

U.S. Congresswoman  
**TAMMY DUCKWORTH**  
Proudly Serving Illinois' 8th District



# 8<sup>th</sup> District Immigration Resources and Information Guide

September 2016

Dear Neighbors,

Rich diversity and a strong immigrant history helped make the United States the great nation it is today. Our country was founded by people from different nations and backgrounds, bonded together in their efforts to achieve the American Dream. Unfortunately, our current immigration system fails to secure our borders, provide for our businesses, prevent families from being torn apart and has led to over 11 million undocumented individuals living in the shadows of our society. I am dedicated to continuing to work toward the practical, fair and humane comprehensive immigration reform this country needs.

That is why in the 113th Congress I was a proud cosponsor of H.R. 15, a bill that would have overhauled our immigration system in a manner consistent with our values and current needs. This legislation is built upon the Senate's bipartisan immigration reform bill, S. 744, which passed the Senate with over two-thirds of Senators voting in favor. Unfortunately, the 113th Congress was unable to come together and pass it. I strongly believe that had H.R. 15 been brought up for a vote in the House it would have passed with strong bipartisan support. However, House Leadership has repeatedly refused to bring this critical legislation to the House floor.

Faced with Congressional inaction, President Obama took steps to protect children and families. Despite the need and success of the Deferred Action programs, otherwise known as DACA and DAPA, 26 states sued to block the implementation of the President's actions. I strongly support this program, which is why I joined 217 of my colleagues in filing an amicus brief to the Supreme Court defending its legality. Unfortunately, the Supreme Court announced on June 23, 2016 a split 4-4 decision, leaving in place a disappointing decision by a lower court and blocking DAPA and expansion of DACA. These initiatives represent our American ideals and blocking them threatens to continue separating millions of hard-working families. While I continue to advocate for comprehensive immigration reform in Washington, my office has prepared this guide to provide constituents in the 8<sup>th</sup> District with a reference for general questions regarding our country's current immigration system. Recognizing how complicated our current immigration system can be to navigate, this guide is intended to provide constituents with answers to many of the most common questions that we hear on a day-to-day basis. It includes details on the legal methods for obtaining a green card, becoming a naturalized citizen, travelling to the United States and much more.

As a Member of Congress, I am dedicated to providing top-of-the-line constituent services, including immigration services. I hope you find this guide useful. If you have any questions not addressed by this guide, or need help with your particular case, please contact my office at (847) 413-1959 or [DOInfo.Duckworth@mail.house.gov](mailto:DOInfo.Duckworth@mail.house.gov). I look forward to continuing my work in Congress in service to our community and this great nation.

Sincerely,

A handwritten signature in black ink that reads "Tammy Duckworth". The signature is written in a cursive, flowing style.

Tammy Duckworth  
Member of Congress

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***This guide, which provides information consolidated from several government sources, is offered by Congresswoman Tammy Duckworth's office to Eighth District residents as a reference on matters pertaining to immigration. While this guide offers a summary of frequently asked questions about immigration related matters, it is not intended to be exhaustive. This guide is a reference and should not substitute advice from an attorney or recognized immigration service provider.***

***The Congresswoman's office can be reached at (847) 413-1959 or by emailing [DOInfo.Duckworth@mail.house.gov](mailto:DOInfo.Duckworth@mail.house.gov).***

# How can Congresswoman Duckworth's Office assist you?

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This guide provides information from U.S. Citizenship and Immigration Services (USCIS), the Department of State and various other federal government agencies to help constituents more easily navigate the immigration system, such as establishing legal permanent residency and applying to become a naturalized U.S. citizen. Members and staff of the U.S. House of Representatives can often act as facilitators between constituents and a federal agency on these matters. Congressional offices may be able to assist in many ways, including:

- Requesting information, initiating a legitimate inquiry or determining the status of a pending immigration case;
- Requesting reconsideration of an administrative decision by a federal agency if permitted under law;
- Requesting correction of an administrative error when caused by a federal agency; or
- Requesting information and guidelines for applying for a specific benefit.

While Congressional offices can provide many services, House Ethics Rules limit the scope of actions any office can take. Such actions forbidden by Ethics rules include:

- Making undue or improper influence on agency officials;
- Undermining agency rules or regulations or alter agency determinations that violate U.S. legal code;
- Receiving money or things of value in return for, or as a result of, official assistance; or
- Helping constituents with matters either criminal or judicial in nature or concerns which in any way involve past or pending litigation.

If you would like further assistance, you should speak with a licensed attorney or Board of Immigration Appeals (BIA) certified immigration service provider regarding your case.

## Privacy Act Release Form

Congress established the Privacy Act of 1974 in order to protect sensitive personal information maintained by each executive branch agency. In order for our office to initiate a case with any federal agency on a constituent's behalf, we must obtain the written authorization of the individual whose information is requested. Privacy Act Release forms for Congresswoman Tammy Duckworth are located online at <https://duckworth.house.gov> or by contacting her office.

If you have questions regarding an immigration matter or would like assistance on a pending case, please contact our Schaumburg Office at (847) 413-1959 or by visiting our website at <https://duckworth.house.gov>.

# I: Immigrant Visa Process and Applying for a Green Card

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The process for establishing permanent residency—and receiving a green card—in the United States varies based on the visa category through which you qualify and your present physical location. Most people who qualify to be considered for legal permanent residence in the United States either have immediate family members who hold a valid green card or are U.S. citizens, or will be sponsored by an employer. Depending on the category of visa for which you qualify, either a family member or employer must file a petition with USCIS on your behalf to initiate an application for legal permanent residence. USCIS provides the eligibility criteria and guidelines for applying for legal permanent residency on their website at <https://www.uscis.gov/greencard>.

