



VOCABULARY LIST

Adjustment of Status

The process of obtaining lawful permanent residency inside of the United States. See INA § 245; 8 U.S.C §1255

Affidavit of Support

The U.S. government presumes that many intending immigrants will become a public charge. To overcome this presumption, many intending immigrants must obtain an Affidavit of Support. This affidavit is a contract between the person signing the affidavit, the government and the intending immigrant. Anyone signing this affidavit promises to repay the government for the value of any means-tested public benefit that the intending immigrant receives until he either becomes a citizen, can be credited with 40 quarters as defined by social security or dies. The intending immigrant can also bring a claim against the signer to be maintained at 125% of the federal poverty level. See INA § 213A; 8 U.S.C §1183a and implementing memoranda by USCIS and U.S. Department of State

Approval Letter

A letter from the USCIS which approves an intending immigrant's application for some kind of benefit. It could be an approval for anything from an employment authorization document, a petition for a family member, or an application for permission to travel. The approval letter will also state the priority date for those intending immigrants in the priority system.

Asylee

Someone who has entered the U.S. and then proven to either the asylum office or the immigration court that he or she cannot go home due to a reasonable fear of being persecuted for one of the following five reasons: (1) race, (2) nationality, (3) religion, (4) political opinion, or (5) member of a social group (examples of social groups include a wide range of groups such as membership in a merchant class, being a homosexual, being a member of a certain tribe, being a battered spouse). See INA §101(a) (42) (A) and 8 U.S.C §1101(a) (42) (A). Such persecution can come from either the government or a group the government cannot control. Usually, people must apply within one year of their entry into the U.S. See INA § 208(a) (2) (B) and 8 U.S.C §1158(a) (2) (B). Those with approved asylee status do not need employment authorization documents and are allowed to work incidental to status.

Biometrics

Biological indicators such as fingerprints and retinal scans that can be used to establish identity to a reasonable degree of certainty. Most visa applicants must have biometric information gathered by the USCIS before approval of his or her application. USCIS will schedule an interview with the applicant to collect this data. The biometric fee may be waived. Intending immigrants coming from abroad will have their biometrics before being allowed into the United States.

731 W. Washington St.
Milwaukee, WI
53204-2311

414-643-8570

Fax 414-643-6726

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Conditional Resident

Any immigrant who obtained his or her residency based on a marriage of less than two years. This usually applies only to people who are married to United States citizens, however because there is a back log for processing those married to lawful permanent residents. However, sometimes there is no backlog and it is important those lawful permanent residents understand that this rule can apply to them. The conditional resident and his/her spouse must file a joint petition with USCIS to request removal of the condition within 90 days of the expiration of the 2-year period of conditional residency. A conditional resident who cannot file a joint petition because the marriage has ended may apply for a waiver if the conditional resident or his/her child was battered or subjected to extreme cruelty by the spouse during the marriage. See INA § 216 and 8 U.S.C §1186a

Consular Processing

The process of obtaining lawful permanent residency at a U.S. consulate.

Criminal Conviction

A conviction exists where there has been a formal judgment of guilt entered by a court or if adjudication has been withheld, where all of the following elements are present: (1) A judge or jury has found the non-citizen guilty, or the person entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt; and (2) the judge has ordered some form of punishment, penalty or restraint on the person's liberty. This definition of convictions applies to convictions entered before, on, or after the enactment of IIRAIRA on September 30, 1996. See INA §101(a)(48)(A); 8 U.S.C. §1001(a)(48)(A)

Cuban Adjustment Act of 1966 (CAA)

The act that permits Cuban natives or citizens and their accompanying spouses and children to become lawful permanent residents of the United States. The Attorney General uses his or her discretion to grant permanent residence such individuals seeking adjustment of status if they have been present in the United States for at least 1 year after admission or parole and are admissible as immigrants. An individual who would be otherwise eligible for this benefit as an accompanying spouse or child may self-petition under VAWA.

