



HOW TO IMMIGRATE to the United States

U.S. immigration laws govern who can come to this country, how long they can stay, and the benefits and privileges they enjoy while they are here. People coming to the U.S. generally must have a passport issued by their country of nationality and a visa issued by the United States. The government issues “non-immigrant” visas to people who want to come to the U.S. temporarily (such as a tourist). “Immigrant” visas are issued to people intending to live permanently in the United States. Individuals from certain countries (known as “visa waiver countries”) do not have to obtain a visa before visiting the U.S. for up to 90 days. Visa waiver countries include most European countries, Australia, New Zealand, Japan, Singapore, and South Korea.¹

Migration is an ancient and natural human response to hunger, deprivation, persecution, war, or natural disaster. Today, most governments regulate their borders and govern who enters or leaves the country. Migrants are classified based on their intent and the manner in which they enter a country. Tourists, business travelers, students, temporary workers, asylum seekers, refugees, permanent residents, and undocumented migrants all are part of the worldwide migrant population. In 2020, an estimated 281 million people lived outside their country of birth. Approximately 51 million migrants live in the United States.²

TEMPORARY (NON-IMMIGRANT) STATUS

People can come to the United States temporarily for many different purposes, but all forms of temporary status have specific restrictions and requirements. For example, a person admitted as a student must maintain full-time enrollment.¹¹ A person admitted as a temporary professional worker may work only in the position, and for the employer, specified in the visa petition.¹² If a student fails to maintain a full course load or the worker takes an additional part-time job, they are deportable.

By the Numbers

IMMIGRATION IN 2019

29,916: Refugees admitted to the United States.³

1,031,765: Number of people obtaining lawful permanent resident status in the United States.⁴

50,661,149: Estimated number of migrants in the United States.⁵

271,642,105: Estimated number of migrants worldwide.⁶

TOP FIVE COUNTRIES OF ORIGIN FOR PERMANENT RESIDENTS:

- Mexico (156,052)
- China (62,248)
- Philippines (56,478)
- India (54,495)
- Dominican Republic (49,911)⁷

TOP FIVE COUNTRIES OF ORIGIN FOR PERMANENT RESIDENTS:

- Congo, Democratic Republic (12,958)
- Burma (4,932)
- Ukraine (4,451)
- Eritrea (1,757)
- Afghanistan (1,198)⁸

CALIFORNIA: State where greatest number of 2019 immigrants live.⁹

WYOMING: State where least number of 2019 immigrants live.¹⁰

Some kinds of temporary status depend on the circumstances in a person’s home country. For instance, if there is a humanitarian crisis in a person’s home country that would make it dangerous for them to return, the U.S. may allow them to stay until the situation in their home country improves.¹³

Most people living temporarily in the United States cannot obtain lawful permanent residency and are expected to leave when their period of authorized stay ends.¹⁴ People who fail to leave when their status expires are part of the United States’ undocumented population; they have “overstayed” their visa. Almost half of all undocumented people came on a temporary status but did not leave when required.¹⁵

The Obama-Biden Administration’s 2012 program Deferred Action for Childhood Arrivals (DACA) allows young people who were brought illegally to the United States as children to live, work and study in the U.S. on a temporary, renewable basis without the fear or threat of deportation. While DACA allows the recipient to gain legal status and work authorization, it does not offer a pathway to citizenship. The status of the program is uncertain after a federal judge ruled the program “illegal” in July 2021.¹⁶

Only two categories of non-immigrants can come temporarily while also applying to immigrate permanently. Those admitted as fiancé(e)s must marry the U.S. citizen who petitioned for them within 90 days of entry and may then file an application for permanent resident status.¹⁷ Professional workers admitted temporarily may pursue immigrant visa petitions that will allow them to work permanently in the United States, but other temporary workers, such as seasonal or agricultural laborers, cannot.¹⁸

LAWFUL PERMANENT RESIDENT STATUS

In the last decade, around 1.2 million people became lawful permanent residents of the United States each year.¹⁸ While this sounds like a large number, it is less than one half of 1% of the total U.S. population. A complicated formula determines the number of permanent resident visas available annually.

Getting lawful permanent residency is a two-step process. First, applicants must fit into certain categories or they cannot legally immigrate to the United States. Only close family members of lawful permanent residents or citizens, people with job offers, refugees and asylum seekers, winners of the diversity visa lottery, and certain particularly vulnerable groups are eligible to immigrate to the United States. Second, the person must be individually admissible. Even if an individual has immediate relatives or a job offer in the United States, they may have to wait for many years to become personally admissible or may never be allowed to immigrate.