## USCIS Case Status

You can track the status of your case through the USCIS Case Status Online portal found at <https://egov.uscis.gov/casestatus/landing.do>.

**The USCIS website provides the following eligibility requirements for those interested in applying for a green card:<sup>1</sup>**

- You must be eligible for one of the immigrant categories (e.g. family-based, employment-based) established in the Immigration and Nationality Act (INA);
- You must have a qualifying immigrant petition (e.g. Form I-130) filed and approved by USCIS for you (with a few exceptions); and
- You must be admissible to the United States consistent with U.S. laws and regulations.

The diagram on the following page provides the general process that most applicants for permanent residency will follow, including processing at USCIS, the National Visa Center and U.S. Embassy or Consulate. This process may vary based on your geographic location and eligibility for a green card. You should consult the USCIS and Department of State websites for further information regarding a specific pathway to residency.

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<sup>1</sup> U.S. Citizenship and Immigration Services, *Green Card Eligibility* (March 30, 2011) (online at <https://www.uscis.gov/green-card/green-card-processes-and-procedures/green-card-eligibility>) (accessed on August 16, 2016).

## Overview of the Immigrant Visa Process

### USCIS

- Family-Based Petition: An immediate relative with green card status or U.S. citizenship must file an I-130 petition for prospective green card applicant.
- Employment-Based Petition: Eligible applicants may be required to either self-petition or have an employer petition for them by filing an I-140 with USCIS.

### National Visa Center

- File DS-261, Choice of Address and Agent, to establish who will receive correspondence from NVC on visa applicant's behalf.
- Pay Immigrant Visa Application Processing Fee and Affidavit of Support Fee.
- File Form DS-260, Application for Immigrant Visa and Alien Registration, through the Consular Electronic Application Center.
- Submit financial documents including Affidavit of Support Form and any supporting evidence.

### U.S. Embassy or Consulate

- Schedule and complete a medical examination.
- Attend immigrant visa interview at U.S. Consulate or Embassy.
- Consular officer reviews application and supporting evidence to make final decision.



Our office has compiled the following information from various federal resources to address many common issues experienced by those applying for a green card. More information from USCIS can be found by visiting their website at <https://www.uscis.gov>, calling the National Customer Service Center or by scheduling an INFOPASS appointment at your local field office. The Department of State also provides significant information on their website at <https://travel.state.gov> regarding matters at the National Visa Center or a foreign-based U.S. Embassy or Consulate.

## **National Customer Service Center**

**1 (800) 375-5283**

In-person assistance is available during standard business hours for questions about the status of an on-going or to request information on applying for an immigration benefit with USCIS.

TTY Number: 1 (800) 767-1833

Individuals living outside the U.S. may call 212-620-3418.

## Frequently Asked Questions When Applying for a Green Card

### **My immigrant visa petition (e.g. I-130) has been approved by USCIS and is now at the National Visa Center. How long must I wait before a visa becomes available?**

Visa applicants with an approved I-130 or I-140 petition from USCIS may have to wait for a visa to become available due to yearly legal limits placed on the number of visas issued to the United States. This may take many years depending on the family- or employment-based visa category through which an applicant qualifies. The Department of State publishes an online Visa Bulletin showing the current availability of visas.<sup>2</sup> The National Visa Center will contact the address-of-record to begin the next steps in processing once a visa becomes available.

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*Travel.State.Gov is the Bureau of Consular Affairs' website providing information on several topics, including:*

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- The immigrant visa process through the National Visa Center and U.S. Embassy or Consulate;
- Temporary travel to the United States for work or pleasure;
- How foreign students may qualify to study temporarily in the United States.

### **Who qualifies for an employment-based green card?**

There are five basic visa categories for individuals seeking a green card through their employment. For your convenience, these five categories along with their description from the USCIS website<sup>3</sup> are below.

1. EB-1: According to USCIS, “[y]ou may be eligible for an employment-based, first-preference visa if you have an extraordinary ability, are an outstanding professor or researcher, or are a multinational executive or manager.”
2. EB-2: According to USCIS, “[y]ou may be eligible for an employment-based, second preference visa if you are a member of the professions holding an advanced degree or its equivalent, or a foreign national who has exceptional ability.”
3. EB-3: According to USCIS, “[y]ou may be eligible for this immigrant visa preference category if you are a skilled worker, professional, or other worker.” While this category is generally open to

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<sup>2</sup> The Department of State publishes its online Visa Bulletin at <https://travel.state.gov/content/visas/en/law-and-policy/bulletin.html>. DOS updates this document monthly to reflect the current availability of visas.

<sup>3</sup> U.S. Citizenship and Immigration Services, *Permanent Workers* (July 15, 2016) (online at <https://www.uscis.gov/working-united-states/permanent-workers>) (accessed on August 17, 2016).

workers whose job requires a minimum of 2 years of experience or a baccalaureate degree, certain unskilled workers may also qualify.

4. EB-4: According to USCIS, “[y]ou may be eligible for an employment-based, fourth preference visa if you are a special immigrant.” For an exhaustive list of who qualifies as a special immigrant, please visit the USCIS website.
5. EB-5: Under this category, entrepreneurs meeting certain conditions may apply for a green card along with their spouse and minor children.

### **How can I request Expedited Processing?**

The USCIS has posted the following eligibility criteria on their website for applicants who wish to expedite their application:<sup>4</sup>

- Severe financial loss to company or person;
- Emergency situation;
- Humanitarian reasons;
- Nonprofit organization whose request is in furtherance of the cultural and social interests of the United States;
- Department of Defense or national interest situation;
- USCIS error; or
- Compelling interest of USCIS.

