”

There is a limit of 140,000 visas annually for all employment-based immigrants, but that does not always mean a long wait. How quickly a person can obtain an employment-based green card depends on that person’s preference category and the number of people applying for employment-based green cards from a particular country.

**Employment-Based Preference Categories are:**

- **First Employment-based Preference (EB-1):** Persons with extraordinary abilities, outstanding professors and researchers, and multinational executives or managers.
- **Second Employment-based Preference (EB-2):** Professionals holding advanced degrees or persons with exceptional ability.
• **Third Employment-based Preference (EB-3):** Skilled workers, professionals, and other workers.

• **Fourth Employment-based Preference (EB-4):** Includes certain religious workers, former U.S. government employees, and certain NATO employees, and more recently, nationals of Iraq or Afghanistan who work or have worked directly with the U.S. Armed Forces in those countries for at least twelve months.

• **Fifth Employment-based Preference (EB-5):** Investors or Entrepreneurs. Visas are available for people investing between U.S. $500,000 and $1,000,000, in a commercial enterprise in the United States which creates at least 10 new full-time jobs.

Individuals interested in employment-based visas should find a private attorney, using the referral information in Section 12 of this book.

### Other Possibilities for Permanent Residence

If you do not qualify in one of the family or employment based categories, you might still be able to get a green card through one of the following process:

#### Asylee and Refugee Status

Individuals who are in the United States and are afraid to return to their home country because they have a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion may apply for asylum. Refugees fall within this same definition but receive their status abroad before entering the United States. Asylees and refugees can apply for permanent residence after one year living in the United States in that status. Merely not wanting to go back to your country does not qualify you for asylum. Receiving asylum status is not easy. If you are interested in applying for asylum, you should meet with an authorized immigration law expert to determine whether you meet all of the requirements. Filing a frivolous asylum application can bar you from receiving any kind of immigration benefit in the future.

#### Diversity Visa (DV) Green Card Lottery

Each year, the U.S. government issues up to 55,000 visas to applicants who are “natives” of countries with low rates of immigration to the United States. The Diversity Visa (DV) program is administered by the Department of State (DOS). Each year DOS publishes a list of the qualifying countries. The list changes every year, so you must check each year to see if your country is included or was removed. This program is also known as the “green card lottery”.

For lottery purposes, you are a “native” of a qualifying country if:

- You were born in the qualifying country, or
- Your spouse was born in the qualifying country, or
- You are under age 21 and unmarried, and one of your parents was born in a qualifying country, and neither of your parents were born in your country of birth, but your parents resided in your country of birth at the time of your birth.
Entry into the lottery is online and can be done from inside or outside the United States. To enter the lottery, you must also have at least a high school education or its equivalent or have worked for two years (within the past five years) in an occupation requiring at least two years of training or experience.

Lottery entry rules may change every year. DOS usually issues new rules in August. To get the latest Diversity Visa Lottery information, visit the DOS website at [www.dvlottery.state.gov](http://www.dvlottery.state.gov).

If DOS selects your application for the lottery, a green card is still not guaranteed. A person’s immigration history, current immigration status if living in the United States, as well as Diversity Lottery processing times will affect whether a person can adjust status or apply for an immigrant visa abroad. Applicants selected for the Diversity Lottery can extend that benefit to their spouse and children who are under 21 years old and unmarried. Visa issuance or adjustment of status based on a winning entry must occur before September 30th of the same fiscal year.

**Fiancé (e) of a U.S. Citizen**

U.S. citizens can petition for a fiancé (e) (and minor children) to come to the United States using a K-1 visa. The citizen and fiancé (e) must have met face-to-face within two years prior to the filing of the petition. USCIS may make an exception from this requirement if traveling abroad will result in extreme hardship to the U.S. citizen for example, due to a serious medical condition. USCIS can also make an exception if meeting before the wedding violates the customs of the U.S. citizen’s or fiancé (e)’s social practice or culture (for example, when a religion prohibits a prospective bride and groom from meeting prior to their wedding day).

To bring a fiancé(e) into the United States, a U.S. citizen must file [Form I-129F, Petition for Alien Fiancé(e)](https://www.uscis.gov/i-129f-petition-alien-fiancé(e)). A U.S. citizen with certain criminal convictions may be ineligible to file a petition on behalf of their fiancé(e). Once USCIS approves the petition, USCIS will forward the case to the National Visa Center (NVC). The NVC will then send it to the appropriate U.S. consulate to schedule the fiancé(e) for an interview. If the consular officer grants the fiancé(e) the K-1 visa, the fiancé(e) can enter the United States. The fiancé(e) is authorized to stay in the United States for 90 days. During that time, the fiancé(e) and the U.S. citizen must marry.

Once married to the petitioner, the fiancé(e) can then apply to adjust status to lawful permanent resident. Children under 21 can accompany the fiancé(e) on K-2 visas and may also file to adjust status. If the U.S. citizen petitioner and the fiancé(e) do not marry after 90 days, the fiancé(e) may still be able to adjust status without leaving the U.S., but USCIS will also require the U.S. citizen to file a [Form I-130, immediate relative petition](https://www.uscis.gov/i-130-immediate-family-member). With rare exceptions, an individual who enters the United States on a K-1 visa may only adjust status to permanent resident through the U.S. citizen spouse that filed the fiancé(e) petition. A decision by the Board of Immigration Appeals (BIA) issued in 2011 determined that a fiancé(e) who marries and divorces the U.S. citizen who filed the K-1 visa application may still be eligible for permanent residence based on marriage to the petitioner even though the marriage has ended. USCIS will require proof that the marriage was bona fide (genuine).

A K-1 visa holder who does not marry the US citizen fiancé(e) should consult an authorized immigration law expert.

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Green Cards (Lawful Permanent Residence)
**Derivative Beneficiaries**

A principal beneficiary is a person for whom a family-based or employment-based immigrant visa petition has been filed. Under the derivative beneficiary rule, if you are coming to the United States as a principal beneficiary under one of the Family or Employment-based Preferences, you can immigrate with your spouse and unmarried children under age 21. The term “derivative” is used because the person’s right to immigrate derives or comes from the spouse or parent who is the principal beneficiary. The relationship to the principal beneficiary makes derivatives eligible for the green card.

Derivative spouses and children do not need separate petitions filed for them. The spouse and children can even follow to join you after you have already immigrated, so long as you were married to the derivative spouse and/or the derivative children were born before you became a permanent resident.

U.S. immigration law does not permit immediate relatives of U.S. citizens to bring their spouse and children with them as derivative beneficiaries. This means that if you were granted an immigrant visa as an Immediate Relative (spouse, parent, or unmarried child under age 21 of a U.S. citizen), you cannot automatically bring your spouse or children to the United States. Once you (as an immediate relative of a U.S. citizen) become a lawful permanent resident, then you can petition for your spouse and children, in the F2A or F2B family preference categories (See above). Your spouse or children may have to wait a number of years, however, to get lawful permanent residence.

If you are a U.S. citizen and you petition for your spouse, you may also petition separately for your step-children as immediate relatives (who must have been under 18 when you married the step-child’s parent).

Similarly, if you are a U.S. citizen and you petition for your parents, you may also file separate petitions for your siblings, though your siblings must wait a significant number of years (ten or more) before immigrating. Your sibling’s spouse and children may derive status through your sibling.

Some derivative children who turned 21 after the filing of the petition may benefit from the Child Status Protection Act (CSPA), and retain classification as a child. See the CSPA section on page 9.

**Special Immigrants**

The Special Immigrant category for individuals eligible for a green card include juvenile dependents of the court (“SIJ”), certain dependents of diplomats, holders of “S” visas (informs on terrorists or criminals), holders of “T” visas (victims of human trafficking), holders of “U” visas (victims of certain qualifying crimes), and certain people who have served on active duty in the U.S. armed services for 12 years (or six years for those who reenlist for six additional years). Each of these categories has their own rules. Speak with an authorized immigration law expert if you are in one of these statuses.

**Additional Categories**

Immigration law provides a few other ways to become a permanent resident. Speak with an
authorized immigration law expert before trying to get a green card in one of these categories. These ways include:

**Cancellation of Removal:** If you are in removal (deportation) proceedings and have resided continuously in the United States for ten years, you might be eligible for “cancellation of removal.” If you are a battered spouse, child, or parent of a battered child, you must have continuously resided in the United States for only three years. The law provides different kinds of cancellation of removal. For the basic kind of cancellation of removal, you must prove “exceptional and extremely unusual hardship” to your spouse, parent, or child and demonstrate good moral character. Hardship to oneself is not sufficient. Also, the spouse, parent, or child must be a U.S. citizen or lawful permanent resident.

⚠️ **Warning:** Cancellation of removal is only granted in immigration court by an immigration judge. USCIS cannot grant you cancellation. If you are undocumented and apply for cancellation of removal and the judge grants the application, you become a permanent resident. If the judge denies the application, the judge may order you removed (deported). If you think that you qualify for cancellation of removal, you should not just walk into a USCIS office. Instead, you should get advice from an authorized immigration law expert. People incorrectly refer to cancellation of removal as “the ten year visa”. Beware because some unscrupulous immigration service providers charge people to apply for cancellation without explaining the risk of removal to the client.

**Private Bills:** A Private Bill is an act of Congress granting permanent residence to an individual. Congress very rarely passes Private Bills. A member of Congress needs to sponsor the bill and get it passed in both the Senate and the House of Representatives. In order to get a green card based on a Private Bill, you must show an extraordinary humanitarian reason why you should be granted legal status.

**Special Rules for Certain Nationalities:** At different points in time, Congress has made green cards available to immigrants based on nationality, in addition to the categories in the immigrant visa system. In the past, Nicaraguans, Cubans, Haitians, Salvadorans, Guatemalans, natives of former Soviet Bloc countries, and Syrian Jews were granted green cards under nationality-specific laws. One example of such a law is the Haitian Refugee and Immigration Fairness Act of 1998 (HRIFA).

**NACARA:** Nicaraguan Adjustment and Central American Relief Act (NACARA) provides special opportunities for permanent residence for certain natives of Nicaragua, Cuba, El Salvador, Guatemala, and former Soviet Bloc countries. The filing dates for NACARA have passed. If you think you may have qualified for a NACARA green card, see an authorized immigration law expert.

**“Amnesty”:** In 1986, Congress passed a legalization or “amnesty” law. Under this law, people who lived in the United States continuously and unlawfully since before January 1, 1982 could apply for lawful permanent residence. “Amnesty” visas were also granted to certain agricultural workers. The deadline to apply for “amnesty” was May 4, 1988.
“Late Amnesty”: After the deadline, many “amnesty” applicants complained they were unlawfully turned away by USCIS and Qualified Designated Entities (QDEs) due to confusion over rules and regulations. QDEs were community-based non-profit organizations authorized to accept “amnesty” applications. USCIS was forced by the federal courts to accept late amnesty applications, after class action lawsuits, referred to as “CSS/LULAC” cases, were filed. The deadline to apply for “late amnesty” was December 31, 2005.

To qualify under “CSS/LULAC” (“late amnesty”), you must have been in the United States before January 1, 1982, and failed to file for “amnesty” because USCIS unlawfully discouraged you from filing or, your application was denied because you left the United States for brief periods. “Late amnesty” was not a new “amnesty” program, even though applicants were allowed to apply a long time after the original filing deadline. “Late amnesty” applicants still had to meet the requirements of the original 1986 amnesty law. Many of those who applied for “late amnesty” were able to obtain work authorization. If you first came to the United States after January 1, 1982 and filed for “amnesty” or “late amnesty”, you are not eligible for permanent residence under this program even if you were issued a work authorization card.

Family Unity Program: The spouse and unmarried children under 21 of individuals who received temporary or permanent residence through one of the above amnesty programs qualify for permanent residence under special rules. If you have questions about the Family Unity Program, you should see an authorized immigration law expert for more information.

Registry: If you entered the United States before January 1, 1972 and have resided in the United States continuously since entering, you might qualify for permanent residence based on the many years you have lived in the United States. Many of the usual requirements for a green card, such as proving a person is not a public charge, do not apply to Registry applicants. If you think you might qualify for Registry, see an authorized immigration law expert.
After an immigrant petition has been filed, the second step to become a permanent resident is proving that you are eligible for the green card.

This section will explain:
- How to show you are eligible for a green card
- Who can get their green card in the United States
- Who is supposed to get their green card abroad
- How long the process may take

Everyone applying for an immigrant visa or adjustment of status to permanent resident (green card holder) must prove they are admissible, that is, eligible for admission to the United States.

How do I Show I am Eligible for a Green Card?

Grounds of Inadmissibility
To show that you are admissible to the United States, you must show you do not fall within a “ground of inadmissibility.” These are reasons for the government to keep a foreign national out of the United States or to keep a person from getting a green card. If the government decides that you are inadmissible, it means that you cannot obtain an immigrant visa or adjust status even if you have an approved petition under one of the immigrant visa categories listed in Section 4.