Customs and Border Patrol (CBP)

The Department of Homeland Security agency charged with securing America's borders. CBP agents inspect persons applying for admission at a port-of-entry. CBP is the agency that apprehends undocumented immigrants at the border. See <http://www.cbp.gov>

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Derivative Beneficiary

Petitioners can often include other people on their application for a visa. The person who has the opportunity to immigrate is the “primary beneficiary.” However, in some situations, including “U” visa applications and VAWA petitioners where the beneficiary is placed into the preference system (anyone who is not an immediate family member of a U.S. citizen), the immigrant visa petition can include the person’s spouse and minor, unmarried children and potentially other individuals. Therefore, a derivative beneficiary is an individual who is eligible to receive an immigration benefit due to his or her relationship to the primary beneficiary.

Entry Without Inspection (EWI)

Customs and Border Patrol agents inspect anyone making an application to enter the United States. Those who enter without being inspected are commonly referred to as EWIs.

Fiancée Petition

U.S. citizens (but not lawful permanent residents) can file a petition with USCIS for a fiancée to come to the U.S. The U.S. citizen and fiancée must have seen each other within two years of filing the petition and they must marry within a certain time period after the fiancée has entered the U.S. See INA § 101(a)(15)(K)(i); 8 U.S.C §1101(a)(15)(K)(i)

Forms

The fees for the forms listed below can be found at: <https://www.uscis.gov/forms/our-fees>

USCIS has a form and usually a fee for everything. The most common forms are:

- a) G-28 Notice of Representation by an attorney or accredited representative. It is authorization for the attorney to represent someone before USCIS. An attorney must submit this form before USCIS will recognize an attorney-client relationship. There is no fee.
- b) b) I-90 Application to Renew or Replace a Permanent Resident Card (commonly called a “green card”) There is no fee to replace a card with incorrect information if the mistake is due to USCIS error.
- c) I-130 Petitioner for an Alien Relative. This is the basic petition for all family-based immigration.
- d) I-131 Application for Travel Document. Can be filed concurrently with adjustment of status application so that applicant has advance parole to return to the U.S. after traveling outside the U.S. [NOTE: People who have been unlawfully in the U.S. for more than 6 months should be aware that they may not qualify for permission to travel and run the risk of subjecting themselves to the Three or Ten-Year Bar.
 1. f) I-290B Notice of Motion or Appeal.
 2. g) I-360 Application for an Amerasian, Widow(er), or Special Immigrant. This petition also is used by special juvenile immigrants and VAWA self-petitioners. There is no filing fee for VAWA.
 3. h) I485 Application to Register Permanent Resident or Adjust Status.

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- e) I-539 Application to Extend/Change Nonimmigrant Status. Used to apply for a “V” visa or to extend permission to stay the U.S. in another nonimmigrant visa category
- f) j) I-589 Application for Asylum and Withholding of Removal..
- g) k) I-601 Application for Waiver of Grounds of Excludability. Not all grounds of inadmissibility are waivable.
- h) l) I-601A. Application for only Waiver of the ground of unlawful presence. This can be obtained in the United States before leaving for consular processing.
- i) m) I-751 Petition to Remove the Conditions of Residence.
- j) n) I-765 Application for Employment Authorization. The work authorization issued by USCIS is referred to as an Employment Authorization Document (EAD).
- k) p) I-864 Affidavit of Support under Section 213 of the Act:
- l) l) N-400 Application for Naturalization.

Haitian Refugee Immigration Fairness Act (HRIFA)

HRIFA allows certain Haitians to apply for lawful permanent resident status without having to first apply for an immigrant visa at a United States consulate abroad. It also waives many of the usual requirements for immigration. Principal applicants wishing to apply for lawful permanent residence under HRIFA initially had until March 31, 2000 to file for adjustment of status. An individual who would be otherwise eligible for this benefit as an accompanying spouse or child may self-petition under VAWA. See 8 CFR § 245.15

Immigration and Customs Enforcement (ICE)

The investigative branch of the Department of Homeland Security that is charged with law enforcement duties. This is the agency that apprehends undocumented immigrants within the United States. See <http://www.ice.gov/>

Inadmissibility Grounds

Reasons that an intending immigrant can be denied an immigrant visa, and hence, a “green card.” These include (but are not limited to): health problems, previous immigration problems, previous criminal problems, national security grounds, labor protection grounds, and the potential of being a public charge. There are exceptions to some and waivers to others but not for all grounds of inadmissibility. These grounds are different from the grounds for deportability/removability, although they do overlap in some areas. See INA § 212 and 8 U.S.C §1182

InfoPass

USCIS’ Internet-based system for scheduling appointments at local USCIS offices to speak to an Immigration Information Officer. Attorneys may use InfoPass to schedule appointments regarding client matters if a G-28 is on file. See <http://infopass.USCIS.gov/>

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Inspection

Customs and Border Patrol agents inspect anyone making an application to enter the United States. Many immigration forms ask if a person entered with or without inspection.