Applicants who wish to be considered for expedited processing must provide sufficient evidence to USCIS that demonstrates that at least one of these criteria has been met. For instance, an applicant who qualifies due to severe financial loss may provide USCIS with an eviction notice, offer of employment, notice that a utility will be shut-off or another form of evidence that demonstrates significant financial distress. An approved expedite request does not allow an application to bypass standard review and security checks required by U.S. law.

### **What if I must travel outside of the U.S. while my immigrant visa application is processing?**

Advanced parole is available for qualifying green card applicants currently living in the U.S. who must travel outside of the country in an emergency during the processing of an immigrant visa petition or

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<sup>4</sup> U.S. Citizenship and Immigration Services, *Expedite Criteria* (July 27, 2016) (online at <https://www.uscis.gov/forms/expedite-criteria>) (accessed on August 16, 2016).

application. Applicants who wish to request advanced parole should visit their local USCIS field office. According to USCIS, you should bring the following documents along with you to your appointment:<sup>5</sup>

- Completed and signed Form I-131, Application for Travel Document, and filing fee;
- Evidence to support the emergency request (e.g. medical documentation, death certificate); and
- Two passport-style photos.

More information regarding eligibility and filing requirements can be found online at the USCIS website or by contacting your local field office.

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### *EMMA Bilingual Virtual Assistant*

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USCIS provides online assistance through their new “Emma” tool. Emma is an automated virtual assistance tool that can help guide individuals through the USCIS website and provide general information regarding all USCIS services. Emma is easy to use and is available in English and Spanish. Individuals can access Emma on the USCIS website (desktop and mobile) by clicking “Ask a Question” or “Need Help.”

### **How is my child’s immigrant visa application impacted if they are about to turn 21?**

Certain eligible minors may have protection under the Child Status Protection Act (CSPA) when they turn 21 years old during the immigrant visa process. USCIS or DOS will review these applications on a case-by-case basis to determine who qualifies for this protection. All applicants not protected by CSPA must have a separate immigrant visa petition filed on their behalf and will be subject to their own visa processing. More information on CSPA eligibility is on the USCIS website.

### **I am undocumented with an approved visa petition. Can I leave the country for my interview at the U.S. Consulate?**

In general, undocumented people living in the U.S. may be barred from re-entering the country for up to 10 years if they leave for any reason. This includes undocumented visa applicants who must return to a U.S. Embassy or Consulate in a different country to become a legal permanent resident. However, certain family members of U.S. citizens and permanent residents are now eligible to apply for consideration for an Unlawful Presence Waiver (Form I-601a) through USCIS. An approved I-601a waiver

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<sup>5</sup> U.S. Citizenship and Immigration Services, *Emergency Travel* (July 14, 2015) (online at <https://www.uscis.gov/green-card/green-card-processes-and-procedures/travel-documents/emergency-travel>) (accessed on August 16, 2016).

allows certain undocumented visa applicants, currently living in the United States with an approved visa petition, to return to their country of origin for their legally required visa interview at the U.S. Embassy or Consulate without incurring this temporary ban on their readmission into the U.S. To qualify for this waiver, you must meet certain criteria found online at the USCIS website, including:<sup>6</sup>

1. Be physically present in the U.S.;
2. Be at least 17 years of age at the time of filing for a waiver;
3. Have a pending immigrant visa case with DOS as a result of an approved I-130 or I-360 petition, or be a spouse or minor child of a principal beneficiary;
4. Be able to demonstrate that refusal of your admission to the United States will cause extreme hardship to your U.S. citizen spouse or parent.
5. Believe that you are or will be temporarily inadmissible to return to the U.S. after returning to the home country for a visa interview at a U.S. Embassy or consulate due to a single stay of unlawful presence.

More information on filing for an Unlawful Presence Waiver is on the USCIS website at <https://www.uscis.gov>. Please refer to Department of Justice links included in Section VIII of this guide for assistance in applying for an unlawful presence waiver from a lawyer or accredited immigration service provider.

## What happens when a U.S. Consulate grants an immigrant visa?

When granted an immigrant visa while living in a foreign country, the U.S. Consulate will place a Temporary I-551 immigrant visa stamp on a page in your passport, which is generally valid for entry to the United States within 6 months of issuance. In certain instances, immigrant visa stamps may be valid for less than 6 months. Visa recipients should always check the expiration date provided on the immigrant visa stamp to ensure smooth and proper entry into the United States. Contact the U.S. Consulate promptly if you notice any errors on a visa stamp.

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<sup>6</sup> U.S. Citizenship and Immigration Services, *Provisional Unlawful Presence Waivers* (September 7, 2016) (online at <https://www.uscis.gov/family/family-us-citizens/provisional-waiver/provisional-unlawful-presence-waivers>) (accessed on September 7, 2016)

## Changing an Address on Record

According to USCIS, you may change or update your address using their “[Online Change of Address](#)” page, unless you have a pending or approved VAWA I-360, T Visa I-914 or U Visa I-918 and have filed one of the following forms:

- I-131
- I-192
- I-485
- I-601
- I-765
- I-929

***In these cases, you must mail a completed Form AR-11, Change of Address, to the following location:***

U.S. Department of Homeland  
Security, Citizenship and  
Immigration  
Services  
Attn: Change of Address, 1344  
Pleasants Drive  
Harrisonburg, VA 22801

\*U.S. Citizenship and Immigration Services, *Change of Address Information* (February 23, 2016) (online at <https://www.uscis.gov/addresschange>) (accessed on August 16, 2016).

After receiving an immigrant visa and before coming to the United States, you must pay the \$165 Immigrant Fee to USCIS online at <http://www.uscis.gov/file-online>. You must have your Alien Registration Number and Department of State Case ID Number to pay online.

In addition to receiving the immigrant visa stamp in your passport, visa recipients will be given an Immigrant Package, which must be given to U.S. Customs and Border Protection upon arrival in the United States. If this is not done at the port-of-entry, contact the nearest Deferred Inspection Site (DIS) for guidance as soon as possible. Their contact information can be found at <https://www.cbp.gov/contact/deferred-inspection/overview-deferred-inspection>.