There are ten grounds of inadmissibility. Three common grounds of inadmissibility are persons who are a danger to public safety, public health, or who may become public charges. You may be inadmissible under the public safety ground if you engaged in certain criminal activity or have certain criminal convictions. You might also be inadmissible if the government considers you a threat to national security because they think you are a spy or a terrorist. Individuals who have certain contagious diseases are also inadmissible under the public health grounds. Public charges are those immigrants who are likely to become financially dependent on the government for cash assistance or long-term hospitalization. Another ground of inadmissibility is if the government determines that you have committed fraud or misrepresented yourself to gain an immigration benefit or admission to the United States.

USCIS may forgive or waive your inadmissibility, although getting a waiver is often very difficult. If USCIS grants you a waiver, you can obtain your immigrant visa or adjust status despite the ground of inadmissibility.
Am I Eligible to Get a Green Card in the United States?

Adjustment of Status (AOS) is the second part of the green card process where an individual applies for lawful permanent resident status without leaving the United States.

Not everyone in the United States who qualifies for permanent residence can apply for adjustment of status. Some individuals are required to return to their home country and apply for an immigrant visa at a U.S. consulate. This process is called consular processing. Before leaving the United States to consular process, speak to an authorized immigration law expert. You may trigger a ground of inadmissibility and might not receive an immigrant visa or green card if you were living in the U.S. out of status and you may not be able to return to the U.S.

You may qualify to adjust status in the United States, under certain circumstances, if you meet one of the following criteria:

- You were inspected upon entry, were never out of status, and never worked without permission,
- If you are an Immediate Relative of a U.S. citizen, you may apply to adjust status if you were inspected upon entry, even if you are now out of status or have worked without authorization,
- You are applying based on your status as a refugee or asylee. Asylees must wait one year after the approval of their asylum status to apply to adjust status. Refugees must wait for one year after admission to the United States before applying,
- You are an employment-based immigrant visa applicant or a special immigrant religious worker who entered the United States lawfully and was not out of status, did not work unlawfully or otherwise violate your status for more than 180 days total since your last lawful entry,
- You are self-petitioning under the Violence Against Women Act (VAWA),
- Non-immigrant U (victim of crime) or T (victim of human trafficking) visa holders must wait three years before applying,
- Your Special Immigrant Juvenile (SIJ) petition was approved,
- You were granted an S (informant) non-immigrant visa,
- You are applying for permanent residence under Registry or NACARA,
- You are a Cuban national applying under the Cuban Adjustment Act and you were admitted or paroled into the United States any time after January 1, 1959 and have been present in the United States for at least one year after your entry.

Those who entered the U.S. as crewmembers, travelers who entered with transit visas and those who came on Fiancé (e) visas and did not marry their U.S. citizen petitioners cannot adjust status under this rule.

245(i) “Grandfather Clause”

Section 245(i) is a provision in the law that allows individuals to pay a penalty fee to waive immigration violations and apply for adjustment of status in the United States. Examples of the violations are having entered the United States without inspection (EWI), overstaying a visa, or working without employment authorization. Congress phased out the law on January 14, 1998. However, people who already qualified under the law as of that date
were “grandfathered” into the benefits of 245(i). Congress added a subsequent extension on December 21, 2000 and extended the eligibility period until April 30, 2001.

In order to benefit from Section 245(i) or the “Grandfather Clause”, an applicant must show that a family or employment-based petition or a Labor Certification application was “properly filed” by the April 30, 2001 deadline. Properly filed means that the application or petition was either physically received by or postmarked on or before April 30, 2001. The law allows applicants to file based on a new or different petition even if the original petition was not approved or adjustment was denied. The test for whether the applicant is eligible to apply under Section 245(i) is whether the original petition was “approvable” on the date it was filed.

245(i) is only relevant when discussing adjustment of status and only applies to people who are in the United States. If someone is applying for a green card (immigrant visa) outside the United States, Section 245(i) does not help them. It also does not protect someone from removal (deportation).

Under Section 245(i) you can adjust status by paying a $1,000 penalty in addition to the regular filing fee and fulfilling one of the following criteria:

- A relative or employer filed a petition for you or an employer filed a Labor Certification application on your behalf before January 14, 1998,
- A relative or employer filed a petition for you, or an employer filed a Labor Certification application on your behalf between January 14, 1998 and April 30, 2001 and you were physically present in the United States on December 21, 2000,
- You are a derivative beneficiary of a 245(i) “grandfathered” individual. In other words you are a derivative beneficiary of someone who meets one of the above criteria.

If you are undocumented and you do not meet any of the above criteria, it is likely that the only way to apply for permanent residence is to return to your home country to process your paperwork through the U.S. consulate (consular processing).

**Am I Supposed to Get my Green Card Abroad?**

The process to apply for an immigrant visa outside the United States is called “consular processing”. Consular processing is similar for all consulates, although each has their own forms and/or local procedures.

The process begins when the Department of State National Visa Center (NVC) receives your approved I-130 or I-140 petition from USCIS. If your priority date is current or you are the immediate relative of a U.S. citizen, NVC sends you (or your representative) information on how to get your immigrant visa online. This includes instructions on paying visa processing fees and information about submitting an affidavit of support. The instructions will also list the other documents you must submit.

If your visa category is backlogged, NVC will send you a notice they have received the petition. Write down your case number (it is different from the number on your USCIS petition filing receipt) and keep it in a safe place. Check the NVC notice to make sure your immigrant visa classification (how you qualify for an immigrant visa) and your priority date are correct. NVC will
send you the information on how to get your application forms online when your priority date is three to six months of the current processing time. Submit the forms as requested and you will receive an interview notice for your immigrant visa interview at the U.S. consulate.

At your visa interview, a U.S. consular officer will review all the documents submitted in your case, including the petition filed by your relative or employer. If the officer determines that you meet the eligibility requirements for an immigrant visa, the officer may approve the application for issuance of a visa. If the officer has any doubts about the petition, the officer may defer a decision while the consulate investigates your case. If the officer believes that you do not qualify for an immigrant visa, the officer will deny your application. Then you can request the officer reconsider your case or you can write to the U.S. Department of State for an Advisory Opinion asking them to reverse the officer's decision. The Department of State sometimes reverses the decision of a consular officer on a question of law, but rarely on a question of fact.

**Unlawful Presence Rule: Three and Ten-Year Bars to Re-entry**

Unlawful presence refers to person who remains in the United States beyond their authorized period of stay or any person who is present in the United States without being admitted or paroled. If you have accrued unlawful presence and you leave the United States for any reason, even for a visa interview, you may face a severe penalty and you will not be permitted to return to the United States for many years!

The unlawful presence bar is triggered by leaving the United States. If you are unlawfully present in the U.S. for more than 180 days, but less than one year and you leave the U.S. before removal (deportation) proceedings begin, you may trigger the 3-year bar to admission. If you are unlawfully present in the U.S. for one year (365 days) or more and you depart the U.S. you may trigger the 10-year bar to admission. If you are eligible for AOS without leaving the United States, the bars will not apply to you as long as you have never left the country after accruing unlawful presence.

Unlawful presence has only been a part of immigration law since April 1, 1997. Unlawful presence before that date does not trigger the bar. The bars also do not apply to unlawful presence accrued before an individual's 18th birthday. F-1 and J-1 nonimmigrants are admitted for “duration of status”. They do not accrue unlawful presence even if they fall out of status (for example by dropping out of school) unless USCIS or an immigration judge determines that the individual is no longer in status.

As of March 4th, 2013, USCIS began accepting applications from certain immediate relatives of U.S. citizens requesting a provisional waiver of unlawful presence. This process does not waive all grounds of inadmissibility (for example, crimes, fraud, etc.) It waives only the ground of inadmissibility for unlawful presence. If you are eligible for a provisional waiver as the immediate relative of a U.S. citizen, you can apply for the waiver and wait for a decision inside the United States before leaving to apply for your immigrant visa at a consulate abroad. You must prove extreme hardship to your U.S. citizen spouse and/or parent (not your U.S. citizen child) in order for the provisional waiver to be granted. For more information about the provisional or stateside waiver visit [www.uscis.gov](http://www.uscis.gov).
How Long Will it Take to Get My Green Card?

Depending on who filed the petition on your behalf (family or employer), you may be subject to a waiting period before being able to apply for your green card.

To find out when you will be able to apply for a green card through a family-based or employment-based category, see the Visa Bulletin, which is available online at www.travel.state.gov. You can also call the U.S. Department of State at 202-485-7699. This information will indicate the duration of time you must wait between the date your petition was filed and the date you can apply for your green card. The U.S. Department of State publishes a new visa bulletin every month that contains current waiting times for visa applicants.

Applicants filing in the New York USCIS District for adjustment of status to permanent resident can expect to wait approximately three to six months from the date of filing to be interviewed, if an interview is required by USCIS. Consular processing for applicants with current priority dates takes about nine months to one year. See Section 11 for more information about processing times.

Child Status Protection Act (CSPA)

When a child turns 21 they may “age out” of eligibility for certain immigration benefits. The Immigration and Nationality Act (INA) defines a “child” as an unmarried person under 21-years of age. The Child Status Protection Act (CSPA) was enacted on August 6, 2002 to help children who “age-out” because of delays by USCIS processing applications. CSPA applies to children of U.S. citizens, derivative beneficiaries of asylum and refugee applications, children of Lawful Permanent Residents, and derivative beneficiaries of family-based, employment-based and diversity lottery cases. CSPA does not apply to K and V visa applicants, NACARA, HRIFA, Family Unity, or Special Immigrant Juvenile or Cuban Adjustment cases.

CSPA does not change the definition of a “child” for immigration purposes, but it allows the child’s age to freeze on a particular date, even if the child has already reached age 21. The method of calculating the beneficiary’s age varies depending on the type of immigration benefit sought. Speak to an authorized immigration law expert for more information.

Immediate Relatives

For immediate relatives of U.S. citizens to be considered a “child” Form I-130, Petition for Alien Relative, must be filed prior to the beneficiary’s 21st birthday. The beneficiary must also remain unmarried until they complete the process of getting their green card.

If the I-130 petition was filed while the parent was an LPR, the beneficiary can be considered an immediate relative as long as the petitioner naturalizes before the beneficiary’s 21st birthday. The beneficiary must also remain unmarried until they complete the process of getting their green card.

Asylum and Refugee Seekers

For children of asylum seekers and refugees the application or petition for refugee/asylee status must have been made prior to the child’s 21st birthday. The beneficiary must also remain unmarried until they complete the process of getting their green card.
Preference Categories and Derivatives

Sons and daughters of lawful permanent residents, derivative beneficiaries of family and employment-based petitions and derivative beneficiaries with diversity visa lottery cases may be able to benefit from CSPA under certain circumstances. Preference category beneficiaries and derivative beneficiaries must use a formula to calculate whether they still qualify as “child.”

The dates needed to make the calculation are:

1. The filing date listed on the USCIS receipt notice of the Form I-130 or Form I-140 Immigrant Petition for Alien Worker,
2. The date the petition was approved (from USCIS approval notice), and
3. The date when the immigrant visa becomes available (the first day of the month in which the Visa Bulletin shows the priority date is current).

To calculate your adjusted age under CSPA, take your age on the day that the immigrant visa becomes available and subtract from it the number of days that the petition was pending (that is, the date of filing minus the number of days to the date of approval). If your adjusted age is under 21 years, then you may be protected under CSPA. If your adjusted age is 21 or older, then you may not be protected by CSPA.

### Formula for CSPA Age

| Beneficiary’s actual age on date visa becomes available | Number of years the petition was pending* | = | Beneficiary’s CSPA Age |

*Petition Pending = Number of years between petition filing and approval

### Taking Action within One Year

The beneficiary must also file for permanent residence within one year of the immigrant visa becoming available in order to freeze their age as under 21.

In order to take action on the case within one year of the immigrant visa becoming available, one of the following must happen:

- The beneficiary must seek to acquire permanent residence within a year of the priority date becoming current,
- In “follow-to-join” cases, where the principal beneficiary adjusts status in the United States and the derivative beneficiary is outside of the United States and will be consular processing Form I-824, an application to notify the consulate, must be filed within one year of the principal beneficiary becoming an LPR, or
• In cases where both the principal and derivative beneficiaries will process outside of the United States, the derivative must file U.S. Department of State Form DS-260, Immigrant Visa Electronic Application, within one year of the priority date becoming current.

CSPA and the USA Patriot Act
A 45-day extension of the filing within one-year requirement was provided for in the USA Patriot Act and can be used to help people who are eligible and who would have turned 21 before August 6, 2002.

