



## Residency/Green Cards/Naturalization

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### Background

The United States is a nation of immigrants; anthropologists believe that even Native Americans (American Indians) crossed an early land bridge from Asia into North America. Many people who come to the United States choose to keep their citizenship, sometimes as a source of connection to their native country, sometimes because they see no need to become naturalized citizens. Those who choose this option can become *legal permanent residents* (LPRs), identified by the wallet-sized identification popularly known as the "green card."

Many people, especially those who have made their homes in the United States, want to be able to enjoy the same benefits as native-born Americans. To do this, they can become *naturalized citizens*. A naturalized citizen holds all the rights and privileges afforded to any U.S. citizen, including the right to vote, the right to hold a U.S. [PASSPORT](#), and the right to the protection of the U.S. government while abroad. The only right a naturalized citizen does not have, to all intents and purposes, is to become president or vice president of the United States. Naturalized citizens can hold Cabinet posts, however; two of the best known are former Secretaries of State Henry Kissinger and Madeleine Albright. There are a number of steps involved in applying for temporary residence, permanent residence, and naturalization.

### Becoming a Lawful Permanent Resident

There is much more to obtaining permanent residency than leaving one's home country and finding housing and employment in the United States. Each year thousands of people apply for LPR status, but the United States limits the number of immigrants that it admits. It is not unheard of for an immigrant to wait several years to receive an immigrant [VISA](#) number, which identifies the immigrant as an LPR.

Some people do not need to get LPR status. Students or people working on temporary projects can get temporary visas that allow them to live and work freely in the United States. Many people who enter the country on temporary visas choose not to leave after the visa runs out; people who do this are in violation of the law and subject to [DEPORTATION](#). People who come from another country and wish to make the United States their permanent home need to go through the residency process.

#### ***Immigration Petition***

The first step in obtaining permanent residency is to have an immigrant petition approved by the U.S. IMMIGRATION and Naturalization Service (INS). This step is usually taken by a family member or an

employer. In certain cases, such as workers with special skills who have come from overseas for specific projects, the immigrant can petition INS directly. Once the application is approved, INS will contact the person who filed the petition

### ***Immigrant Visa Number***

After the immigration petition has been approved and accepted by INS, the next step is to obtain an immigration visa number. The petitions are processed in chronological order; the date on which the original petition was filed is known as the priority date. Because so many people apply for permanent residence, the process can take a long time. People can check with the U. S. State Department to get a general idea of how long the process will take. The department publishes a bulletin that notes the current month and year of petitions currently being processed.

Once individuals are assigned an immigrant visa number, they must apply to have their status adjusted to permanent resident. If they are outside the United States when they receive an immigrant visa number, they can complete the process at the nearest U.S. Consulate office.

### ***Special Situations***

Immigrant visa numbers are actually awarded on the basis of a preference system. First of all, anyone who is an immediate relative of a U. S. citizen (parent, spouse, unmarried child under the age of 21) does not have to wait for a number; it is granted as soon as INS approves the petition. All other family members are ranked in the following order of highest preference:

- Unmarried adult children (INS classifies adults as those 21 and above).
- Spouses of LPRs and their unmarried children of any age.
- Married children of U. S. citizens, their spouses, and their minor children.
- Brothers and sisters of adult U. S. citizens, their spouses, and their minor children.

For those seeking LPR status based on employment there is a separate preference system; in order of highest preference it is as follows:

- Priority workers (people with special skills and abilities, noted professors and researchers, selected multinational executives)
- Professionals who hold advanced degrees or otherwise have demonstrated exceptional ability in their career.
- Highly skilled workers and professionals
- Certain special immigrants, including those in various religious vocations
- Employment Creation Immigrants, or Immigrant Investors (people with a specific plan to come to the United States and establish a business that will employ at least 10 people)

Another special situation applies to those who qualify for the *Diversity Visa* program. Every year the United States sets aside 55,000 visas for immigrants from countries that are considered under-represented in terms of immigration volume (typically a country from which fewer than 50,000 people emigrate each year). Anyone who is from one of these under-represented countries can enter the "Diversity Lottery." The application submission instructions and dates are usually posted by INS in August and the lottery is usually held in October.

Those who receive LPR status based on their marriage to a U.S. citizen are considered *conditional* permanent residents if the marriage is less than two years old on the day LPR status was granted. This is to cut down on the number of people who enter into marriages of convenience simply to remain in the United States.

## ***Working in the United States***

Unless an immigrant has won a very different kind of lottery, chances are that he or she will need to work while waiting for an immigration visa number. These people are able to work in the United States if they apply for an *employment authorization document* (EAD). The EAD proves that the holder is allowed to work in the United States. EADs can be renewed; a person who is waiting for an EAD but has not received it yet may ask for an interim EAD after 90 days. Generally, INS makes its decision sooner than that.

In some cases, a person who is not an LPR may not need an EAD, for example, someone who is authorized to work for a specific employer such as a foreign government.

The EAD is a protection for both the employer and the employee. It is illegal for employers to hire non-citizens who do not have either LPR status or an EAD. As for employees, having an EAD prevents them from being forced to take a job with someone who knows they are not authorized to work and exploits them by paying them below [MINIMUM WAGE](#), for example.

Once Lawful Permanent Resident status has been granted and a [GREEN CARD](#) issued, individuals may live and work in the United States and travel freely into and out of the country. If they wish to become naturalized U.S. citizens, however, they must prove that they were in the United States consecutively for a specific period of time. A person who travels to an overseas family home every three months and spends three months at a time there cannot apply for naturalization, even if he or she considers the U.S. home.