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*Customs and Border Protection  
Chicago Deferred Inspection Site  
536 S. Clark Street, Suite 1035  
Chicago, IL 60605  
Phone: (312) 834-0908*

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### **How long is a Green Card Valid?**

Most green cards will be valid for ten years, unless USCIS placed conditions on your green card. In this case, your green card is valid for two years. Within 6 months of its expiration, a green card holder can renew their green card by filing the Form I-90, Application to Replace Permanent Resident Card, online or by mailing a paper form. This form can be found online at the USCIS website.

### **How Can I Remove Conditions on my Green Card?**

Green card holders who have conditions placed on their status may file Form I-751, Petition to Remove the Conditions of Residence, through USCIS during the 90 days prior to the expiration of the conditional green card. Most often, conditional green cards are given to recipients who qualify for permanent residence through marriage to an existing U.S. legal permanent resident or citizen.

Green cards can be used to apply for a Social Security Card, to provide valid employment authorization and to show legal status in the United States. While legal permanent residents may qualify for certain public benefits like Medicare and Social Security, there are varying restrictions placed on their access to these benefits. Your questions regarding certain benefits for legal permanent residents should be directed to the proper state or national government agency.

### **What if a green card gets lost in the mail?**

Documents sent from USCIS are now shipped using Priority Mail with tracking information and delivery confirmation. Unfortunately, some green cards are still lost in the mail. If your green card has been lost in the mail, consider taking the following steps:

- 1) Looking up your tracking number on the USPS website at [https://tools.usps.com/go/TrackConfirmAction\\_input](https://tools.usps.com/go/TrackConfirmAction_input) to determine the current status of delivery;

- 2) Checking with USCIS to determine that your address-of-record is correct and up-to-date;
- 3) Submitting an online inquiry to USCIS regarding the non-delivery of a document at <https://egov.uscis.gov/e-request/displayNDCForm.do?entryPoint=init>; and
- 4) Calling the USCIS National Customer Service Center to determine the next appropriate action.

USCIS will confirm your address information and re-send the green card if it is returned to them by USPS as undeliverable. You may also provide written proof from USPS stating your document was lost in the mail and USCIS will produce another card at no cost. Otherwise, you must file with USCIS a Form I-90, Application to Replace Permanent Resident Card.

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### *Checking USCIS Processing Times:*

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Up-to-date processing times for USCIS local field offices and the service centers can be accessed online at

<https://egov.uscis.gov/cris/processTimesDisplayInit.do>

For asylum applications, visit the Affirmative Asylum Scheduling Bulletin at <https://www.uscis.gov/humanitarian/refugees-asylum/asylum/affirmative-asylum-scheduling-bulletin>

### **I hold a green card and would like to travel outside of the United States. What other documents should I take to re-enter the U.S. at the end of my trip?**

Valid Green Card holders that will be travelling outside of the United States may generally do so without needing additional documentation for up to 1 year. U.S. Customs and Border Protection has full authority under current immigration policy to refuse admission to any green card holder they determine to have “abandoned” their status. In order to avoid this issue, the Department of Homeland Security (DHS) suggests that any legal permanent resident planning to travel outside of the U.S. for longer than 6 months at a time file an I-131, Application for Travel Document, with USCIS. This is required for any green card holder intending to remain outside the U.S. for longer than 1 year at a time.<sup>7</sup> If approved, a Travel Document will serve as proper documentation to re-enter the United States for up to two years.

In addition, it is important to note that green card holders must demonstrate continuous residence in the United States in order to renew a green card or qualify to become a naturalized U.S. citizen. While this eligibility requirement is somewhat broad, USCIS generally states that green card holders must reside in the U.S. at least 6 months of every year they are a permanent resident.

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<sup>7</sup> U.S. Citizenship and Immigration Services, *International Travel as a Permanent Resident* (February 17, 2016) (online at <https://www.uscis.gov/green-card/after-green-card-granted/international-travel-permanent-resident>) (accessed on August 16, 2016).

### **Can a notary assist me in filling out applications for a visa or green card?**

No. Immigrants are often targets for fraud and manipulation, especially when seeking assistance on legal matters. In the United States, “notario publicos”, or notaries, are not authorized to provide legal services other than witnessing the signing of official documents. When seeking immigration legal services, you should only contact licensed attorneys or legal service providers authorized to provide immigration advice by Board of Immigration Appeals.<sup>8</sup>

It is important to report immigration service scams when identifiable to prevent others from falling prey. While fraud should always be reported to the Federal Trade Commission, the appropriate enforcement body within your state should also be contacted. A full list of reporting agencies is located on the USCIS website.<sup>9</sup> In Illinois, immigration scams should be reported to the Office of the Illinois Attorney General.

**Report immigration service scams to the Office of the Illinois Attorney General  
Consumer Fraud Division at 1-800-386-5438.  
Para el Español: 1-866-310-8398**

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<sup>8</sup> U.S. Citizenship and Immigration Services, *Common Scams: “Notarios Publicos”* (August 15, 2016) (online at <https://www.uscis.gov/avoid-scams/common-scams>) (accessed on August 16, 2016).

<sup>9</sup> An extensive list of reporting agencies can be found on the USCIS website at <https://www.uscis.gov/avoid-scams/report-immigration-scams>.

## II: Becoming a Naturalized U.S. Citizen

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Naturalized U.S. citizens receive all the rights and benefits of citizenship, including the ability to vote. To become a U.S. citizen, qualifying foreign citizens must file a Form N-400, Application for Naturalization, through USCIS. Current immigration policy allows for a few different pathways for foreign citizens to become a naturalized U.S. citizen—the most common of which is to be a legal permanent resident for at least five years prior to filing the N-400.