The “Opt Out” Provision
CSPA also allows the beneficiary to “opt out” of automatically changing to another preference category. The Second Family-based Preference (F2B) category applies to unmarried sons and daughters of LPRs. Usually when an LPR petitioner naturalizes, the petition automatically upgrades from the F2B category to unmarried adult children of U.S. citizens in the First Family-based Preference (F1) category. CSPA allows beneficiaries to “opt out” of the automatic conversion and remain in the F2B category if changing to the F1 category will cause a longer wait for the beneficiary.

“Opting out” is most useful for beneficiaries in the F2B category from “all chargeability areas,” Mainland China, India, and Mexico. At the time of this publication, the May 2017 Visa Bulletin shows all the F1 countries have longer wait times than the F2B category, except for the Philippines. Beneficiaries in the F1 category must wait longer to apply for their green card than beneficiaries in the F2B category. A beneficiary in the F2B category from Mainland China can apply for their green card if a petition was filed for them October 1, 2010. That means a beneficiary had to wait approximately 5 years and two months to apply for their green card. A beneficiary in the F1 category from Mainland China can apply for their green card if a petition was filed for them before December 8, 2010. That is approximately seven years and seven months for the beneficiary to wait before applying for their green card. Here, if the LPR petitioner naturalizes, the beneficiary may opt out of moving from the F2B into the F1 category and avoid the longer wait.

Processing times change so check the latest Visa Bulletin for the most updated processing times at www.travel.state.gov.

Examples
1. A Lawful Permanent Resident mother filed Form I-130 in 2002 when the beneficiary was 19. The child is in the family preference category F2A. The priority date became current in 2006 when the beneficiary was 23. The I-130 was approved in 2005.

Here the child beneficiary can remain in the family preference category F2A because the three years that the I-130 was pending (from 2002 filing to 2005 approval) can be subtracted from the age at the time the priority date became current (23) making her adjusted age under the CSPA 20. As long as she takes action on her case within one year of visa availability, she can freeze her ages as a “child” under the CSPA.
2. Form I-140 was filed in 1998 for a mother. Her derivative child was 18 years old at the time. Two years later in 2000, the I-140 was approved and in 2002 the visa bulletin showed the priority date was current. The derivative child took no further action on the petition in 2002. Here, the child's adjusted age under the CSPA is 20 (22 years old when immigrant visa becomes available minus the two years that the I-140 was pending).

Now the derivative beneficiary wants to apply for adjustment of status. Unfortunately, she cannot because even though her CSPA age is 20, she did not file Form I-485, Application to Register Permanent Residence or Adjust Status or apply for an immigrant visa, within one year of the priority date becoming current. She should have taken action on the case before the one-year mark of the immigrant visa becoming available in 2002 to lock in her age.

3. Form I-130 was filed in 2002 when the derivative beneficiary was 20, and approved one year later in 2003. The priority date did not become current until 2006. The derivative beneficiary's adjusted age under the CSPA would be 23 (24-years-old when the immigrant visa became available minus the one year the petition was pending), which means that she is no longer eligible under that petition. She has “aged out” and cannot adjust her status based on the I-130.
On June 15, 2012, President Obama directed the United States Department of Homeland Security (DHS) to implement a new program called Deferred Action for Childhood Arrivals (DACA). DACA allows undocumented youth who meet certain criteria and have no or very minor criminal histories to receive a work permit and two-years of protection from removal (deportation) from the United States. In this section, we explain who qualifies for DACA and we will address some concerns about the DACA program raised by the 2016 election.

This section explains:

- What is happening with the DACA program after the 2016 election
- Filing new DACA applications and the risks
- Renewing DACA applications
- The eligibility requirements for DACA
- The process for submitting a request for DACA and what happens after
- The benefits after you are granted DACA

DACA after the 2016 Election

DACA is an important and valuable benefit for undocumented immigrants. After the 2016 presidential election, President Trump promised to end DACA on the day of his inauguration. As of this publication, DACA remains in place. Many DACA-qualified youth are wondering whether it is safe to apply now if they do not yet have DACA. Those who have DACA are asking whether they should apply to renew and/or if they should apply for advanced parole (USCIS travel permission). Whether applying for the first time, applying to renew or applying for advance parole, applicants should speak to an authorized immigration law expert before filing any application.

New Applications

Some qualified individuals are afraid to apply for DACA for fear that by giving USCIS their name and address they will become targets of Immigration and Customs Enforcement (ICE) deportation efforts. No one knows for sure the Trump administration’s long-term plans for continuing or ending DACA. It is unlikely, but not impossible that information provided by DACA applicants may be used against them. That said, for many, the benefits of having DACA outweigh the risks. The most important benefit is employment authorization. Also, having DACA may provide some advantages for undocumented individuals should Trump increase his crackdown on undocumented immigrants. Those eligible for DACA should also be screened for other types of immigration benefits by an authorized immigration law expert.
Renewal of Applications
Most individuals with DACA want to renew their status. USCIS already has your information, so filing to renew does not create new danger.

Advance Parole
USCIS will grant advance parole (permission to reenter after travel abroad) to individuals with DACA. As of this writing, USCIS is still approving advance parole requests for DACAmented youth. The decision whether to travel with advance parole given the uncertainties facing the DACA program should be made in consultation with an authorized immigration law expert.

Requirements for 2012 DACA
The following are the requirements to qualify for DACA:

- You entered the United States before your 16th birthday,
- You were physically present in the United States on June 15, 2012 and at the time you submit the request for DACA,
- You have continuously resided in the United States since June 15, 2007 up to the present time,
- You were under age 31 on June 15, 2012,
- You entered the United States without inspection before June 15, 2012, or if you entered the United States legally, your immigration status was expired as of June 15, 2012,
- You are in school, have a high school degree or General Education Degree (GED) certificate, or have been honorably discharged from the U.S. Armed Forces or Coast Guard,
- You have not been convicted of a felony, a “significant misdemeanor,” three or more other misdemeanors, and you do not otherwise pose a threat to national security or public safety. (Determining whether an offense is considered a “significant misdemeanor” for purposes of DACA should be determined by an authorized immigration law expert), and
- You are at least 15 years old (unless you are in immigration detention).

Submitting DACA Requests
To apply for DACA, you must mail the DACA application, Form 821-D, with evidence of continuous residence in the United States along with the application for employment authorization, Form I-765*, supporting documents, and a money order or check for $495* (the cost of the application, the employment authorization document, and biometrics) to USCIS. For more information about submitting your DACA request visit www.uscis.gov.

There is no general fee waiver available for the request for DACA. However, under limited circumstances, USCIS will grant exemptions from the fee. Speak with an authorized immigration law expert for more information about whether you meet these limited circumstances.
After You Submit Your DACA Application

Everyone who submits a request for DACA must get their biometrics (fingerprints, photographs, and signature) taken and undergo and pass a background check. If an applicant does not pass the background check, then the request for DACA will be denied.

After USCIS receives your request, it will be reviewed to make sure it is complete and the fee is correct. After receiving the request for DACA, USCIS will send two receipt notices by regular mail - one for the DACA application, Form I-821-D, and one for the employment authorization application, Form I-765. You can track your case online at the USCIS website (www.uscis.gov) by entering your receipt number in the “case status” box on the homepage. Soon after, USCIS will send you a biometrics appointment notice. There generally is no interview for the DACA request. Interviews are at times randomly scheduled, such as in cases where there are concerns about fraud.

If USCIS grants your request for DACA, you will receive an I-821-D Approval Notice. USCIS will send a separate I-765 Approval Notice. Then, shortly after, you will receive the work permit in the mail.

If USCIS denies a request for DACA, the request for a work permit is automatically denied. If your request for DACA is denied, speak to an authorized immigration law expert. There is no appeal of a denial of DACA.

DACA recipients must apply to renew DACA (and pay the fee again) every two years.

Benefits After You are Granted DACA

A DACA recipient is granted a “period of authorized stay” in the United States for two years (that is, permission to be in the United States even though they do not have legal status). DACA is not lawful status and does not give lawful status to family members. It is not a path to a green card and is not like an “amnesty.” DACA status does provide important benefits detailed below:

Once your DACA application is approved and you receive your work permit, you can:

- Get a Social Security card,
- Get a New York State ID or driver’s license,
- Pay in-state tuition at the City University of New York (CUNY) and the State University of New York (SUNY) if you have resided in New York for at least a year, before or after receiving DACA. (Note, that most graduates from New York State high schools qualify for in-state tuition at CUNY and SUNY no matter their immigration status),
- Qualify for scholarships available only to DACA students. College students can visit the www.cuny.edu/thedream.us website for more information about scholarships available specifically for DACA recipients. (Some of these scholarships are available also for students with TPS.),
- Qualify for Medicaid and Family Health Plus, if residing in New York and you meet the income requirements for these programs,
- Apply for permission to travel outside the U.S. (called Advance Parole) for educational (study abroad), employment or humanitarian purposes (see below).
DACA and Federal Public Benefits

Those who are granted DACA are not eligible for any federal public benefits, including federal financial aid, food stamps, housing subsidies and the Pre-existing Condition Insurance Plan Program. Also, DACA recipients are not eligible to purchase health insurance through the federal Healthcare Exchange.

DACA Recipients and Travel

If you have DACA you may travel outside the United States if USCIS gives you permission called Advance Parole. You will lose your DACA status if you travel outside of the U.S. without Advance Parole.

You can request Advance Parole for one of the following reasons: (1) Educational purposes such as a study abroad program, a week-long exchange program, or academic research; (2) Employment purposes such as when your job in the United States sends you overseas for assignments, interviews, conferences and trainings; and (3) Humanitarian purposes such as getting medical treatment abroad, going to a funeral for a family member, or visiting a sick relative. People with DACA cannot get Advance Parole for vacations.

Traveling with Advance Parole may help a DACA recipient eventually become a permanent resident. It may make it easier for a DACA recipient who is applying for a green card to get through the final phase of the process, the immigrant visa interview after traveling with Advance Parole and re-entering the United States. This process resolves your last entry without inspection and may make you eligible for either:

Adjustment of Status

If you are married to a U.S. citizen you can interview and complete the green card process while you are in the United States. This rule also applies to all people referred to as Immediate relatives of U.S. citizens such as, the spouse of a U.S. citizen, the unmarried child under 21 of a U.S. citizen, and the parent of a U.S. citizen child age 21 or older;

OR

Consular Processing

If you are not an immediate relative of a U.S. citizen, but qualify under another family-based category or an employment-based category, you will have to interview for your green card at a U.S. consulate abroad. Advance Parole will help you return to the United States from your green card interview in your home country. If you are approved, you might be able to return as a permanent resident. If you are not approved, you can still return and continue living in the United States with DACA.

ON HOLD: DAPA and Expanded DACA Programs

On November 20, 2014, President Obama announced a new series of executive actions, which intended to expand DACA and to create a new program, Deferred Action for Parental Accountability (DAPA). The DAPA program was attempting to extend eligibility for a work permit from two to three years and provide protection from deportation for parents of U.S. Citizens or
Lawful Permanent Residents (green card holders). The expansion of DACA would have removed the age requirement, moved the “continuous residency” date from June 15, 2007 to January 1, 2010, and extended the protection from deportation from two to three years. Unfortunately, the U.S. Supreme Court has blocked implementation of these programs.
Fee Waivers

This part explains what to do if you can’t afford to pay a USCIS fee.

You may qualify for a complete or reduced fee if:

- You receive need-based government benefits,
- Are low-income, or
- Have a qualifying financial hardship.

There is also a new partial fee waiver available for the N-400 Form only.

Why Does USCIS Charge Fees?

Most of USCIS funding comes from the fees it charges to process applications and petitions.

Can USCIS Help Applicants Who Cannot Afford to Pay USCIS Fees?

Yes. USCIS knows some people cannot afford to pay the fees. They have a fee waiver program for some USCIS forms and benefits, including:

- N-400, Application for Naturalization (Citizenship),
- I-90, Green card replacement and renewal,
- I-751, Removal of conditions on permanent resident card, and
- N-565, Application to replace or correct a Certificate of Citizenship or Naturalization.

You may qualify for a fee waiver if you can show that you cannot pay the filing fees.

Can USCIS Help Applicants With Other Forms?

Yes. You can find a complete list of applications and petitions USCIS will consider for a fee waiver at www.uscis.gov/i-912.

What Kinds of Requests For Fee Waiver Will USCIS Approve?

You will qualify for a complete fee waiver if you can prove that you or your household:

- Receives need-based state or federal benefits,
- Is low-income, or
- Has a special financial hardship

Need-Based State or Federal Benefits

You may qualify if you or a qualified family member(s) receives need-based public benefits such as:

- SSI (Supplemental Security Income),
- SNAP (Food Stamps/Supplemental Nutrition Assistance Program),
• ANF (Temporary Assistance for Needy Families),
• Housing Choice Voucher Program (Section 8),
• Medicaid.

The instructions for Form I-912 defines who is a qualified family member.