Intending Immigrant

Someone who intends to seek lawful permanent residence in the United States.

Nicaraguan Adjustment and Central American Relief Act (NACARA)

NACARA provides various forms of immigration benefits and relief from deportation to certain Nicaraguans, Cubans, Salvadorans, Guatemalans, nationals of former Soviet bloc countries and their dependents. An individual who would be otherwise eligible for this benefit as an accompanying spouse or child may self-petition under VAWA.

Priority Date

The date on which a visa petition was properly filed with USCIS. It appears on the USCIS approval notice for relative visa petitions and on most correspondence from both the USCIS and the Department of State. Priority dates are very important because they tell an intending immigrant where he/she stands on the preference system waiting list.

When his/her priority date becomes current, he/she is eligible to apply for permanent residence, either through adjustment of status or consular processing. An intending immigrant can find out if his/her priority date is current by checking it each month against the cut-off dates issued in each preference category by the U.S. Department of State. You can see and request a free subscription to the Visa Bulletin at http://travel.state.gov/visa/frvi/bulletin/bulletin_1360.html

Receipt Notice

The document that will be sent from USCIS to the intending immigrant upon the agency's receipt of his or her application for an immigration benefit. The receipt notice merely acknowledges that the agency received the application and is not any indication of the merits or disposition of the application. USCIS has an Internet-based case status inquiry system at www.uscis.gov which will provide case status information based on the receipt notice tracking number.

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Status

Status defines someone's legal relationship to the U.S. in terms of immigration. Someone can be here, for example, as a tourist, a student, or a lawful permanent resident. The USCIS gives anyone who is not a U.S. citizen or LPR a "status" upon entering the U.S. Status is different from a visa. Just because someone has a tourist visa that is good for ten years does not mean that the person can be in the U.S. for ten years. In most cases, at the time of admission a CBP officer gives a specific period of lawful status in the U.S. For visitors, the maximum is 6 months. The individual must leave the U.S. on or before the expiration date, unless he/she has filed a timely application with USCIS to extend the status. The easiest way to determine someone's status and the amount of time they are allowed to stay in the U.S. is to look at his/her I-94 card or the Arrival/Departure Record that the individual received upon entering the U.S.

Three and Ten-Year Bars

These apply to anyone who has accrued a certain amount of time in the U.S. unlawfully after April 1, 1997 and voluntarily leaves the U.S. Immigrants do not accrue unlawful presence until reaching the age of 18. See generally INA § 212 and 8 U.S.C §1182

- a) Three-Year Bar: Anyone who has more than six months in the U.S. without USCIS permission after April 1, 1997, and leaves the U.S. voluntarily is barred from returning for three years. See INA § 212(a)(9)(B)(i)(I) and 8 U.S.C 1182(a)(9)(B)(i)(I).
- b) Ten-Year Bar: Anyone who has more than one year of unlawful presence after April 1, 1997, and leaves the U.S. voluntarily is barred from returning for ten years. See INA § 212(a)(9)(B)(i)(II) and 8 U.S.C § 1182(a)(9)(B)(i)(II)
- c) Lifetime Bar: After aggregating more than 1 year of unlawful presence in the U.S., any person who leaves voluntarily and then re-enters a second time is barred from the U.S. for 10 years. He/she then must apply for permission to re-enter. See INA § 212(a) (9) (C) and 8 U.S.C § 1182(a) (9) (C).

26. Violence Against Women Act (VAWA).

Title VIII of the Act allows battered spouses, ex-spouses and children of U.S. citizens or LPRs to apply for immigration benefits. A key goal of VAWA's immigration protections is to cut off the ability of abusers, traffickers, and perpetrators of sexual assault to blackmail their victims with threats of deportation, and thereby avoid prosecution. VAWA allows immigrant victims to obtain immigration relief without their abusers' cooperation or knowledge.

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