**The eligibility requirements that current green card holders must meet in order to be considered for naturalization can be found online at the USCIS website, and include:<sup>10</sup>**

- Be 18 years or older at the time of filing;
- Be a permanent resident for 5 years immediately before filing;
- Live within the state, or USCIS district with jurisdiction over the applicant’s place of residence, for at least 3 months prior to the date of filing the application;
- Continuously reside in the United States as a green card holder for at least 5 years immediately preceding the date of filing the application;
- Be physically present in the United States for at least 30 months out of the 5 years immediately preceding the date of filing the application;
- Reside continuously within the United States from the date a naturalization application is filed until the naturalization oath ceremony;
- Demonstrate the ability to read, write and speak English and have knowledge and an understanding of U.S. history and government; and
- Have good moral character and abide by all U.S. laws and regulations.

Foreign citizens may also qualify for citizenship if they have been a permanent resident for 3 years and have been married to a U.S. citizen during that time, have qualifying service in the U.S. military or are a minor child of a U.S. citizen.

Please refer to the following section for questions pertaining to Naturalization and U.S. Citizenship. Otherwise, you may visit the <https://www.uscis.gov> for more information about the naturalization

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<sup>10</sup> U.S. Citizenship and Immigration Services, *Path to U.S. Citizenship* (January 22, 2013) (online at <https://www.uscis.gov/us-citizenship/citizenship-through-naturalization/path-us-citizenship>) (accessed on August 16, 2016).

process. USCIS has published an online “Guide to Naturalization”,<sup>11</sup> which provides comprehensive information on naturalization and citizenship.

## Important Items to Keep in Mind during Application for Citizenship

### Exemptions for English, U.S. History and Civics Exam

According to USCIS, applicants who meet the following conditions may be exempt from parts of the English language exam and the history and civics exam<sup>12</sup>:

- The applicant is 50 years or older and have held a valid green card for at least 20 years;
- The applicant is 55 years or older and have held a valid green card for at least 25 years; or
- The applicant has a qualifying long-term medical disability that prevents you from being able to comply with the exam requirements.

Those with qualifying medical disabilities may be exempt from the history and civics requirements. To request a medical exemption, you must file a Form N-648, Medical Certification for Disability Exceptions, through USCIS.

### Citizenship for Children

Children under the age of 18 whose parents become naturalized-U.S. citizens may be granted citizenship under U.S. law by filing Form N-600K, Application for Citizenship and Issuance of Certificate under Section 322, with USCIS. **Only children age 14 and older must attend a naturalization oath ceremony to become a U.S. citizen.**

### Replacing a Naturalization/Citizenship Document

To replace a naturalization or citizenship certificate, you must file an N-565, Application for Replacement Naturalization/Citizenship Document, through USCIS. USCIS provides a complete list of eligibility requirements on the N-565 instruction page found on their website. According to USCIS, some of the most common reasons include:<sup>13</sup>

- An original document was lost, stolen, destroyed or mutilated;

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<sup>11</sup> U.S. Citizenship and Immigration Services, *A Guide to Naturalization* (January 22, 2013) (online at <https://www.uscis.gov/us-citizenship/citizenship-through-naturalization/guide-naturalization>) (accessed on August 16, 2016).

<sup>12</sup> U.S. Citizenship and Immigration Services, *Exceptions & Accommodations* (June 1, 2015) (online at <https://www.uscis.gov/us-citizenship/citizenship-through-naturalization/exceptions-accommodations>) (accessed on August 16, 2016).

<sup>13</sup> U.S. Citizenship and Immigration Services, *Instructions for Application for Replacement Naturalization/Citizenship Document* (online at <https://www.uscis.gov/sites/default/files/files/form/n-565instr.pdf>) (accessed on August 16, 2016).

- USCIS made a typographical/clerical error on your original certificate;
- The naturalized person had a legal name change due to marriage or court order.

**If you notice an error on your naturalization document when it is given to you at a citizenship oath ceremony, contact USCIS immediately to make the necessary correction. According to USCIS, “[they] cannot make any changes to an incorrect date of birth on a Naturalization Certificate if you reported an incorrect date on your Form N-400...and then later swore to the facts of your application by signing.”<sup>14</sup> This is considered a legally binding oath.**

## Department of State Case Status:

To check on the status of your case with the Department of State while in the United States, you may contact the National Visa Center by phone or visit the Consular Electronic Application Center online.

- For immigrant visa inquiries, call (603) 334-0700.
- For questions regarding a temporary, or visitors visa, call (603) 334-0888.
- Both immigrant and temporary visa inquiries can be made online at <https://ceac.state.gov/CEAC/StatTracker/Status.aspx>.

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<sup>14</sup> U.S. Citizenship and Immigration Services, *Instructions for Application for Replacement Naturalization/Citizenship Document* (online at <https://www.uscis.gov/sites/default/files/files/form/n-565instr.pdf>) (accessed on August 17, 2016).

# III: Common Obstacles in the Immigration System

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## What does 'Administrative Processing' mean?

According to U.S. law, certain applications must undergo administrative processing to determine the applicant's eligibility to receive a visa. An application is generally placed in administrative processing while it is being reviewed by an officer or after an interview at USCIS or the U.S. Consulate. Agencies aim to adjudicate these cases as quickly as possible, but issues sometimes arise that must be fully resolved before a case can continue with standard processing. In these instances, the agencies are generally unable to disclose the reason for delay or an estimated timeframe for completion. Depending on the application, administrative processing can sometimes take months, or even years to resolve. If you have questions regarding pending immigration matter, you may contact your Congressional Representative or U.S. Senator to determine the status or to gather information on your case.