**Can I Qualify with Medicare or SSDI?**

No. Medicare and SSDI (Social Security Disability Insurance) are not need-based benefits. That means you can have high income and still receive these benefits.

**How to Prove You Qualify**

Mail your completed Form I-912. You must also send a letter that shows you receive the benefit now. The letter must be dated within the last 6 months. It must be in English and list all of this information:

- Name of agency providing the benefit,
- Name of person receiving the benefit,
- Date the benefit started,
- Date the benefit will end (if applicable),
- Proof you are receiving the benefit now.

**Low-Income Household**

USCIS will ask you to list your income and the income of everyone in your household. If the total income is less than the HHS Poverty Guidelines for the current year on Form I-912P, you will qualify for a fee waiver. You will have to provide proof of income, such as federal tax returns or other proof that proves your inability to pay the filing fee, such as a months worth of pay stubs.

**Financial Hardship**

USCIS may allow you a fee waiver if you had an unexpected situation, such as emergency medical bills, natural disaster, homelessness, or sudden unemployment. To prove you qualify based on financial hardship, take the following documents to an authorized immigration law expert:

- Copy of federal tax returns for the most recent tax year (for each person in the household who works and files taxes) with all attached schedules, such as W-2s and 1099s,
- Copies of paystubs for the past 1 or 2 months or a statement from your employer on business letterhead showing earnings,
- Copies of child support or spousal support (alimony) documents,
- Copy of Unemployment Benefits,
- Copy of receipt of Workers Compensation,
- Social Security Administration Benefit Verification Letter,
- Copies of all recent utility bills (gas, electric, internet, cable, phone),
- Copy of lease, rental agreement or mortgage payments,
- Copy of last 3 bank statements for checking and savings account(s),
- Proof of all other expenses (including medical bills, insurance, loans and credit card payments)
How do I Apply for a Fee Waiver?
See if USCIS will accept a Fee Waiver for your application or petition by checking [www.uscis.gov/forms].
If yes, complete Form I-912, Request for Fee Waiver.
Download this form free from:
[www.uscis.gov/forms], or
Call: 800-870-3697
File your completed form and supporting documents along with the application or petition you are filing.

What Happens if USCIS Rejects Your Fee Waiver Request?
No matter the reason you applied for a fee waiver, if USCIS rejects your request, they will mail your application back and tell you to pay the filing fee. If you can provide additional proof or explain why they should reconsider your request, you can submit your fee waiver request again. Contact an authorized immigration law expert for help to submit your request again.

Reduced Fee for Form N-400, Naturalization Application
If you do not qualify for a full fee waiver for naturalization (to become a U.S. citizen), you may qualify for a reduced fee if your household is low income.
This reduced fee option is NOT for other applications. It is only for the N-400, naturalization application. Also, it is only if you qualify as low-income based on Form I-942P Income Guidelines.

How do I apply for the Reduced Fee?
If you are under 75 years old
Send a personal check or money order for the reduced fee of $405 with your naturalization application.
If you are 75 or older
Send a personal check or money order for the reduced fee of $320 with your naturalization application. (You do not have to pay the $85 biometrics fingerprinting fee.)
Also send your completed USCIS Form I-942 with the supporting documents to show you qualify.
You can show you qualify for a reduced fee if your household income is between 150% – 200% of the poverty guidelines. Check your family income against Form I-942P, Income Guidelines for Reduced Fees, to see if you qualify.
If you qualify for the reduced fee, provide your federal tax returns as proof of your income. If for some reason you did not file taxes, you can submit other proof of income, such as paystubs or a letter from your employer on business letterhead stating the amount of wages paid to you.
Form I-942, Request for Reduced Fee

Request for Reduced Fee

Department of Homeland Security
U.S. Citizenship and Immigration Services

For USCIS Use Only

<table>
<thead>
<tr>
<th>Request Receipted At (Select only one box)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ USCIS Field Office</td>
<td>☐ USCIS Service Center</td>
</tr>
<tr>
<td>☐ Reduced Fee Approved</td>
<td>☐ Reduced Fee Approved</td>
</tr>
<tr>
<td>☐ Reduced Fee Denied</td>
<td>☐ Reduced Fee Denied</td>
</tr>
<tr>
<td>Date:_____________ Date:_____________</td>
<td>Date:_____________ Date:_____________</td>
</tr>
</tbody>
</table>

▶ START HERE - Type or print in black ink.

Part 1. Information About You (Requestor)

Provide information about yourself. If you are the legal guardian filing on behalf of a person with a physical disability or developmental or mental impairment, provide information about the person for whom you are filing this form.

1. Full Name

   Family Name (Last Name)  Given Name (First Name)  Middle Name

2. Date of Birth (mm/dd/yyyy)  

3. Alien Registration Number (A-Number)

   ▶ A-

4. Marital Status

   ☐ Single, Never Married  ☐ Married  ☐ Divorced  ☐ Widowed  ☐ Marriage Annulled  ☐ Separated

   ☐ Other (Explain)

Part 2. Information About Family Members Filing This Request With You

1. In the table below, add the family members filing this request with you

<table>
<thead>
<tr>
<th>Full Name</th>
<th>A-Number (if any)</th>
<th>Date of Birth</th>
<th>Relationship to You</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-</td>
<td>A-</td>
<td>A-</td>
<td>A-</td>
</tr>
</tbody>
</table>

Part 3. Household Income

Your Employment Status

1. Employment Status

   ☐ Employed (full-time, part-time, seasonal, self-employed)  ☐ Unemployed or Not Employed  ☐ Retired  ☐ Other (Explain)

Note: Version current as of time of publication. Always check www.uscis.gov/forms for the most up to date information.
Part 3. Household Income (continued)

Information About Your Spouse

2. If you are married or separated, does your spouse live in your household? ☐ Yes ☐ No

   A. If you answered “No” to Item Number 2, does your spouse provide any financial support to your household? ☐ Yes ☐ No

Your Household Size

3. Are you the person providing the primary financial support for your household? ☐ Yes ☐ No

   If you answered “Yes” to Item Number 3, type or print your name on the line marked “self” in the table below. If you answered “No” to Item Number 3, type or print your name on the line marked “self” in the table below and add the head of household’s name on the line below yours.

<table>
<thead>
<tr>
<th>Full Name</th>
<th>Date of Birth</th>
<th>Relationship to You</th>
<th>Married</th>
<th>Full-Time Student</th>
<th>Does Person Earn Income Counted Toward Household Income?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self</td>
<td></td>
<td></td>
<td>☐ Yes</td>
<td>☐ No</td>
<td>☐ Yes ☐ No</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>☐ Yes</td>
<td>☐ No</td>
<td>☐ Yes ☐ No</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>☐ Yes</td>
<td>☐ No</td>
<td>☐ Yes ☐ No</td>
</tr>
<tr>
<td>Total Household Size (including self)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Your Annual Household Income

Provide information about your income and the income of all family members counted as part of your household. You must list all amounts in U.S. dollars.

4. Your Annual Income

5. Annual Income of All Household Members

   Provide the annual income of all family members counted as part of your household as listed above under Household Size in Item Number 3. (Do not include the amount provided in Item Number 4.)

6. Total Additional Income or Financial Support

   Provide the total annual amount you receive in additional regular income or financial support from a source outside of your household. (Do not include the amount provided in Item Number 4, or 5.) You must add all of the additional income and financial support amounts that you regularly receive and put the total amount in the space provided. Type or print "0" in the total box if there is none. Select the type of additional income or financial support that you receive and provide documentation.


7. Total Household Income (add the amounts from Item Numbers 4, 5, and 6.)
Part 3. Household Income (continued)

8. Has anything changed since the date you filed your Federal tax returns? (For example, your marital status, income, or number of dependents.)
   □ Yes □ No
   If you answered "Yes" to Item Number 8, provide an explanation below. Provide documentation if available.


Part 4. Requestor's Statement, Contact Information, Certification, and Signature

NOTE: Read the Penalties section of the Form I-942 Instructions before completing this part.

Each person applying for a reduced fee must complete, sign, and date Form I-942 and provide the required documentation. This includes family members identified in Part 2, Item Number 1. Signature fields for family members are at the end of this part. A legal guardian may sign the request on behalf of the applicant. USCIS rejects any Form I-942 that is not signed by all individuals requesting a reduced fee and may deny a request that does not provide the required documentation. If the information provided by the requestor in Part 4, is not applicable to a family member identified in Part 2, that individual should complete Part 5.

Requestor's Statement

NOTE: Select the box for either Item A. or B. in Item Number 1. If applicable, select the box for Item Number 2.

1. Requestor's Statement Regarding the Interpreter
   A. □ I can read and understand English, and I have read and understand every question and instruction on this request, and my answer to every question.
   B. □ The interpreter named in Part 6, read to me every question and instruction on this request, and my answer to every question in _________, a language in which I am fluent, and I understood everything.

2. Requestor's Statement Regarding the Preparer
   □ At my request, the preparer named in Part 7, _________, prepared this request for me based only upon information I provided or authorized.

Requestor's Contact Information

3. Requestor's Daytime Telephone Number

4. Requestor's Mobile Telephone Number (if any)

5. Requestor's Email Address (if any)

Requestor's Certification

Copies of any documents I have submitted are exact photocopies of unaltered, original documents, and I understand that USCIS may require that I submit original documents to USCIS at a later date. Furthermore, I authorize the release of any information from any of my records that USCIS may need to determine my eligibility for the immigration benefit I seek.

I further authorize release of information contained in this request, in supporting documents, and in my USCIS records to other entities and persons where necessary for the administration and enforcement of U.S. immigration laws.

Form I-942 12/23/16
**Part 4. Requestor's Statement, Contact Information, Certification, and Signature** (continued)

I understand that USCIS may require me to appear for an appointment to take my biometrics (fingerprint, photograph, and/or signature) and, at that time, if I am required to provide biometrics, I will be required to sign an oath reaffirming that:

1. I reviewed and provided or authorized all of the information in my request;
2. I understood all of the information contained in, and submitted with, my request; and
3. All of this information was complete, true, and correct at the time of filing.

I certify, under penalty of perjury, that I provided or authorized all of the information in my request, I understand all of the information contained in, and submitted with, my request, and that all of this information is complete, true, and correct.

**Requestor's Signature**

<table>
<thead>
<tr>
<th>6. Requestor's Signature</th>
<th>Date of Signature (mm/dd/yyyy)</th>
</tr>
</thead>
</table>

**Family Members' Signatures**

**NOTE:** Each family member must type or print their full name and sign in the spaces below. You can find additional family members' signature spaces in **Item Numbers 7. - 10.** below. All family members identified in **Part 2, Item Number 1.** must sign and date **Form I-942.**

I certify that the information provided by the requestor in **Part 4.** applies to me.

7. Family Member 1
   - Family Member's Name
   - Family Member's Signature
   - Date of Signature (mm/dd/yyyy)

8. Family Member 2
   - Family Member's Name
   - Family Member's Signature
   - Date of Signature (mm/dd/yyyy)

9. Family Member 3
   - Family Member's Name
   - Family Member's Signature
   - Date of Signature (mm/dd/yyyy)

10. Family Member 4
    - Family Member's Name
    - Family Member's Signature
    - Date of Signature (mm/dd/yyyy)

**NOTE TO ALL REQUESTORS:** If you do not completely fill out this request or fail to submit required documents listed in the Instructions, USCIS may deny your request.
Part 5. Family Member's Statement, Contact Information, Certification, and Signature

NOTE: Read the information on penalties in the Penalties section of the Form I-942 Instructions before completing this part.

If the information provided by the requestor in Part 4, is not applicable to a family member identified in Part 2, Item Number 1. (for example, the family member used an interpreter or speaks a different language) that individual should complete Part 5. USCIS rejects any Form I-942 that is not signed by all individuals requesting a reduced fee.

Select the box for either Item A. or B. in Item Number 1. If applicable, select the box for Item Number 2.

1. Family Member's Statement Regarding the Interpreter for:
   A. ☐ I can read and understand English, and have read and understand every question, instruction, and answer on this request.
   B. ☐ The interpreter named in Part 6, has also read to me every question, instruction, and answer on this request in [language], a language in which I am fluent. I understand every question and instruction on this request as translated to me by my interpreter, and have provided complete, true, and correct responses in the language indicated above.

2. Family Member's Statement Regarding the Preparer for:
   ☐ I have requested the services of and consented to [name], who ☐ is ☐ is not an attorney or accredited representative, preparing this request for me.

Family Member's Contact Information

3. Family Member's Daytime Telephone Number

4. Family Member's Mobile Telephone Number (if any)

5. Family Member's Email Address (if any)

Family Member's Certification

I certify, under penalty of perjury, that the information in my request and any document submitted with my request were provided by me and are complete, true, and correct.

Copies of any documents I have submitted are exact photocopies of unaltered, original documents, and I understand that USCIS may require that I submit original documents to USCIS at a later date.