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Considerations that can restrict a person's ability to immigrate include certain crimes, posing a threat to national security, fraud, and previous immigration violations.¹⁹ Following are the main avenues to immigrate permanently to the United States:

1. Family

The majority of immigrants - over 60% - come to the U.S. on family-sponsored visas.²⁰ Only spouses, children, parents, or siblings of U.S. citizens and spouses or children of lawful permanent residents may immigrate to the U.S. on family-sponsored visas. Of all immigrants who enter to be reunited with family, two thirds are the immediate relatives of U.S. citizens, namely spouses, unmarried minor children, and parents.²¹ There are no quotas on the number of immediate relatives of U.S. citizens who may immigrate to the U.S. in any given year.²²

The remaining immigrants fall into different categories based on their relationship to the petitioning family member, whether that family member is a citizen or lawful permanent resident (LPR), and their country of origin. Combined, these factors determine how long the person must wait for an immigrant visa to the United States. The U.S. does restrict how many people can receive these family-sponsored visas in a given year. The current cap is 226,000 and the rules state that no more than 7% of available visas may be issued to citizens of a single country.²³ Over time, the overall family immigration cap and the individual country cap have resulted in long backlogs for people from certain countries who are trying to join their families in the United States.

The following table shows the wait times for different categories of family-based immigrant visas for applicants from different parts of the world.²⁴ In August 2021, U.S. Customs and Immigration Services was processing only those applications submitted before the following dates:

Family Preference Category	All Countries Except Those Listed	India	Mexico	Philippines
Spouses, children under 21, parents (citizens)	May 15, 2016	May 15, 2016	August 1, 2000	April 22, 2015
Unmarried adult children (citizens)	June 1, 2021	June 1, 2021	June 1, 2021	June 1, 2021
Spouses and children under 21 (LPR)	September 22, 2016	September 22, 2016	August 8, 2000	October 1, 2013
Unmarried adult children (LPR)	August 22, 2009	August 22, 2009	September 8, 2000	October 1, 2013
Married children (citizens)	October 1, 2007	December 1, 2005	May 8, 1999	February 1, 2004
Siblings (citizens)	January 22, 2004	May 15, 1997	May 15, 1997	June 8, 1993

According to the chart, the married daughter of a U.S. citizen from Mexico who applied for a visa 21 years ago would only now be having her application processed.

2. Employment

People can also immigrate to the U.S. on employer-sponsored visas. On average, 14% of immigrants in the past decade came to the U.S. through an employer.²⁵ As with family-sponsored visas, prospective immigrants are divided into preference groups based on various factors: their skills and qualifications, the type of job they are filling, and their country of origin.

First preference: people with extraordinary ability (such as an Oscar or Olympic medal); outstanding professors or academics; executives of multinational companies.

Second preference: people with advanced degrees or equivalent experience; people with exceptional ability.

Third preference: skilled workers with at least two years' experience; professionals with bachelor's degrees; unskilled workers (up to 5,000 per year).

Fourth preference: religious workers; employees of international organizations; certain people who worked for the U.S. government abroad.

Fifth preference: investors who invest at least \$1 million in a business and create 10 new jobs for U.S. workers.²⁶

The U.S. government caps the total number of employer-sponsored visas allowed in a year at 140,000 and also limits each country to 7% of the total.²⁷ As part of the application process for an employer-sponsored visa, the employer usually must prove that they could not find

How to Immigrate to the United States

a U.S. worker for the job by getting a labor certification from the Department of Labor.²⁸

The following table shows the wait times for different categories of employer-sponsored visas for applicants from different parts of the world.²⁹ In August 2021, U.S. Customs and Immigration Services was processing only those applications submitted before the following dates:

Employment Preference Category	All Countries Except Those Listed	India	Mexico	Philippines
First preference	No wait	No wait	No wait	No wait
Second preference	No wait	December 1, 2011	No wait	No wait
Third preference	No wait	February 11, 2014	No wait	No wait
Fourth preference	No wait	No wait	No wait	No wait
Fifth preference	No wait	No wait	No wait	No wait

3. Refugees and Asylum Seekers

Refugees and asylum seekers are people seeking protection in a new country after fleeing persecution in their country of origin. On average, 14% of immigrants in the past decade were either refugees or asylum seekers.³⁰ The United States extends protection to them as a reflection of its commitment to political and religious liberty and racial tolerance. The difference between refugees and asylum seekers is that refugees apply for their status while they are still outside the United States, and asylum seekers apply once they are in the United States. Both refugees and asylum seekers must prove that they fear persecution in their home country, such as torture, imprisonment, or physical abuse, on the basis of one of the following:

- Race;
- Nationality;
- Political opinion;
- Religion; or
- Membership in a particular social group.³¹

Examples of social groups protected under U.S. law:

- Women in cases of domestic violence
- Lesbian, gay, bisexual, or transgender individuals
- People who are HIV+³²

In a refugee or asylum case, the burden of proof is on the applicant, who must be able to provide objective evidence or credible testimony to support his or her claim.³³