## What do I do if USCIS or Department of State sends me a Request-for-Evidence?

If you are issued a Request-for-Evidence (RFE), you must respond to the notifying agency within the timeframe they have provided with all requested documentation. Agencies may extend the deadline for responding to an RFE in certain instances upon request. The appropriate USCIS or Department of State office that issued the RFE should be contacted if you will be unable to respond to their request within the timeframe given.

## How do I appeal a denied application with USCIS?

If you wish to appeal a negative decision, you must follow the guidelines described in your denial notice issued by USCIS. This is most often done by filing an I-290B, Notice of Appeal or Motion, through USCIS within 30 days of the date listed at the top of your denial notice or within 33 days if the notice was issued by U.S. mail.

### Policy on Issuing Refunds for Application Filing Fees:

According to USCIS, fees are only refundable if there is a finding of USCIS error, including:

- Unnecessary filing of application or collection of fees;
- Payment collected in excess of what is due;
- USCIS fails to meet guaranteed processing times when applicant pays for premium processing on certain application types; or
- A motion to reopen/reconsider finds USCIS error.

\*U.S. Citizenship and Immigration Services, *Is the filing fee refundable*, (online at <https://my.uscis.gov/helpcenter/article/is-the-filing-fee-refundable>) (accessed on August 16, 2016).

# IV: Travel to the United States

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The requirements for obtaining a non-immigrant visa to the United States vary depending on the specific reason for travel. The Department of State issues a variety of different categories of visa, including for tourism and visiting family, business, performing an art or for people with an "extraordinary ability," such as a professional athlete. Consult <https://travel.state.gov> or the U.S. Consulate nearest you to determine the non-immigrant visa category that best fits your travel needs. **U.S. Customs and Border Protection (CBP) will refuse you entry into the United States if you travel with the incorrect visa type.**

According to DOS, applicants for a B category travel visa to the U.S. must complete the following:<sup>15</sup>

- File a Form DS-160, Nonimmigrant Visa Application, through the Consular Electronic Application Center at <https://ceac.state.gov/genniv/>;
- Pay the appropriate application fee as required by the U.S. Consulate;
- Upload a photo along with your application; and
- Schedule an interview with the appropriate U.S. Consulate in your country of origin.

B category visas are the most common form of temporary visa to the U.S. The B visa is intended for foreign citizens whose intended travel purposes include limited business or tourism. There are separate visa categories for those whose intended purpose of travel falls outside of these reasons, including performing an art or temporary work in the United States.

## Business Travel (B-1 Visa)

According to the Department of State website, eligible reasons for traveling on a B-1 category visa include:<sup>16</sup>

- Consulting with business associates,
- Attending professional or educational convention,
- Settling an estate, or
- Negotiating contracts.

## Tourism and General Travel (B-2 Visa)

You cannot receive payment for your travel to the United States on a B-2 visa. According to the Department of State Consular Affairs section, eligible reasons for travel while holding a B-2 category visa include:<sup>17</sup>

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<sup>15</sup> Department of State, *Visitor Visa* (online at <https://travel.state.gov/content/visas/en/visit/visitor.html>) (access on August 16, 2016).

<sup>16</sup> Department of State, *Visitor Visa* (online at <https://travel.state.gov/content/visas/en/visit/visitor.html>) (accessed on August 16, 2016).

- Tourism,
- Vacation,
- Visiting relatives or friends,
- Medical treatment,
- Participation in a social event,
- Participation in an amateur musical, sporting or similar event, when not being paid, and
- Short recreational course of study, such as a cooking, fitness or art class while on vacation.

## Frequently Asked Questions about Travel Visas

### Can I request an earlier visa interview date in an emergency?

Non-immigrant visa applicants may request an expedited visa interview at certain U.S. Consulates in emergencies. This may be necessary when the earliest available non-immigrant visa appointment offered at the U.S. Consulate is after the applicant's intended travel dates. In these situations, those seeking a non-immigrant visa must first submit an application, pay the processing fees and schedule a regular visa appointment. Once standard application procedures are complete, an applicant may file an Expedite Request Form with the U.S. Consulate. Reasons that an applicant may request an expedited non-immigrant visa appointment include obtaining urgent medical care, attending a funeral or arranging after a death, urgent business travel and studying in the United States as a student or exchange visitor. According to DOS, "[t]ravel for the purpose of attending weddings and graduation ceremonies, assisting pregnant relatives, participating in an annual business/academic/professional conference, or enjoying last-minute tourism does not qualify for expedited appointments."<sup>17</sup> Check the website for the U.S. Consulate specific to you for their policies regarding expedited non-immigrant visa appointments.

### The U.S. Consulate has denied my application, or my family members' application, to travel to the U.S. Can I appeal?

Non-immigrant visa applicants that fail to demonstrate proper ties to the home country at the time of their Consular interview will be ineligible to receive a visa to the United States. Non-immigrant visa applicants may receive a denial referencing INA Section 214(b) if they have failed to provide sufficient evidence that their travel to the United States is a temporary stay. Foreign citizens already seeking legal permanent residence in the United States for this reason have a strong likelihood of denial for a non-immigrant visa. In order to overcome this assumption, an applicant may wish to provide detail regarding

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<sup>17</sup> Department of State, *Visitor Visa* (online at <https://travel.state.gov/content/visas/en/visit/visitor.html>) (accessed on August 16, 2016).

<sup>18</sup> Department of State, *Apply for a U.S. Visa in India: Apply for an Expedited Appointment* (online at <http://www.ustraveldocs.com/in/in-niv-expeditedappointment.asp>) (accessed on August 16, 2016).

employment status, relationships with family and friends and various financial holdings that demonstrate strong ties to the home country.