Family Member's Signature

6. Family Member's Signature

☐ Date of Signature (mm/dd/yyyy)

NOTE TO ALL FAMILY MEMBERS: If you do not completely fill out this request or fail to submit required documents listed in these Instructions, USCIS may deny your request.
### Part 6. Interpreter's Contact Information, Certification, and Signature

1. Did anyone filing this request use an interpreter? Yes, (complete this section). No, (skip to Part 7.)
   - Yes ☐ No ☐

2. Was the same interpreter used for all individuals requesting a reduced fee (as listed in Part 2.)
   - Yes ☐ No ☐

**NOTE for Family Members:** If you used a different interpreter than the one used by the requestor, make additional copies of Part 6., provide the following information, indicate the family member for whom he or she interpreted, and include the pages with your completed Form I-942.

Provide the following information about the interpreter.

#### Interpreter's Full Name

3. Interpreter's Family Name (Last Name)  Interpreter's Given Name (First Name)

4. Interpreter's Business or Organization Name (if any)

#### Interpreter's Mailing Address

5. Street Number and Name
   - City or Town
   - Province
   - Postal Code
   - Country

#### Interpreter's Contact Information

6. Interpreter's Daytime Telephone Number

7. Interpreter's Mobile Telephone Number (if any)

8. Interpreter's Email Address (if any)

#### Interpreter's Certification

I certify, under penalty of perjury, that:

I am fluent in English and , which is the same language specified in Part 4, Item B, in Item Number 1., and I have read to this requestor in the identified language every question and instruction on this request and his or her answer to every question. The requestor informed me that he or she understands every instruction, question, and answer on the request, including the Requestor's Certification, and has verified the accuracy of every answer.

#### Interpreter's Signature

9. Interpreter's Signature
   - Date of Signature (mm/dd/yyyy)
Part 7. Contact Information, Declaration, and Signature of the Person Preparing this Request, if Other Than the Requestor

1. Did any person prepare this request on your behalf? Yes, (complete this section). No, (skip). □ Yes □ No

2. Was the same preparer used for all individuals requesting a reduced fee (as listed in Part 2.) □ Yes □ No

NOTE for Family Members: If you used a different preparer than the one used by the requestor, provide the following information, and include the pages with your completed Form I-942.

Provide the following information about the preparer.

**Preparer's Full Name**

3. Preparer's Family Name (Last Name) Preparer's Given Name (First Name)

4. Preparer's Business or Organization (if any)

**Preparer's Mailing Address**

5. Street Number and Name

   City or Town

   Province

   Postal Code

   Country

   Apt. □ Sc. □ Flr. □ Number

   State

   ZIP Code

**Preparer's Contact Information**

6. Preparer's Daytime Telephone Number

7. Preparer's Mobile Telephone Number (if any)

8. Preparer's Email Address (if any)

**Preparer's Statement**

9. A. □ I am not an attorney or accredited representative but have prepared this request on behalf of the requestor and with the requestor’s consent.

   B. □ I am an attorney or accredited representative and my representation of the requestor in this case extends □ does not extend beyond the preparation of this request.

   NOTE: If you are an attorney or accredited representative, you may be obliged to submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, or G-28I, Notice of Entry of Appearance as Attorney In Matters Outside the Geographical Confines of the United States, with this request.
Part 7. Contact Information, Declaration, and Signature of the Person Preparing this Request, if Other Than the Requestor (continued)

Preparer’s Certification

By my signature, I certify, under penalty of perjury, that I prepared this request at the request of the requestor. The requestor then reviewed this completed request and informed me that he or she understands all of the information contained in, and submitted with, his or her request, including the Requestor’s Certification, and that all of this information is complete, true, and correct. I completed this request based only on information that the requestor provided to me or authorized me to obtain or use.

Preparer’s Signature

8. Preparer's Signature ___________________________ Date of Signature (mm/dd/yyyy) ___________
Part 8. Additional Information

If you need extra space to provide any additional information within this request, use the space below. If you need more space than what is provided, you may make copies of this page to complete and file with this request or attach a separate sheet of paper. Type or print your name and A-Number (if any) at the top of each sheet; indicate the Page Number, Part Number, and Item Number to which your answer refers.

1. Family Name (Last Name)            Given Name (First Name)            Middle Name

2. A-Number (if any) ▶  A-

3. A. Page Number  B. Part Number  C. Item Number

D. ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

4. A. Page Number  B. Part Number  C. Item Number

D. ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

5. A. Page Number  B. Part Number  C. Item Number

D. ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

6. A. Page Number  B. Part Number  C. Item Number

D. ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
Poverty Guidelines
Form I-942P, Income Guidelines for Reduced Fee

150% or less, you qualify for full fee waiver (Form I-912)
200% or less, you qualify for reduced fee for N-400

<table>
<thead>
<tr>
<th>Household Size</th>
<th>150% of HHS Poverty Guidelines*</th>
<th>200% of HHS Poverty Guidelines*</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$18,090</td>
<td>$24,120</td>
</tr>
<tr>
<td>2</td>
<td>$24,360</td>
<td>$32,480</td>
</tr>
<tr>
<td>3</td>
<td>$30,630</td>
<td>$40,840</td>
</tr>
<tr>
<td>4</td>
<td>$36,900</td>
<td>$49,200</td>
</tr>
<tr>
<td>5</td>
<td>$43,170</td>
<td>$57,560</td>
</tr>
<tr>
<td>6</td>
<td>$49,440</td>
<td>$65,920</td>
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<tr>
<td>7</td>
<td>$55,710</td>
<td>$74,280</td>
</tr>
<tr>
<td>8</td>
<td>$61,980</td>
<td>$82,640</td>
</tr>
<tr>
<td>+8</td>
<td>Add $6,270 for each additional person.</td>
<td>Add $8,360 for each additional person.</td>
</tr>
</tbody>
</table>

For Alaska:

<table>
<thead>
<tr>
<th>Household Size</th>
<th>150%</th>
<th>200%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$22,590</td>
<td>$30,120</td>
</tr>
<tr>
<td>2</td>
<td>$30,435</td>
<td>$40,580</td>
</tr>
<tr>
<td>3</td>
<td>$38,280</td>
<td>$51,040</td>
</tr>
<tr>
<td>4</td>
<td>$46,125</td>
<td>$61,500</td>
</tr>
<tr>
<td>5</td>
<td>$53,970</td>
<td>$71,960</td>
</tr>
<tr>
<td>6</td>
<td>$61,815</td>
<td>$82,420</td>
</tr>
<tr>
<td>7</td>
<td>$69,660</td>
<td>$92,880</td>
</tr>
<tr>
<td>8</td>
<td>$77,505</td>
<td>$103,340</td>
</tr>
<tr>
<td>+8</td>
<td>Add $7,845 for each additional person.</td>
<td>Add $10,460 for each additional person.</td>
</tr>
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</table>

For Hawaii:

<table>
<thead>
<tr>
<th>Household Size</th>
<th>150%</th>
<th>200%</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>$20,790</td>
<td>$27,720</td>
</tr>
<tr>
<td>2</td>
<td>$28,005</td>
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<td>3</td>
<td>$35,220</td>
<td>$46,960</td>
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<td>$42,435</td>
<td>$56,580</td>
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<td>$49,650</td>
<td>$66,200</td>
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<td>6</td>
<td>$56,865</td>
<td>$75,820</td>
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<td>$64,080</td>
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<td>8</td>
<td>$71,295</td>
<td>$95,060</td>
</tr>
<tr>
<td>+8</td>
<td>Add $7,215 for each additional person.</td>
<td>Add $9,620 for each additional person.</td>
</tr>
</tbody>
</table>

*Use these poverty guidelines for Form I-942, Request for Reduced Fee, from January 26, 2017 until new guidelines go into effect in 2018.

Note: Version current as of time of publication. Always check www.uscis.gov/forms for the most up to date information.

Fee Waivers
Form I-864P, Affidavit of Support

Used to determine the minimum income needed to sponsor most family based immigrants to show they have adequate means of support and not likely to rely on the U.S. government for financial support.

### 2017 HHS Poverty Guidelines for Affidavit of Support

#### For the 48 Contiguous States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands:

<table>
<thead>
<tr>
<th>Sponsor’s Household Size</th>
<th>100% of HHS Poverty Guidelines*</th>
<th>125% of HHS Poverty Guidelines*</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>For sponsors on active duty in the U.S. Armed Forces who are petitioning for their spouse or child</td>
<td>For all other sponsors</td>
</tr>
<tr>
<td>2</td>
<td>$16,240</td>
<td>$20,300</td>
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<tr>
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<tr>
<td>7</td>
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<td>$46,425</td>
</tr>
<tr>
<td>8</td>
<td>$41,320</td>
<td>$51,650</td>
</tr>
</tbody>
</table>

Add $4,180 for each additional person.

### For Alaska:

<table>
<thead>
<tr>
<th>Sponsor’s Household Size</th>
<th>100% of HHS Poverty Guidelines*</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>For sponsors on active duty in the U.S. Armed Forces who are petitioning for their spouse or child</td>
</tr>
<tr>
<td>2</td>
<td>$20,290</td>
</tr>
<tr>
<td>3</td>
<td>$25,520</td>
</tr>
<tr>
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<tr>
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<tr>
<td>6</td>
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<td>7</td>
<td>$46,440</td>
</tr>
<tr>
<td>8</td>
<td>$51,670</td>
</tr>
</tbody>
</table>

Add $5,230 for each additional person.

### For Hawaii:

<table>
<thead>
<tr>
<th>Sponsor’s Household Size</th>
<th>100% of HHS Poverty Guidelines*</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>For sponsors on active duty in the U.S. Armed Forces who are petitioning for their spouse or child</td>
</tr>
<tr>
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<tr>
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<tr>
<td>8</td>
<td>$42,720</td>
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</tbody>
</table>

Add $4,810 for each additional person.

### Federal Means-Tested Public Benefits

To date, Federal agencies administering benefit programs have determined that Federal means-tested public benefits include Food Stamps, Medicaid, Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).

### State Means-Tested Public Benefits

Each State will determine which, if any, of its public benefits are means-tested. If a State determines that it has programs which meet this definition, it is encouraged to provide notice to the public on which programs are included. Check with the State public assistance office to determine which, if any, State assistance programs have been determined to be State means-tested public benefits.

### Programs Not Included:

The following Federal and State programs are not included as means-tested benefits: emergency Medicaid, short-term, non-cash emergency relief, services provided under the National School Lunch and Child Nutrition Acts; immunizations and testing and treatment for communicable diseases; student assistance under the Higher Education Act and the Public Health Service Act; certain forms of foster-care or adoption assistance under the Social Security Act; Head Start Programs; means-tested programs under the Elementary and Secondary Education Act, and Job Training Partnership Act programs.

* These poverty guidelines remain in effect for use with Form I-864, Affidavit of Support, from March 1, 2017 until new guidelines go into effect in 2018.

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**Note:** Version current as of time of publication. Always check [www.uscis.gov/forms](http://www.uscis.gov/forms) for the most up to date information.
8 – Know Your Rights

This part explains:
• What your rights are if ICE approaches you in public
• What are your rights if ICE approaches you at home
• What happens if you are arrested
• How to locate someone who has been arrested

What if ICE agents approach me in public?
Do not run. Do not answer any questions unless you want to. You have a legal right to remain silent. Even if they ask about your citizenship, birthplace, or where you live, you may say, “I have the right to remain silent.”

If you already answered some questions, you can change your mind and stop answering.
Before you say your name or anything else, ask: “Am I free to go?”
• If they say YES, say: “I don’t want to answer your questions,” and walk away.
• If they say NO, use your right to remain silent and say: “I want to use my right to remain silent.” Then say, “I want to speak to a lawyer.”
• If ICE starts to search your pockets or belongings, say, “I do not agree to a search.”
• Do not lie. Do not show false papers. Do not run. Do not resist arrest.
• Do not answer questions about your immigration status or where you were born. ICE will use anything you say against you. Do not give them your foreign documents, like a passport, consular ID, or expired visas.

What if ICE goes to my home?
Have the phone number of an immigration lawyer, immigration legal service, or immigrants’ rights organization handy. Call as soon as ICE knocks.

⚠ Beware! ICE agents often pretend to be police officers. They may say they want to talk to you about identity theft or an investigation. Do not open the door or answer any questions unless they show you a valid warrant with your name and address, signed by a judge.

Important: If you open the door, you are giving them permission to enter your home. Try to stay calm and be polite. Don’t lie. Follow these steps:
1. Ask, “Are you from ICE?”
2. If they are from ICE, say, “Show me a valid warrant signed by a judge, with my name and address. Slip it under the door.”
3. If they don’t have one, or cannot do that, do NOT open the door and let them in. They do not have the right to enter your home. You can ask them to leave.
4. If they slip a warrant under the door, read it carefully. The warrant will either be a “Warrant of Removal/Deportation” (an immigration warrant) or an “Arrest Warrant”
A "Warrant of Removal/Deportation" does NOT give an officer the right to enter your home. Say, “You do not have the right to enter with this warrant. I will not open the door. Please leave.”