Not everyone who suffers persecution in another country is eligible for refugee status. The U.S. only accepts refugees who have either been referred by the UN High Commissioner for Refugees or when the person is a member of a designated group or from a designated country. In 2021, the U.S. intends to accept applications from nationals or habitual residents of El Salvador, Guatemala, or Honduras, among others. People who belong to these groups still have to prove that they individually qualify as a refugee because of a fear of persecution on one of the five grounds mentioned. The U.S. caps the number of refugees it will accept annually. In 2021, that maximum was just 15,000.³⁴

People who are not from one of the designated groups or countries and who cannot get a referral from the UNHCR can only receive protection if they travel to the U.S. and claim asylum once they arrive. Asylum seekers can either make an affirmative asylum claim by filing a form within a year of arriving in the U.S. or they can make a defensive asylum claim once they have been placed in deportation proceedings. Anyone in the U.S. can claim asylum whether they are here legally or not.³⁵

4. Diversity Visa

A small number of immigrants, on average 4% each year, receive their permanent residency through the diversity visa lottery.³⁶ This visa distributes 50,000 visas to applicants from countries that do not send many immigrants to the United States. An applicant must have a high school education or two years of work experience. People from high admission countries, such as Canada, Mexico, Brazil, China, India, the Philippines, and South Korea are not eligible for this "lottery."³⁷

5. Vulnerable Groups

U.S. immigration laws offer special protections to certain groups of people, such as victims of domestic violence, trafficking, or crime;

How to Immigrate to the United States

abandoned and neglected children; and people with special or long-term ties to the United States. A very small number of people each year can immigrate under these laws.³⁸

CITIZENSHIP

The U.S. government confers citizenship on three groups of people:

- People born in the United States;
- People born to U.S. citizen parents abroad; and
- People who naturalize (or whose parents naturalize before they turn 18).³⁹

To become a naturalized citizen, an individual must usually be a lawful permanent resident for at least five years, residing in the U.S. for half of that time. Naturalization requires passing an interview (in English), an English test, and a civics test, undergoing a background check, and taking an Oath of Allegiance.⁴⁰ Naturalized citizens are entitled to all the same rights and privileges of a citizen at birth, except that they may not become President.⁴¹

UNDOCUMENTED IMMIGRANTS

U.S. immigration laws provide only a limited number of ways for people to immigrate permanently to the United States and limited numbers of visas for those who do qualify. The pathways to immigrate do not match the demand for timely family reunification, for workers to fill economic needs, and for protection from persecution. As a result, some people come without a visa or overstay a temporary visa once they arrive; they are known as undocumented or illegal immigrants.⁴² In 2017, the estimated undocumented population in the United States was 10.5 million, or 3.2% of the total population.⁴³

ENFORCEMENT AND DEPORTATION

Any person who is not a U.S. citizen can be detained and removed if they are found to have violated immigration laws. Undocumented people may be arrested and deported at any time if found by immigration officials. Refugees, permanent residents, and people on temporary visas all may be deported or refused permission to re-enter the U.S. if they violate the conditions of their visas.

IMMIGRATION ENFORCEMENT

The U.S. immigration enforcement system is an enormous operation. In fiscal year 2020, Immigration and Customs Enforcement (ICE) completed 185,884 deportations.⁴⁴ Customs and Border Protection (CBP) apprehended over 405,036 people between ports of entry and encountered over 241,786 inadmissible immigrants at ports of entry.⁴⁵

In addition to overseeing deportation proceedings, ICE operates the largest detention program in the United States, with 26,771 people in ICE custody as of July 2021.⁴⁶ People in detention may spend weeks or months in jail while they wait for their hearing or pursue an appeal.⁴⁷

REMOVAL FROM THE UNITED STATES

In general, people accused of being in the United States in violation of immigration laws have a right to a hearing in front of an immigration judge. At the hearing, the judge decides whether there is sufficient evidence that the person is in the U.S. without legal immigration status and whether there is any defense that will allow the person to remain in the country. While U.S. law provides that people in removal proceedings have “the privilege of being represented,” representation must be “at no expense to the Government.”⁴⁸ In 2020, approximately 64% of all deportation cases were unrepresented.⁴⁹

U.S. immigration laws are strict. Undocumented people facing removal have few options to prevent deportation. An undocumented person who has lived in the U.S. for at least ten years, has “good moral character,” and whose deportation would result in exceptional and extremely unusual hardship to their U.S. citizen or lawful permanent resident children or spouse may apply for a waiver of deportation.⁵⁰ Victims of crimes, human trafficking, persecution, or domestic violence who are in removal proceedings generally may ask the judge for protection.⁵¹

People removed from the United States are barred from returning for at least ten years;⁵² those removed because of an aggravated felony conviction are permanently barred from returning to the United States.⁵³

ENDNOTES: How to Immigrate to the United States

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