Non-immigrant visa applicants also may receive a denial referencing INA Section 214(b) from the Consular officer if they did not demonstrate that they qualify for the sought visa category. The applicant may have simply applied for the wrong visa category. You may wish to contact the U.S. Consulate that conducted the visa interview if you are unsure of the reason for denial.

While an applicant cannot appeal an unfavorable decision, they may reapply at any time.

### **What are the Consequences for Overstaying Non-Immigrant Visa?**

Overstaying a visa is a violation of U.S. immigration law and may result in future ineligibility for a visa on a return trip, or a temporary ban, to the United States. In addition, overstaying a visa could cause issues when seeking other immigration benefits like legal permanent residence.

### **Can I travel to the U.S. without a visa?**

Under the Visa Waiver Program (VWP), foreign citizens from certain countries may travel to the United States without a visa for up to 90 days. Travel purposes permitted through the VWP are similar to the earlier described B-class visa. More information about this program is located online at <https://travel.state.gov>.

Pursuant to the Terrorist Travel Prevention Act of 2015, nationals from VWP countries who have traveled to Iran, Iraq, Somalia, Sudan, Syria or Yemen since March 1, 2011 or who are dual nationals with one of these countries are no longer eligible for travel to the United States using the Visa Waiver Program.<sup>19</sup> Anyone that falls into one of these categories may still apply for a non-immigrant visa through the standard Consular process.

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<sup>19</sup> Department of State, *Visa Waiver Program* (online at <https://travel.state.gov/content/visas/en/visit/visa-waiver-program.html>) (accessed on August 16, 2016). Also 8 U.S. Code § 1187.

# V: Humanitarian and Emergency Immigration

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The United States issues temporary visas to foreign citizens experiencing certain humanitarian or emergency situations. USCIS and the Department of State heavily scrutinize applicants under these circumstances, thus the application process may be extensive. This section provides basic information on the eligibility requirements for a temporary U.S. visa based on refugee status, asylum and humanitarian parole. Further information on these programs is located online at both the USCIS and Department of State's websites.

## Applying for Refugee Status

According to the Immigration and Nationality Act, a refugee is "any person...who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."<sup>20</sup> To qualify for refugee status in the United States, the applicant must currently reside outside of the United States and have received a referral to the U.S. Refugee Admissions Program (USRAP).

Admitted refugees must apply for a green card one year after arriving in the United States through filing Form I-485, Application to Register Permanent Residence or to Adjust Status. Unlike standard I-485 filings, USCIS does not require that refugees pay a fee. Refugees are immediately eligible to work in the United States using their Form I-94, Arrival-Departure Record, or Employment Authorization Document (EAD) as evidence for employers.<sup>21</sup>

## Applying for Asylum

Asylum is in ways similar to seeking refugee status. According to USCIS, applicants for asylum must have been persecuted or fear persecution due to race, religion, nationality, membership in a particular social group or political opinion.<sup>22</sup> The main difference, though, is that asylum applicants have already come to the United States.

Those seeking asylum must file a Form I-589, Application for Asylum and for Withholding of Removal, through USCIS upon their arrival in the United States. Asylum-seekers may only apply to work in the

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<sup>20</sup> 8 CFR 101(a)(42)

<sup>21</sup> U.S. Citizenship and Immigration Services, *Refugees* (May 25, 2016) (online at <https://www.uscis.gov/humanitarian/refugees-asylum/refugees>) (accessed on August 16, 2016).

<sup>22</sup> U.S. Citizenship and Immigration Services, *Asylum* (August 6, 2015) (<https://www.uscis.gov/humanitarian/refugees-asylum/asylum>) (accessed on August 16, 2016).

United States if there is no decision on their application within 150 days of filing. Individuals granted asylum become immediately eligible to work.<sup>23</sup>

## **Humanitarian Parole**

Anyone seeking temporary admittance into the United States in emergencies can apply for Humanitarian Parole. For example, someone needing urgent medical care in the United States may be eligible to apply. The amount of time permitted for those granted humanitarian parole to remain in the United States varies on a case-by-case basis as determined by USCIS, the Consulate and U.S. Customs and Border Protection.

Most people who apply will not be granted humanitarian parole. If you or someone you know wants to apply for humanitarian parole, the applicant must be able to demonstrate evidence of a compelling emergency in accordance with U.S. immigration policy. More information is located online at <https://www.uscis.gov/humanitarian/humanitarian-parole>.

**[NOTE: All applicants for the above humanitarian considerations must meet at least the same eligibility requirements for admittance into the U.S. as any other individual.](#)**

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<sup>23</sup> U.S. Citizenship and Immigration Services, Asylum (August 6, 2015) (<https://www.uscis.gov/humanitarian/refugees-asylum/asylum>) (accessed on August 16, 2016).

# VI: Protection for Crime Victims

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Victims of certain crimes that take place while in the United States may qualify for a temporary visa or a green card. These protections were created to encourage undocumented crime victims to report serious criminal activity without fear of being deported. Information on eligibility can be found at the USCIS website or by contacting the National Customer Service Center.

## T Category Visas for Human Trafficking Victims

T Category Visas are available for eligible victims of sex and labor trafficking while in the United States. T-Visa holders are eligible to work in the United States using an Employment Authorization Document and may apply for a green card after holding a valid T Visa for three years.

### Human Trafficking Hotlines

**National Hotline: 888-373-7888 or Text HELP to BeFree (233733). More information can be found on the National Human Trafficking Center's website <https://traffickingresourcecenter.org/>.**

**Resources and information regarding benefits and crimes involving human trafficking can also be found on the USCIS website.**

## U Category Visa

U Category Visas are available for application through USCIS for victims of certain crimes that have both suffered mental or physical abuse because of the crime and are helpful to law enforcement. The U Visa allows undocumented immigrants to report criminal activity in the United States without fear of deportation.