An “Arrest Warrant” does give officers the right to enter your home if it is valid. To be valid, it must:

- Be signed by a judge or magistrate,
- List the name of the person to be arrested

If the arrest warrant is not valid, you can say, “This is not a valid warrant. You may not enter. Please leave.”

If the arrest warrant is valid and the person whose name is on the warrant is there, that person should go outside, closing the door behind him/her.

If the person whose name is on the warrant is not there, say, “That person is not here. Please leave.” Do not open the door.

If the officers are looking for someone, you can ask them to leave their contact information. You do not have to tell them where to find the person. Do not lie.

**What if ICE arrests me?**

If ICE officers arrest you:

1. **You have the right to remain silent.** You do not have to answer any questions about:
   - Where you were born,
   - Your immigration status,
   - Your criminal record, or anything else.

   You may tell the officers you want to speak to a lawyer before answering any questions. Say, “I will remain silent until I talk to a lawyer.”

2. **Do NOT sign anything!** Never sign anything without talking to an immigration lawyer first. If you sign something you do not understand you could be deported without seeing a lawyer or a judge. Unless a judge has already ordered you deported or you have been in the U.S. for less than two years, you have the right to a hearing in front of an immigration judge before you are deported. Do not give up that right. You may be able to fight deportation.

3. **You have the right to call your consulate** or to have a law enforcement officer tell your consulate about your arrest. Law enforcement officers must let your consulate visit or speak with you if consular officials want to. Your consulate might be able to help you find a lawyer.

**How to Find Someone Arrested by ICE**

When ICE arrests someone they may hold the person in the state or transfer the person to another state. No matter where the person is held, it is best easier to find the person if you have their:

- A-number (Alien number),
• Date of birth, and
• Country of birth.

You may also search for a person by name, but your search must be an exact match with the name that ICE has in their files. You must still also provide the person’s country of birth and date of birth.

**Start Your Search Online**

Start your search at ICE’s website: [https://locator.ice.gov](https://locator.ice.gov).

This website is ICE’s Online Detainee Locator System (ODLS). You can use this website to locate immigrants who are detained now, called detainees. This website also allows you to identify immigrants who were released from detention in the last 60 days. The website explains how to do a search.

**If You Cannot Find Your Person**

If the search results say “detainee not found,” it may mean:

- the information used to search for the person was incorrect, or
- a different branch of law enforcement arrested the person, or
- the person you are looking for is a child under 18. (ODLS does not have information about children under 18.)

If your ODLS search does not give any results, you may contact ICE’s Office of Enforcement and Removal Operations, called ERO, for short. Start in the area where you think the person was arrested. They will ask you for the person’s:

- Alien number (A-number),
- Date of birth, and
- Country of birth.

For New York City: 212-264-4213.
For New Jersey: 973-645-3666.

You may also contact the consulate or embassy of the person’s country of origin. Many countries have treaties with the U.S. that require the U.S. to notify them if they detain one of their citizens.

**To Contact Someone Arrested by ICE**

If you can locate the detainee, call the facility where they are held. Ask about visitation rules and hours.

**Warning!** Detention centers do criminal background and immigration checks on all visitors. If you are an undocumented immigrant and visit a detention center, you may also be arrested and deported.
Sometimes ICE Releases Detainees

ICE sometimes allows detainees to leave the detention center before their removal deportation hearing.

You might be able to leave the detention center if:
- You have a very serious medical problem,
- You have young children and you are the only caregiver, or
- You pay a bond.

Illness or Young Children

If you are released because you are sick or have young children, you will not have to pay a bond. You will be released on your promise to return, or own recognizance.

Release on Bond

You may ask to be released on bond. ICE or an immigration judge will decide if you qualify based on many factors, including factors that indicate you may be dangerous or a flight risk, and other factors that weigh in your favor.

Criminal Record or Previous Deportation

Provide a written explanation of any previous criminal record, including the circumstances and how you may have changed since then. If you cannot show the judge that you have changed, you will not be released on bond.

An immigration judge will be more likely to approve release if you can prove you have ties and support in the community.

Do as many of these things as you can:

Send Letters of Support

Gather letters and statements of support from:
- Family members,
- Employers, and
- Community and religious leaders.

Ask your supporters to:
- Address their letters to the immigration judge,
- Include their name and immigration status on the letter, and
- Explain their relationship to you.

Find a Sponsor and Get a Sworn Declaration

Find a reliable adult – a sponsor – who is willing to make a written promise to bring you back for all of your ICE appointments and court dates.

The sponsor must also agree to let you live in their house and to support you financially.

The sponsor must have legal immigration status in the U.S., and the written promise must list his or her full name, address, immigration status, employment status, and relationship to you.
Your Employment History
Provide copies of pay stubs and a letter of employment that says what job you will return to when you are released. The letter should list the:

- Employer's name,
- Length of your employment,
- Job title and duties, and
- Hours and salary.

Proof of Immigration Status of Close Family
Copies of U.S. birth certificates, naturalization certificates, or green cards of any close relatives, especially parents, spouse, or children.

Paying the Bond
If ICE or the immigration judge agrees to release you on bond, you must go to one of the main ICE offices to pay (post) the bond in person.

In New York City, go to:
ICE Bond Office
26 Federal Plaza, Room 9-110.
(Located on Broadway between Worth and Duane Street.)

There are Two Ways to Post Bond:
1. Pay in full with a certified check, cashiers check or money order
   Payable to U.S. Department of Homeland Security
   The person paying for the bond (the obligor) must be:
   - 18 years or older and a U.S. citizen or green card holder, and
   - Have a driver's license, valid green card, passport with I-551 stamp, U.S. passport, or a Certificate of Naturalization or Citizenship, or other government ID.

   Warning! ICE does criminal and immigration background checks on people who post bond. Anyone with an outstanding arrest warrant or who is an undocumented immigrant, or permanent resident with criminal convictions should NOT post bond without talking to an authorized immigration law expert first.

   The person paying for the bond must have the detainee's:
   - Alien number (A-number),
   - home address,
   - date of birth, and
   - country of birth.

2. Pay with a bail bond
   The bond agent pays the full bail. In exchange, you make payments plus interest and fees to the bond agent. The bond agents usually only provide bonds to detainees
with strong ties to the U.S. They require property, savings, or other items of value for collateral. You can search for an authorized bail bond agent online.

**How to Get the Bond Money Back**

If you win your case and can stay in the U.S., the person who paid your bond (the obligor) will receive Form I-340, Notice to Obligor to Deliver Alien. That form means the bond is canceled, and the obligor can process a refund at any ICE office that accepts bonds. It takes about 6 weeks to get the refund.

If you lose your case, and are deported or leave the U.S. voluntarily, the person who paid your bond must:

- Go to the ERO to get a G-146 or a I-392, which will be placed in a sealed DHS envelope marked “TO BE OPENED BY U.S. CONSULATE OR EMBASSY OFFICIAL ONLY.”
- Take the sealed envelope to a U.S. Embassy or Consulate outside of the U.S. along with your travel document/passport. The U.S. official will mail the G-146/I-392 to ICE.
- When the ERO receives the verified G-146 or I-392 from abroad, the bond is canceled and the obligor receives a letter on how to recover the bond money.

If the immigrant does not meet all obligations set by ICE and the immigration court, such as going to all court hearing and appointments, the obligor will forfeit the bond (lose the money).
This part has advice for all immigrants in the U.S.

It explains:

- How to find an authorized immigration law expert
- Paths to legal immigration
- How to prepare in case of arrest

**Find an Authorized Immigration Law Expert**

- The U.S. does not automatically provide legal help in immigration cases. Your embassy or consulate may be able to give you legal help, advice, or support. Search here, to find out if there is a consulate near you: www.embassy.org/embassies.
- See Part 12 for a list of free, low-cost, and private legal resources for immigrants.

**Paths to Legal Immigration Status**

If you are undocumented, you may qualify for legal status, but not know it. Here are some examples:

- **Victims of crime** who cooperate with law enforcement may qualify for U status.
- **Children under 21 in New York** (under 18 in other states) whose parents are not in the U.S. or who cannot or do not care for them, may qualify for a green card (Special Immigrant Justice Status).
- **Long-term immigrants** who have a parent, spouse, or child who is a U.S. citizen or green card holder and meet other qualifications may have a defense to deportation.

Speak to an authorized immigration expert before applying for these or any other immigration statuses.

*If you have a path to legal status, get on it!*  

- If you are married to a U.S. citizen or green card holder, start applying for your green card right away.
- If your parent, brother or sister, or child under 21 is a U.S. citizen or green card holder ask them to apply for a green card for you. It may not be easy, but it could become more difficult later. Start now!

**Be Prepared: Get These Things Ready Now**

If the immigration authorities arrest you, you will need the information listed below.

- **Important!** Leave a copy in a safe place. Also, give a copy of this information to your family or someone you trust.
Your Records

- Your full name, and any other names used,
- Date of birth,
- Date and place you entered the U.S.,
- Current immigration status,
- Alien number (also called “A” number, if any),
- Copies of any immigration papers filed with USCIS,
- Records of any arrests or convictions,
- Records of any previous deportation orders,
- Other personal documents such as your passport, birth certificate, marriage certificate, divorce certificate, and your children’s birth certificates.

To find out about any previous deportation or immigration orders, call the automated Immigration Court Information System: 800-898-7180. (They will ask for the person’s “A” number, if any.) See Section 10 for more information.

Make Arrangements for Child Care and/or Medical Needs

Make sure your children know what to do if you get arrested, such as call Auntie or go to a neighbor. Keep a list of names and phone numbers of trusted adults they can call. Make sure your children’s school knows how to get in contact with your trusted person.

If anyone at home has special medical needs such as the need to take medication, show a trusted adult where it is. If needed, show them or leave instructions about how to administer it. Make a list of doctors and pharmacies.

Your Trusted Person May Need a Special Legal Authorization

The person you trust to care for your children may need to:

- Take money from your bank account to pay your bills,
- Access confidential health, school or insurance information,
- Get health care for your children, or
- Sign the children up for school, sports teams, or other activities.

You may need a Power of Attorney or a document that makes your trusted person a standby guardian in case ICE arrests you. Contact the Family Court in the county where you live to find out what documents are needed.

Gather Proof of 2-Year Presence in the United States

Immigrants who entered the U.S. illegally and cannot prove they have been in the U.S. for 2 years can be deported immediately. ICE does not have to give them a hearing in front of a judge.

If you are undocumented, keep copies of proof of your 2-year presence with you at all times. For example, have copies of utility bills, children’s school records, tax records, and/or birth certificates of children born in the U.S.
There are many reasons why you should request copies of your immigration or criminal records before applying for any immigration benefit.

This section will explain:
- How to get copies of your immigration records from the government
- Why you need to get copies of your immigration record
- How to ask for another person’s records
- How to request your immigration records and how long it will take to receive them
- How to get copies of your criminal records from different government agencies

Getting your Immigration Records: Freedom of Information Act (FOIA) Requests

The Freedom of Information Act (FOIA) was signed into law to provide individuals with the right to access copies of certain records from federal agencies such as the Federal Bureau of Investigations (FBI), Department of State (DOS), Department of Labor (DOL), and for immigration purposes, the Department of Homeland Security (DHS). There are three bureaus within DHS that deal with immigration (see Section 1 of this manual for more information). They are:
- United States Citizenship and Immigration Services (USCIS) for information about applications or petitions you have submitted;
- U.S. Customs and Border Protection (CPB) for records of entries or exits and/or border crossings into the United States; and
- U.S. Immigration and Customs Enforcement (ICE) for immigration enforcement records.

If you were ever in deportation, exclusion, or removal proceedings, you can submit a FOIA request to the U.S. Department of Justice (DOJ) Executive Office for Immigration Review and (EOIR) to get a copy of your immigration court records.

There is no central database for all federal records. Each agency has their own procedures and processing times.

Why Make a FOIA Request?

All immigrants have an “A” file maintained by DHS. This “A” file contains your immigration history and any information you disclosed on prior applications or petitions such as any marriages and/or criminal history on your green card application. If you want to make a FOIA request to review your “A” file, you should file it before applying for any immigration benefit or when in removal (deportation) proceedings. Your “A” number is what DHS uses to access your entire record.
Can I Ask for Another Person’s Records?

Yes, as long as; 1) The person’s record you are requesting has given you their written permission verifying their identity, and 2) Either including their notarized signature or a written statement “signed under penalty of perjury” allowing disclosure of their records to you. If the person is deceased, you need to submit a copy of the death certificate or an obituary.

