

# Basic Facts on Immigration

## GLOSSARY

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**Asylee:** A person who has already entered the U.S. and who fears persecution if sent back to his or her home country can apply for asylum in the U.S. To obtain asylum, the individual has to prove that he or she has a "well-founded fear of persecution" on the basis of the person's race, religion, membership in a social group, political opinion, or national origin.

**Immigrant:** Under U.S. law, a foreign-born individual who has been admitted to reside permanently in the U.S. as a lawful permanent resident (LPR or "green card holder").

**Legal Permanent Resident:** A person who has been admitted to reside permanently in the U.S. Also see "immigrant."

**Naturalized citizen:** Lawful permanent residents may apply for U.S. citizenship through the naturalization process. To qualify for naturalization, LPRs must reside in the U.S. for at least five years (three if they obtained their green card through marriage to a U.S. citizen) and must not have committed any serious crimes, must show they have

paid their taxes, and are of "good moral character." They must also demonstrate a knowledge of U.S. history and government as well as an ability to understand, speak, and write English.

**Nonimmigrant:** A person who is permitted to enter the U.S. for a limited period of time but is not admitted for permanent residence.

**Refugee:** A person outside the U.S. who seeks protection on the grounds that he or she fears persecution. To obtain refugee status, the person has to prove that he or she has a "well-founded fear of persecution" on the basis of the person's race, religion, membership in a social group, political opinion, or national origin.

**Undocumented immigrant:** A person who is residing in the U.S. without the permission of the U.S. government. Undocumented immigrants enter the U.S. either illegally, without being inspected by an immigration officer or by using false documents, or legally, with a temporary visa and then remain in the U.S. after the visa has expired.

## Legal Immigration

The Immigration and Nationality Act (INA), the main body of law governing U.S. immigration policy, provides for a permanent annual worldwide level of 675,000 legal permanent visas each year. A separate number of visas for refugees is determined through a consultation process between Congress and the Executive Branch. While the principles on which U.S. immigration is

based have evolved throughout the nation's history, since the mid-20th century U.S. permanent immigration policy has been based on three general ideas: humanitarian relief, employment-based immigration, and family-based immigration. In addition, a small number of visas are allocated for the purpose of maintaining diversity in U.S. immigrant communities.

## Family-based immigration

Traditionally, family reunification has been a cornerstone of U.S. immigration policy. The current family-based immigration system is an orderly and tightly regulated system that allows close relatives of U.S. citizens (USCs) and LPRs to rejoin their family members in the U.S. There are 480,000 visas available each year for family-based immigration, which are allocated based on complicated calculations.\* Family-based immigrants are admitted to the U.S. either as **immediate relatives** of U.S. citizens

or through the **family preference system**.

There is no cap on the number of visas available each year for immediate relatives. Immediate relatives are:

- Spouses of U.S. citizens
- Unmarried minor children of U.S. citizens (under 21 years old)
- Parents of U.S. citizens

There are a limited number of visas available every year under the family preference system.

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\* The annual level of family-sponsored preference immigrants is determined by subtracting the number of immediate relative visas issued in the previous year and the number of aliens paroled into the U.S. for at least a year from 480,000. Then the unused employment preference immigrant numbers are added, if available. By law, the family-sponsored preference level may not fall below 226,000. In recent years, the 480,000 level has been exceeded to maintain the 226,000 floor on family-sponsored preference visas. The INA also establishes per-country levels at 7% of the worldwide level, meaning that no country can receive more than 7% of the overall number of visas. For a complete explanation of worldwide limits, see Wasem, Ruth Ellen, "U.S. Immigration Policy on Permanent Admissions." Washington, DC: Congressional Research Service, February 18, 2004.

The family preference system is for:

- Adult children (married and unmarried) and brothers and sisters of U.S. citizens
- Spouses and unmarried children (minor and adult) of LPRs.

Family-Based Preference System			
Preference #	U.S. Sponsor	Relationship	Visas Allocated
N/A	U.S. citizen	Spouses, unmarried minor children, and parents of adult U.S. Citizens	unlimited
1	U.S. citizen	Unmarried adult children	23,400/year*
2A	LPR	Spouses and minor children	87,900/year
2B	LPR	Unmarried adult children	26,300/year
3	U.S. citizen	Married adult children	23,400/year**
4	U.S. citizen	Brothers and sisters	65,000/year***
* Plus any visas left over from the 4th preference ** Plus any visas left over from the 1st and 2nd preference *** Plus any visas left over from the previous preferences			

## Employment-based immigration

Current U.S. immigration law allows people who have skills and talents needed in the U.S. to be admitted to work on a temporary or permanent basis.