## **Naturalized Citizens**

### ***Requirements for Naturalization***

Only those age 18 or older can apply for naturalization. After that, the first requirement for anyone who wishes to become a naturalized U.S. citizen is residency. An applicant for naturalization must have been an LPR for at least five years. At least half of that time must have been spent *continuously* in the United States. The applicant cannot have spent more than one continuous year outside the United States during his or her permanent residency and must have lived in the current state or district of residence for at least three months.

The applicant must be able to read and write basic English, and, not surprisingly, must be favorably disposed toward the United States. Moreover, he or she must be deemed to possess "good moral character." People who fail to meet this requirement include the following:

- Those who have committed a crime, whether against an individual, property, or the government
- Those who have a record of substance abuse (alcohol and other drugs)
- Anyone involved in illegal gambling or prostitution
- Anyone who practices polygamy
- Anyone who has violated a court order to pay [ALIMONY](#) or child support
- Anyone who has lied to gain immigrant benefits
- Anyone who has persecuted others (based on race, religion, national origin, or political opinion) while a resident of the United States
- Anyone who has been deported
- Anyone who has spent more than 180 days in jail

## **The Application Process**

Anyone who meets the above criteria can make application for citizenship. The first step is filling out the proper forms and submitting the correct accompanying documentation. INS Form N-400 is the standard naturalization form. Applicants must complete the form and send it, along with a fingerprint card, a Biographic Information form (not always required), and two unsigned photographs to the nearest INS office. The fee as of 2001 was \$260 (not including any possible charges for the [FINGERPRINTS](#)).

Once the form has been examined and accepted by INS, the applicant will be contacted for an appointment with a naturalization [EXAMINER](#). Upon arriving at the application [EXAMINATION](#), the applicant must fill out another form, the Petition for Naturalization (for which a processing fee is paid). It is during the examination that applicants are asked about the United States, about why they wish to become naturalized citizens, and what they feel their responsibilities will be as U.S. citizens. Some of the questions are quite basic, while others are more involved. Among the possible questions are the following:

- How many branches are there in the U.S. government?
- Who was the first president of the United States?
- How many judges serve on the U.S. Supreme Court?
- Into which branches is Congress divided?
- Who is the Congressional representative from the applicant's district?
- How many amendments are there to the U.S. Constitution?
- Can the applicant summarize one amendment from the **BILL OF RIGHTS**, other than the First Amendment?
- Can the applicant recite the Pledge of Allegiance?

If the application examiner determines that the applicant is eligible for citizenship, the applicant must appear before a judge for a final [HEARING](#). Applicants who are denied citizenship may appear at the hearing and petition the judge, who will then make a final decision.

If all the conditions for naturalization are met, the judge will ask the applicant to take the oath of allegiance to the United States. Often, a number of people take the oath together in the courtroom. Each new U.S. citizen is given a naturalization certificate; once naturalization takes place the applicant no longer needs to carry or renew a green card.

New U.S. citizens need to understand that many countries do not recognize naturalization as entailing the loss of citizenship in another country. Some people may actually be "dual nationals" whose governments do not recognize them as Americans. In some cases, the individual must actually appear at his or her embassy and renounce citizenship in the native country.

One little-known type of naturalization is *posthumous citizenship*. This is an honorary citizenship given to non-U.S. citizens who died in the service of the United States (in the armed forces, for example). This is strictly honorary and does not confer any citizenship rights upon the person so honored.

## **Appealing INS Decisions**

In the wake of the attacks on the World Trade Center in New York and the Pentagon in Washington, D.C., on September 11, 2001, immigration officials have become even more vigilant. A push to reorganize the functions of INS to make the agency run better resulted in Congressional action in the spring of 2002, when the House of Representatives voted to authorize significant changes to the agency. Those seeking updated

information on current progress at INS can obtain comprehensive information from the agency's web site, <http://www.ins.usdoj.gov>.

INS Executive Office for Immigration Review (EOIR) includes the Office of the Chief Administrative Judge (whose office oversees some 220 Immigration Judges across the country), the office of the Chief Administrative Hearing Officer (responsible for hearing cases mostly about illegal employment practices), and the Board of Immigration Appeals (the highest administrative body dealing with immigration law). Many appeals of rejected applications can be handled at one of the 512 regional INS offices across the country, where an immigration judge can issue a ruling.

Because immigration issues are so specialized and complicated, it is a good idea to find either an immigration lawyer (some of whom may offer **PRO BONO** services) or an organization that deals with immigration issues. The INS website, in addition to providing updated news, offers a wide variety of explanatory documents on all aspects and phases of the immigration process.

## Additional Resources

*DAR Manual for Citizenship*. National Society, Daughters of the American Revolution, 1998.

*Emigrating to the USA: A Complete Guide to Immigration, Temporary Visas, and Employment*. Beshara, Edward C., and Richard & Karla Paroutard, Hippocrene Books, 1994.

*The Immigration and Naturalization Service*. Dixon, Edward H., and Mark A. Galan, Chelsea House, 1990.

*Immigration Made Simple: An Easy-to-Read Guide to the U.S. Immigration Process*. Kimmel, Barbara Brooks, and Alan M. Lubiner, Next Decade, 2000.

*Meeting the Challenge through Innovation*. U.S. Department of Justice, Immigration and Naturalization Service, 1996.

*Refugee Law and Policy: International and U.S. Responses*. Ved P. Nanda, editor, Greenwood Press, 1989.

## Organizations

### *United States Association for the United Nations High Commissioner for Refugees (UNHCR)*

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### *United States Department of Justice, Immigration, and Naturalization Service (INS)*

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