Crime victims who wish to apply for a U Nonimmigrant Visa must file a Form I-918, Petition for U Nonimmigrant Status, along with a petition from a certifying law enforcement agency or government official. According to the USCIS, “[a]n agency’s decision to provide a certification is entirely discretionary; the agency is under no legal obligation to complete [this form].”<sup>24</sup>

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<sup>24</sup> U.S. Citizenship and Immigration Services, *Instructions for Form I-918 Supplement B, U Nonimmigrant Status Certification* (online at <https://www.uscis.gov/sites/default/files/files/form/i-918supbinstr.pdf>) (accessed on August 16, 2016).

## **Violence Against Women Act (VAWA)<sup>25</sup>**

Certain undocumented domestic abuse victims can apply for a temporary visa in United States without their abuser knowing. Domestic abuse victims who are undocumented can file a Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, through the USCIS Vermont Service Center without their abuser knowing. Immigrants with an approved I-360 are eligible to work in the United States by filing a Form I-765 for an Employment Authorization Document. These applicants will also receive a Prima Facie Determination Notice from USCIS to provide to government agencies that offer public benefits to domestic abuse victims.

Victims with an approved I-360 may be eligible to apply for green card status for themselves and their children.

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<sup>25</sup> U.S. Citizenship and Immigration Services, *Battered Spouse, Children & Parents* (February 16, 2016) (online at <https://www.uscis.gov/humanitarian/battered-spouse-children-parents>) (accessed on August 16, 2016).

# VII: Deferred Action for Childhood Arrivals (DACA)

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DACA is a form of prosecutorial discretion used by immigration enforcement agencies to provide temporary protection to certain immigrants from deportation in order to focus attention and resources on priority cases. While DACA does not provide legal status or a pathway to permanent residency, recipients are eligible for two-year relief from deportation and two-year employment authorization. After two years, recipients may renew their DACA application.

USCIS requires that applicants for Deferred Action meet the following eligibility criteria, which can be found on their website:<sup>26</sup>

1. Applicants must be under the age of 31 as of June 15, 2012;
2. Applicants came to the United States before reaching their 16th birthday;
3. Applicants have continuously resided in the United States since June 15, 2007, up to the present time;
4. Applicants were physically present in the United States on June 15, 2012, and at the time of making a request for consideration of deferred action with USCIS;
5. Applicants had no lawful status on June 15, 2012;
6. Applicants are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
7. Applicants have not been convicted of a felony, significant misdemeanor, or three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

## Waiting on Hearing at Immigration Court

The Executive Office for Immigration Review (EOIR) has prioritized certain sensitive cases ahead of others causing many individuals to have to wait several years for their day in court.

If you wish to expedite the date of an immigration hearing, you or your attorney must file a proper motion with the immigration court. The Immigration Court Practice Manual Chapter 5.10 (b) provides further information on advancing the date of a hearing. The full document is online at <https://www.justice.gov/eoir/office-chief-immigration-judge-0>.

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<sup>26</sup> U.S. Citizenship and Immigration Services, *Consideration of Deferred Action for Childhood Arrivals (DACA)* (August 10, 2016) (online at <https://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca>) (accessed on August 16, 2016).

Further information regarding DACA filing guidelines and eligibility requirements is online at the USCIS website.<sup>27</sup>

**NOTE: On June 23, 2016, the U.S. Supreme Court issued a 4-4 ruling on *United States v. Texas* that upholds the 5<sup>th</sup> Circuit Court of Appeals' decision to place an injunction on Deferred Action for Parents of Americans (DAPA) and expanded DACA.<sup>28</sup> No person is able to receive protection under these executive orders.**

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<sup>27</sup> More information regarding DACA is online at <https://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca>.

<sup>28</sup> *United States v. Texas*, No. 15-674 (S. Ct. 2016).

## VIII: Finding Legal Assistance

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The United States Department of Justice maintains a database of attorneys and accredited service providers for those seeking legal help. This database can be accessed online at the following websites:

- For a list of attorneys, visit <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers-map>.
- For accredited organizations, visit <https://www.justice.gov/eoir/recognition-accreditation-roster-reports>.

Those in need of legal help may also wish to contact their Congressional Representative for more information on local options specific to their district.

# IX: Key Contacts at U.S. Departments and Agencies

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## The Department of State (DOS)

### **Bureau of Consular Affairs**

Responsible for issuing visas to the United States through many U.S. embassies and consulates around the world, U.S. Consulates perform all services related to the immigration process outside of the United States, such as reviewing applications, administering interviews, issuing visas and assisting U.S. citizens travelling abroad.

To find the embassy or consulate nearest you, please go to <http://www.usembassy.gov/>  
**Consular Affairs website:** <https://travel.state.gov>

### **National Visa Center (NVC)**

Acts as a liaison between U.S. embassies and consulates and USCIS during the immigrant visa application process.

For more information on the immigrant visa process through the DOS, please visit the Consular Affairs website at <https://travel.state.gov/content/visas/en/immigrate/nvc.html>

## The Department of Homeland Security (DHS)

### **United States Citizenship and Immigration Services (USCIS)**

USCIS is responsible for the issuance of green cards and work authorization documents, administering the application process for becoming a naturalized citizen and reviewing asylum applications.

USCIS Website: <https://www.uscis.gov/>

## **Customs and Border Protection (CBP)**

CBP is stationed at the ports of entry to the United States, such as airports, ports and land borders. These officers stationed at these locations have the authority to allow individuals to enter, or if necessary, deny people from entering the United States.

CBP Website: <https://www.cbp.gov/>

## **Immigration and Customs Enforcement (ICE)**

The law enforcement and investigative component of DHS. This agency primarily investigates crimes related to illegal smuggling of items and people into the United States.

ICE website: <https://www.ice.gov/>