If you are a parent or guardian filing a FOIA request on behalf of a minor child, submit a birth certificate, adoption decree or similar document naming you as a legal parent or guardian along with proof of your identity by stating your full name, current address, date of birth, place of birth, Alien number (if known), and your signature, which must be either notarized or as written statement “signed under penalty of perjury.”

A minor is able to make a FOIA request for their own files without the written permission of their parent or guardian. An attorney can also represent the minor and file the request on the minor’s behalf.

Please note that information will not be released if it will prejudice national security or law enforcement, or if it will be an unwarranted intrusion into a person’s privacy. For example, if you requested a copy of an adjustment of status application (Form I-485) filed on your behalf by a prior spouse, your spouse’s information will be deleted from the copies of the information you will receive in response to your request.

Is There a Fee for Filing a FOIA Request?

Most FOIA requests are free and will not cost anything unless the immigration record is over 100 pages or if the cost exceeds a certain amount.

How Do I File a FOIA Request?

Before making a FOIA Request, identify which agency within DHS will have the information you are requesting. For example, if you are looking for a record of whether you were arrested and/or stopped at the border then your request should be filed with CBP. FOIA request(s) can be made with more than one agency. To identify the agency that you need to file with, go to the USCIS website www.uscis.gov/foia to review the list of agencies.

Requests can be made by mail, fax, e-mail or online. Check each agency’s website for more information.

Online Requests

DHS has created a new FOIA resource page on their website to both file and check the status of a request online. To file a DHS FOIA online, go to: www.dhs.gov/foia. Each agency (USCIS, CBP, ICE) has their own protocols for how to make requests.

Mail, Phone, Fax or Email Requests

United States Citizenship and Immigration Service (USCIS)

For copies of “A” file records, use Form G-639, Freedom of Information Act/Privacy Act Request. Form G-639 can be obtained online at www.uscis.gov/forms or by calling USCIS at 800-870-3676.
Customs and Border Protection (CBP)
For copies of records of entries/exports and for border crossing records, use USCIS Form G-639.
Online requests: www.cbp.gov/FOIA

U.S. Immigration and Customs Enforcement (ICE)
For copies of immigration enforcement records, use USCIS Form G-639.
Online requests: http://www.ice.gov/foia

Executive Office for Immigration Review (EOIR)
Do not use Form G-639 for copies of your deportation/removal proceedings file. Instead, make a written request to EOIR that includes the following information:
- Your full name, any aliases,
- immigration hearing location, and
- alien registration “A” number. If you don’t know your A-number, or if the case occurred before 1988, provide the date of your Order to Show Cause (first notice to appear in court), country of origin, and the place where your immigration hearing was held.
Email requests: EOIR.FOIARequests@usdoj.gov

How Do I Make a FOIA Request to Other Agencies?

Department of State (DOS)
For records of denied visa applications, mail a notarized written request to the Department of State. If the person who is the subject of the request has already immigrated to the U.S. and received their green card, then the record will be with USCIS, not with DOS. If you are seeking records of a case pending overseas, then you must contact the U.S. embassy or consulate abroad for information.
Mail to:
Office of Information Programs and Services
Freedom of Information Act Request
A/GIS/IPS/RL
U. S. Department of State
Washington, D. C. 20522-8100
Online requests: http://foia.state.gov

Federal Bureau of Investigation (FBI)
For records of investigative or incident files from the FBI, a sample request is available on the FBI website at https://www.fbi.gov/foia/sample-fbi-foia-request-letter. Do not use this process to request an FBI Identity History Summary Check (RAP Sheet).
Email requests: foiparequest@ic.fbi.gov
For information about requesting a copy of “FBI Identity History Summary” (RAP Sheets), see page 78.
Department of Labor
For Foreign Labor Certification records from the Department of Labor:
Mail to:
Federal Bureau of Investigation
Attn: FOIA/PA Request
Record/Information Dissemination Section
170 Marcel Drive
Winchester, VA 22602-4843
E-mail requests: foiarequests@dol.gov

How Long Does a FOIA Request Take?
Processing times vary by agency. Usually requests are processed within 30 business days, excluding requests that are complex and may take longer because the files need to be located and compiled.
Expedited processing of the FOIA request can be made if it is need for an interview with USCIS or a court date with EOIR. The request must be included in the original request with a copy of the USCIS interview notice or Form I-862, Notice to Appear in Immigration Court.

How Do I Check My FOIA Request Status?
Once you have received your acknowledgment letter from the agency with your control number, you can check your status online at: https://egov.uscis.gov/foiawebstatus/ or via the following: E-mail: USCIS.FOIA@dhs.gov

Getting Your Criminal Records

How to Request Your Identity History Summary (Rap Sheet) from the FBI
There are two ways to obtain a copy of your Identity History Summary, usually called an FBI Rap Sheet;
1. Submit a request directly through the FBI, or
2. Have a third party “FBI-approved Channeler” obtain it for you.

Submit a request directly to the FBI
Find out more information, instructions, and updated fee information by going to www.fbi.gov.
To complete requests to the FBI, you will need to obtain an original rolled-ink set of all ten fingerprints. In New York City, fingerprinting is available through the New York City Police Department at One Police Plaza, New York, NY 10038-1497, Room 152A. Before you go in person, call 646-610-5541 for more information as well as updated fees. Make sure to explain that your fingerprints are needed for an FBI record check, not a New York State record check.
There is a fee for requesting identity fingerprinting. Summary and processing times usually take 13-15 weeks.
Getting Information About Police Arrests and Charges

If you were arrested by the police or were charged with committing a crime, you must get all Certificates of Disposition before submitting any immigration form and speak to an authorized immigration law expert.

A “Certificate of Disposition” is an official court document that indicates the current status of a case or its final outcome. To request a Certificate of Disposition, bring the following items to the Central Clerk’s Office in the court in which your case was processed:

- Defendant’s full name and date of birth
- Docket Number (if you know it)
- Picture I.D.
- $10.00 (exact change only). If you are receiving public benefits, some states will provide the certificate for free if you present your valid state Benefit I.D. card.

If you have had encounters with law enforcement outside of New York City, you still need to obtain the certified criminal court disposition from the relevant courts.

NEW YORK CITY AREA COURT CLERK OFFICES BY COUNTY

<table>
<thead>
<tr>
<th>Bronx County</th>
<th>New York County (Manhattan)</th>
<th>Richmond County (Staten Island)</th>
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<tbody>
<tr>
<td>Criminal Court</td>
<td>Criminal Court</td>
<td>Criminal Court</td>
</tr>
<tr>
<td>215 East 161st Street, 1st Floor</td>
<td>100 Centre Street, Room 150</td>
<td>67 Targee Street, 1st Floor</td>
</tr>
<tr>
<td>Bronx, NY 10451</td>
<td>New York, NY 10013</td>
<td>Staten Island, NY 10301</td>
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<tr>
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<tr>
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<td>Criminal Division</td>
<td>Criminal Division</td>
</tr>
<tr>
<td>265 East 161st Street, 2nd Floor</td>
<td>100 Centre Street, Room 1000</td>
<td>26 Central Avenue, 2nd Floor</td>
</tr>
<tr>
<td>Bronx, NY 10451</td>
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<tr>
<th>Kings County (Brooklyn)</th>
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</tr>
<tr>
<td>120 Schermerhorn Street, Room 510</td>
<td>125-01 Queens Blvd., Room G-78</td>
</tr>
<tr>
<td>Brooklyn, NY 11210</td>
<td>Kew Gardens, NY 11415</td>
</tr>
<tr>
<td>Supreme Court</td>
<td>Supreme Court</td>
</tr>
<tr>
<td>Criminal Division, Room 13.06 320 Jay Street</td>
<td>Criminal Division, Room 710</td>
</tr>
<tr>
<td>Brooklyn, NY 11210</td>
<td>125-01 Queens Boulevard</td>
</tr>
<tr>
<td></td>
<td>Kew Gardens, NY 11415</td>
</tr>
</tbody>
</table>
Getting Information About MTA Citations

If you were issued a citation ("subway ticket") by the Metropolitan Transportation Authority (MTA), you must get a “Letter of Disposition” for MTA fines and summonses.

Request a “Letter of Disposition” for MTA Fines and Summonses at the:

**Transit Adjudication Bureau**
29 Gallatin Place, Third Floor
Brooklyn, NY 11201
Tel: (347) 643-5805

Open Monday to Friday 8:00 a.m. to 4:45 p.m.

**Bring the following documents:**
- Government ID
- Social Security Card (If you do not have a Social Security Number, provide a notarized statement that you have not been issued one.)

**Payment:**
Check, credit card, money order, made payable to the “Transit Adjudication Bureau,” or cash (exact change only) as follows:
- $5.00 if you have one violation (or none)
- $10.00 if you have two or more violations

**Processing time:**
One week

A “Letter of Disposition” for MTA Fines and Summonses will not be issued if there are any outstanding tickets.
Many forms, certificates, identification cards and documents issued by the United States Citizenship and Immigration Services (USCIS) must be renewed before their expiration dates and must be replaced when lost, stolen, or damaged.

This section will explain:
- Where to find the most up-to-date information on immigration forms and fees
- The processes for renewing and replacing documents and their related fees in more detail
- How to find USCIS processing times for these requests

Where to Find Information about Forms and Fees

Never pay anyone for immigration forms. All USCIS forms can be printed for free online at www.uscis.gov/forms or by calling the toll-free forms request line at 800-870-3676.

For the most updated information on immigration forms and fees, please check www.uscis.gov/forms. If you have a form already, be sure you have the current edition. USCIS most often will not accept an outdated form.

Warning! USCIS conducts thorough background checks when determining requests for renewal and replacement of documents. Consult an authorized immigration law expert before submitting your request to renew or replace documents if:
- You have abandoned your legal permanent residence by working in a foreign country and not filing U.S. income tax returns, or by having remained outside the United States for more than one year.
- You believe any of the grounds of inadmissibility apply to you, see Section 5, page 39 for more details.

United States Citizenship and Immigration Services (USCIS) and the United States Department of State (DOS) no longer need original documents for renewal and/or replacement of documents. You may submit photocopies instead.

Processes for Renewing and Replacing Documents

Permanent Resident Cards (Green Cards)

Expanding, Expired, Lost or Damaged Cards:

Complete Form I-90, Application to Replace Permanent Resident Card electronically through the e-filing system at www.uscis.gov/e-filing or by completing a paper copy. You cannot submit the Form I-90 online if you are requesting a Fee Waiver. Check www.uscis.gov/forms for the most up to date version of the form. USCIS will only accept current versions of the form. Include the filing fee.
As of the time of publication, the application fee is $540 which includes both the form and fingerprint fees. Check [www.uscis.gov/forms](http://www.uscis.gov/forms) to see the most updated filing fees.

**Submit Application:**

If application is being mailed, ensure the check or money order is made payable to “U.S. Department of Homeland Security.” If the applicant is eligible to submit the form electronically, payment must be made with a credit or debit card.

By Mail (USPS): Send Certified Mail with Return Receipt Requested, to:

**USCIS**

P.O. Box 21262
Phoenix, AZ 85036

After submitting your application, you will be notified by mail of a date and time to appear at your local Application Support Center (ASC) to be fingerprinted and photographed.

**What Should I Bring to My Biometrics (Fingerprint) Appointment?**

Your original expiring or expired LPR card. If the card was lost, stolen or damaged, bring a valid government issued ID, such as driver's license, state issued picture ID card, or passport. Do not bring passport style photographs. Your photo will be taken at the appointment.

**Conditional Residents**

Your status as a permanent resident does not expire when your green card expires. However, if you are a conditional resident, your resident status is valid for only two years. You generally must apply within 90 days before the two years expires to remove the conditions on your permanent residence. Conditional residents must use **Form I-751, Petition to Remove the Conditions on Residence**, not **Form I-90, Application to Replace Permanent Resident Card**.

If you fail to remove the conditions, your conditional status will expire and you will become deportable.

**Replacing a Card Because Your Biographic Data Changed**

You may file for a new permanent resident card if any biographic data has been legally changed, such as a new name. Submit a copy of the court order, divorce decree or marriage certificate reflecting your new name with your **Form I-90, Application to Replace Permanent Resident Card**. If the change is for any other biographical data, you must submit copies of documentation to support the change requested.

**To Correct a Card**

Complete **Form I-90, Application to Replace Permanent Resident Card**. If the error on the permanent resident card was the fault of USCIS, you do not have to pay the filing fee. If the error was not the fault of USCIS, then you must pay the filing fee.

If the error was the fault of USCIS, then on the I-90 form itself, under Part 2, section A, the applicant should select box “2.d” “My existing card has incorrect data because of Department of Homeland Security (DHS) error. (Attach your existing card with incorrect data..."
along with the application.)” Also attach a copy of the incorrect permanent resident card to the form. If possible, include a photocopy of the original application submitted showing the correct information to prove the original documentation was correct and/or other documents to support the claim.