There are more than 20 types of temporary (nonimmigrant) visas for foreign workers to enter the U.S. for temporary, specifically-defined periods of time. These visas include A visas (diplomatic employees), D visas (air and sea crewmembers), E visas (treaty-investors or treaty-traders), N visas (NATO employees), P visas (internationally-recognized athletes and

entertainers), and many more. Most nonimmigrants who come to the U.S. on temporary work visas are usually sponsored by a U.S. employer for a specific job offer and must work only for that employer. Most temporary work categories have annual numerical limitations.

There are five basic types of permanent business immigrant visas. These categories are created by Congress and have annual limits; a total of 140,000 permanent employment-based visas are available each year. These immigrants become permanent residents and receive green

cards. Employment-based immigrants are usually sponsored by U.S. employers who

demonstrate a need for a foreign worker. The preference system is as follows:

Employment-Based Preference System		
Preference #	Workers admitted	Visas Allocated
1	Priority workers: persons of extraordinary ability in the arts, science, education, business, or athletics; outstanding professors and researchers; and certain categories of multinational executives and managers.	40,000*
2	Members of the professions holding advanced degrees or persons of exceptional abilities in the arts, sciences, or business.	40,000**
3	Skilled shortage workers with at least two years of training or experience, professionals with college with college degrees, and "other workers" who are those "capable of performing unskilled labor," and who are not temporary or seasonal. "Other workers" are limited to 5,000 visas per year.	40,000***
4	Certain special immigrants, including ministers, religious workers, former U.S. government employees, and others.	10,000
5	Persons who invest \$500,000 to \$3 million in a job-creating enterprise in the U.S. and employ at least ten U.S. workers.	10,000

\* Plus any unused visas from the 4th and 5th preferences.  
 \*\* Plus any visas left over from the 1st preference.  
 \*\*\* Plus any visas left over from the 1st and 2nd preferences

## Humanitarian relief

Each year the U.S. provides protection within U.S. borders to a certain number of persons who are fleeing persecution in their homeland. A **refugee** applies for protection while still outside the U.S., while an **asylee** first comes to the U.S. and applies for protection here. Refugees and asylees must prove that they have a "well-founded fear of persecution" based on their race, religion, membership in a social group, political opinion, or national origin. In addition, refugees must fit into one of a set of priority categories, based on the degree of risk to the refugee's life, membership in certain groups of special concern to the U.S., and the existence of family members in the U.S. The number of refugees accepted each year is

determined by the President in consultation with Congress. In fiscal year 2004, up to 70,000 refugees will be permitted to enter the U.S. These numerical limits are ceilings, meaning that fewer refugees may actually be admitted in any particular year. These refugee numbers are allocated among five regions of the world; for FY 2004 the regional allocations are:

- Africa:** 25,000
- Eastern Europe and Former Soviet Union:** 13,000
- East Asia:** 6,500
- Near East/South Asia:** 2,000
- Latin America and the Caribbean:** 3,500
- Unallocated reserve:** 20,000
- Total:** 70,000

Refugees and asylees are eligible to become legal permanent residents (LPRs) after they have been in the U.S. for one year. There is no limit to the number of refugees who may become LPRs each year. However, there is a limit of 10,000 green cards available each year for asylees who apply for permanent residence. Because of this numerical limitation, there is a long backlog of applications for permanent residence.

Persons are admitted for humanitarian reasons through other channels as well. **Temporary Protected Status** (TPS) may be granted to persons who are currently in the U.S. and who would face "ongoing armed conflict," "natural disaster," or "extraordinary temporary conditions" if they were

to be returned to their home country. A country's TPS designation may last for six, 12, or 18 months, and may be extended if the Attorney General determines that unsafe conditions in the country persist. **Deferred Enforced Departure** (DED) is similar to TPS and delays the deportation of groups of individuals who would face danger if they were to be deported to countries experiencing instability. **Parole** is the term used when an individual is allowed to enter the U.S. even though he or she may not meet the conditions to enter through regular immigration or refugee channels. Parolees may be admitted temporarily for urgent humanitarian reasons or significant public benefit. TPS, DED, and parole are extremely rare.

## Diversity visa lottery

In addition, there are 55,000 visas available each year for diversity lottery immigrants. These are immigrants from countries with low admissions levels. Diversity visa immigrants

must have a high school education or its equivalent or a minimum of two years experience working in a profession requiring two years of training or experience.