Mail the application by Certified Mail with Return Receipt Requested or Priority Mail to the Phoenix, Arizona mailing address provided above.

If Your Card Never Arrived

If USCIS mailed the permanent resident card and it has been more than 30 days and you have not moved from the address you provided during the application or immigrant visa process, call the USCIS National Customer Service Center at 800-375-5283 to inquire about the status. Ask if the card was returned back as undeliverable to USCIS.

Card Never Received by Applicant but not Returned to USCIS

If USCIS mailed the permanent resident card and it has been more than 30 days and you have not moved from the address you provided during the application or immigrant visa process and the Post Office did not return the permanent resident card to USCIS as undeliverable, you must file a new Form I-90 with the filing fee.

Card Never Received by Applicant and Returned to USCIS

If USCIS mailed the permanent resident card and it has been more than 30 days and you have not moved from the address you provided during the application or immigrant visa process and the Post Office did return the card, then you must complete a new Form I-90, Application to Replace Permanent Resident Card under Part 2, section A the applicant should select box “2.b” “My previous card was issued but never received.”

Mail the application by Certified Mail with Return Receipt Requested or Priority Mail to the Phoenix mailing address provided above. No filing fee needs to be included if the above conditions have been met.

Applicants must include a copy of their Form I-797, Notice of Action, to prove the issuance of a green card, such as for their previously filed Form I-485, Form I-751, or Form I-90 and a copy of a government-issued form of photo ID that contains the applicant’s name, date of birth, and signature.

Naturalization Certificates and Certificates of Citizenship

To Replace an Incorrect, Lost, Stolen, Destroyed, or Mutilated (Damaged) Certificate:

Complete Form N-565, Application for Replacement Naturalization/Citizenship Document

- For lost, stolen or destroyed certificates, in Part 2, Question 2 select box “A” and explain how the certificate was lost, stolen or destroyed.
- If the certificate is mutilated (damaged), in Part 2, Question 2 select box “B” and attach the original incorrect or mutilated certificate.
- If the certificate has incorrect information due to typographical or clerical error, in Part 2, Question 2 select box “C” and attach the incorrect certificate.
- If applying because of a name change, in Part 2, Question 2 select box “D” and
submit the original certificate and a copy of the marriage certificate, divorce decree, or court order showing the name change.

- Include Two Passport Photos. Be sure to print in pencil your name and “A” number on the back of each photo.
- Include the Filing Fee of $555 made payable to the “U.S. Department of Homeland Security” or, if you are unable to pay the fee, submit a Form I-912, Request for Fee Waiver.
- If you selected “2.c.” you do not need to include a filing fee due to a USCIS error. Otherwise, please check www.uscis.gov/forms for the most updated filing fee and mailing address.

**Travel Documents**

**To Correct a Refugee Travel Document or Reentry Permit**

Submit a letter along with the incorrect document to the office that sent your document or permit. No specific form or fee is required.

**To Obtain, Replace or Correct a Form I-94, Arrival-Departure Record**

To obtain an I-94 for persons who entered the United States via air or sea on or after April 30, 2013 go to the CBP website at www.cbp.gov/i94. If the I-94 cannot be obtained online, follow the instructions below to replace an I-94.

**To correct an I-94 Issued by USCIS That is Incorrect Due to a USCIS Error**

- File Form I-102, Application for Replacement/Initial Arrival/Departure Document and provide proof of USCIS error. If USCIS made the error, no filing fee is required.

**To Replace an I-94**

- Submit any available information to prove entry to the United States including a copy of the biographic page of your passport. As of the time of publication, the filing fee for the Form I-102 is $445.
- Do not use Form I-102 to request a correction on an I-94 issued by U.S. Customs and Border Protection (CBP).
- To correct an I-94 issued by CBP, you should contact the nearest CBP office or port-of-entry. Visit the CPB website at www.cbp.gov for more details.

**To Renew, Correct, Change or Replace a Lost, Stolen or Damaged U.S. Passport**

**Renew/First Time Passport**

Go to http://travel.state.gov/content/travel/en.html and click on “U.S. Passport”, “Get Started” and follow the instructions provided. The form can be completed electronically or you can download the application at: http://travel.state.gov/content/passports/en/passports/forms.html.

**Replace a Lost, Stolen or Damaged Passport**

Online: Go to http://travel.state.gov/content/passports/en/passports/lost-stolen.html click on “DS-64” and follow the instructions provided to complete Form DS-64, Statement Regarding A Lost or Stolen U.S. Passport Book and/or Card.

If you are in the United States and are traveling in 2 weeks or less:
• Make an appointment to apply in person at a Passport Agency or Center (http://travel.state.gov/content/passports/en/passports/information/where-to-apply/agencies.html) to replace your passport in 8 business days or less (based on need, some restrictions apply).
• You must submit Form DS-11, Application for A U.S. Passport, in person to the agency. If you have not already reported your lost or stolen passport online, you will not need to fill out a paper form unless you apply at an agency within 48 hours of submitting the online report.

If you are in the United States and are not traveling within 2 weeks:
• You must submit Form DS-11 in person at an authorized Passport Application Acceptance Facility (https://iafdb.travel.state.gov/). If you have not already reported your lost or stolen passport online, you will not need to fill out a paper form unless you apply at an agency within 48 hours of submitting the online report.

Call toll free the National Passport Information Center 24 hours a day seven days a week to report a lost or stolen passport: 877-487-2778 TTY 888-874-7793

Complete, sign and mail Form DS-64 to the address on the form. Passport forms can be found at: http://travel.state.gov/content/passports/en/passports/forms.html

For overseas assistance with replacing a U.S. passport contact the local U.S. Embassy or Consulate (U.S. Citizen Services) at www.usembassy.gov.

**USCIS Processing Times**

USCIS processes applications in the order they receive them. These charts show processing times for common applications and petitions processed by USCIS Field (Local) Offices and National Service Centers. For the most up-to-date information on USCIS processing times go to www.uscis.gov/processingtimes.

<table>
<thead>
<tr>
<th>Form Number</th>
<th>Form Name</th>
<th>Now Processing Applications Filed On:</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-485</td>
<td>Application to Register Permanent Residence or to Adjust Status</td>
<td>4 / 22 / 2016</td>
</tr>
<tr>
<td>N-400</td>
<td>Application for Naturalization</td>
<td>5 / 19 / 2016</td>
</tr>
</tbody>
</table>
### Field Office Processing Dates for Long Island City as of: February 28, 2017

<table>
<thead>
<tr>
<th>Form Number</th>
<th>Form Name</th>
<th>Now Processing Applications Filed On:</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-485</td>
<td>Application to Register Permanent Residence or to Adjust Status</td>
<td>4 / 4 / 2016</td>
</tr>
<tr>
<td>N-400</td>
<td>Application for Naturalization</td>
<td>5 / 23 / 2016</td>
</tr>
<tr>
<td>N-600</td>
<td>Application for Certification of Citizenship</td>
<td>3 / 13 / 2016</td>
</tr>
</tbody>
</table>

### Field Office Processing Dates for National Benefits Center as of: February 28, 2017

<table>
<thead>
<tr>
<th>Form Number</th>
<th>Title</th>
<th>Basis for Filing</th>
<th>Now Processing Applications Filed On:</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-102</td>
<td>Application for Replacement/Initial Nonimmigrant Arrival/Departure Record</td>
<td>Initial issuance or replacement of a Form I-94</td>
<td>2.5 Months</td>
</tr>
<tr>
<td>I-131</td>
<td>Application for Travel Document</td>
<td>All other applicants for advance parole</td>
<td>3 Months</td>
</tr>
<tr>
<td>I-539</td>
<td>Application to Extend/Change Nonimmigrant Status</td>
<td>All other extension applications</td>
<td>2.5 Months</td>
</tr>
<tr>
<td>I-600</td>
<td>Petition to Classify Orphan as an Immediate Relative</td>
<td>U.S. citizen filing to adopt an orphan</td>
<td>2.5 Months</td>
</tr>
<tr>
<td>I-765</td>
<td>Application for Employment Authorization</td>
<td>Based on a pending I-485 adjustment application [(c)(9)]</td>
<td>3 Months</td>
</tr>
<tr>
<td>I-765</td>
<td>Application for Employment Authorization</td>
<td>All other applications for employment authorization</td>
<td>3 Months</td>
</tr>
<tr>
<td>I-824</td>
<td>Application for Action on an Approved Application or Petition</td>
<td>To request further action on an approved application or petition</td>
<td>4 Months</td>
</tr>
<tr>
<td>I-90</td>
<td>Application to Replace Permanent Resident Card</td>
<td>Initial issuance or replacement</td>
<td>7 / 11 / 2016</td>
</tr>
<tr>
<td>I-90</td>
<td>Application to Replace Permanent Resident Card</td>
<td>10-year renewal</td>
<td>7 / 11 / 2016</td>
</tr>
</tbody>
</table>
This part lists resources for:

- Referrals to free and low cost immigration services
- Private legal services
- How to report immigration fraud

The information listed below changes frequently. Contact each organization directly to find current information about services, languages offered, appointments, etc.

**Free and Low-Cost Immigration Services**

**New Americans Hotline**

[Funded by NY State's Office for New Americans (ONA)]

New York City: **212-419-3737**
Outside New York City: **800-566-7636**

**311** for immigration info

[www.newamericans.ny.gov](http://www.newamericans.ny.gov)

**Multi-lingual** hotline helps you find free and low-cost authorized **legal immigration service providers** and **English** and **Civics classes**.

**Immigration Law Help**

[immigrationlawhelp.org](http://immigrationlawhelp.org)

Search for free and low-cost **immigration legal services** providers in all 50 states. Enter your zip code to find immigration legal services in your area, to help with family-based immigration, Temporary Protected Status (TPS), visas for abused spouses (VAWA), asylum, deportation defense, and more.

Click on ‘**Areas of immigration legal assistance**’ at bottom of page to refine your search.

**U.S. Citizenship and Immigration Services (USCIS)**

Click here to find English or Civics citizenship preparation classes by zip code:

[www.uscis.gov/findaclass](http://www.uscis.gov/findaclass)

Click here to find citizenship resources and study materials for the naturalization interview and test: [www.uscis.gov/citizenship](http://www.uscis.gov/citizenship)

**Private Lawyers**

**American Immigration Lawyers Association (AILA)**

Search for AILA private lawyers by language, area of immigration expertise, and geographic area using AILA’s Immigration Lawyer Search Tool: [www.ailalawyer.com](http://www.ailalawyer.com)
New York City Bar Association

Legal Referral Service
English: 212-626-7373
Spanish: 212-626-7374
www.nycbar.org/get-legal-help
The New York City Bar Association’s Legal Referral Service provides referrals to private lawyers who are screened for experience, legal knowledge and ethics.

To Report Immigration Fraud

New Americans Hotline
New York City: 212-419-3737
Outside New York City: 800-566-7636
Contact them if you are a victim of immigration fraud or to report fraudulent activity in your community.

Protecting Immigrant New Yorkers (PINY) Task Force
www.protectingimmigrants.org
For more information about common scams and steps to report immigration scams.

To Report Immigration Fraud outside New York State
www.uscis.gov/avoid-scams
www.stopnotariofraud.org
CUNY IMMIGRATION CENTERS

FULL-TIME IMMIGRATION CENTERS*

**Bronx**
Hostos Community College Immigration Center
427 Walton Ave., T-501
Bronx, NY 10451
718-518-4395

**Brooklyn**
Medgar Evers College Immigration Center
1150 Carroll St., Room 226
Brooklyn, NY 11225
718-270-6292

**Manhattan**
City College Immigration Center
North Academic Center, Room 1-206
160 Convent Ave.
New York, NY 10031
212-650-6620

CUNY Xpress Immigration Center
5030 Broadway, Suite 615
New York, NY 10034
646-664-9350

**Queens**
Flushing Immigration Center
39-07 Prince St., Suite 2B
Flushing, NY 11354
718-640-9223

York College Immigration Center
Welcome Center Atrium
94-20 Guy R. Brewer Blvd.
Jamaica, NY 11451
718-262-2983

*Board of Immigration Appeals (BIA) recognized

PART-TIME LOCATIONS

We offer part-time services at more than 30 New York City Council Member Offices and Affiliated Sites. Services are limited to application assistance with Citizenship, Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status (TPS). Consultations are available on most immigration topics. For directions and hours of service for our locations visit www.cuny.edu/citizenshipnow.

OUR SERVICES

We provide assistance with:
- Naturalization
- Family based petitions
- Adjustment of status
- Consular processing
- Certificates of citizenship
- Replacement of lost/damaged USCIS documents
- Diversity Visa lottery entries
- Fee Waiver Applications
- Temporary Protected Status (TPS)
- Deferred Action for Childhood Arrivals (DACA)

We also offer:
- Referrals and consultations on other immigration-related issues
- Free pictures for applications that require them

All centers require an appointment

ALL SERVICES ARE FREE