



March 30, 2021

# Paths to Lawful Permanent Residence

Erin Fricker, Legal Director

# What is permanent residency?

- LPR status, a green card
- Authorization to live and work in the U.S. indefinitely
- Generally, LPR cards expire every 10 years
- Not always permanent!
  - May be abandoned or taken away by an Immigration Judge

# How can a person abandon their green card?

- Depart U.S. with the intention of remaining abroad
- Remain outside the U.S. for an extended period of time without reentry permit
- Fail to file U.S. taxes because nonresident noncitizen

# Common pathways to a green card

- Family
- Employment
- Asylum
- Victim of abuse
- Victim of trafficking or other serious crime
- Diversity program
- Other!

# Logistical steps for a green card

1. A **petition** is filed for the individual (by sponsor or self)
  - For example, I-130, I-140, I-360, I-589
2. Once petition is approved, there must be a **visa available**.
  - File I-485 with USCIS if in the United States
  - File a visa application with U.S. Department of State if abroad (consular processing)
3. Biometrics appointment
4. Interview (either at USCIS or consulate abroad)
5. Decision

# Visa availability

- Congress establishes annual limits for visa numbers
- Family and employment based applications are divided into preferences
  - This is what causes a lot of delay for many individuals
- Visas are always available for immediate relatives of U.S. citizens

# Family sponsored green cards

- Immediate relatives of U.S. citizens
  - Spouse (IR1, IR6)
  - Minor, unmarried child (IR2, IR7)
  - Parent of adult (IR5, IR0)
- Other family of U.S. citizens
  - Unmarried child over 21 (F11, F16)
  - Married child (F31, F36)
  - Sibling (F41, F46)
- Family of LPRs
  - Spouse (F21, F26, FX 1, FX6)
  - Minor, unmarried child (F22, F27, FX2, FX7)
  - Unmarried child over 21 (F24, F29)

# Who does not qualify for family-sponsored green cards?

- Grandparents
- Aunts or uncles
- In-laws
- Cousins
- Married children of LPRs
- Siblings of LPRs
- Parents of LPRs



# Visa availability wait times for family

F1 – minor, unmarried children of USCs

F2A – spouses and minor, unmarried children of LPRs

F2B – unmarried children over 21 of LPRs

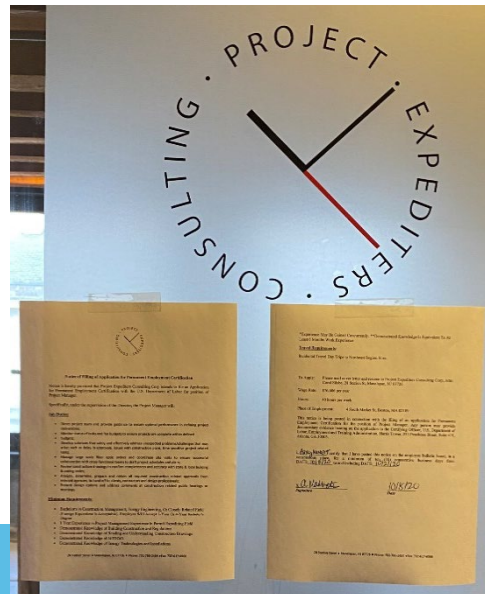
F3 – married children of USCs

F4 – siblings of USCs

Family-Sponsored	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
F1	22SEP14	22SEP14	22SEP14	08FEB98	08JAN12
F2A	C	C	C	C	C
F2B	22JUL15	22JUL15	22JUL15	15JUL99	15AUG11
F3	01AUG08	01AUG08	01AUG08	15SEP96	08MAR02
F4	22OCT06	22OCT06	22MAR05	15JUL98	01MAR02

# Employment based green cards

- Usually require employer obtaining a labor certification from Department of Labor before petition can be filed
  - PERM process – insufficient U.S. workers who are able, willing, qualified, and available to do the job and employment will not adversely affect U.S. workers



# Employment based green cards

## 1st: no LC

- Extraordinary ability (E11, E16)
- Outstanding researcher (E12, E17)
- Multinational company manager (E13, E18)

## 2nd: LC, except for NIW

- Advanced Degree (E21, E26)
- Exceptional ability (E21, E26)
- National Interest Waiver – can self-petition

## 3rd: LC

- Skilled worker (E31, E36)
- Professionals (E32, E37)
- Unskilled workers (EW3, EW8)

## 4th: no LC

- Special immigrants (SL6)
- Religious workers (SR1, SR6)

## 5th: no LC

- Investors (R51, R56, I51, I56)

# Visa availability wait times for employment

Employment-based	All Chargeability Areas Except Those Listed	CHINA-mainland born	EL SALVADOR GUATEMALA HONDURAS	INDIA	MEXICO	PHILIPPINES	VIETNAM
1st	C	01AUG20	C	01AUG20	C	C	C
2nd	C	15JUL16	C	15JAN10	C	C	C
3rd	C	08FEB18	C	01JUL10	C	C	C
Other Workers	C	01MAY09	C	01JUL10	C	C	C
4th	C	C	01JUN18	C	01JAN19	C	C
Certain Religious Workers	C	C	01JUN18	C	01JAN19	C	C
5th Non-Regional Center (C5 and T5)	C	15AUG15	C	C	C	C	22OCT17
5th Regional Center (I5 and R5)	C	15AUG15	C	C	C	C	22OCT17

# Asylum

- Refugees and asylees fled persecution based on race, religion, nationality, political opinion, or membership in a particular social group.
- Refugees are approved abroad.
- Asylees are approved in the U.S. (either at an asylum office or by an Immigration Judge).
- Refugees and asylees may apply for green cards after they have had refugee/asylee status for one year.

# Refugee Arrivals by Country of Nationality

## Refugee Arrivals by Country of Nationality: Fiscal Years 2017 to 2019

(Ranked by 2019 country of nationality)

Country of nationality	2017		2018		2019	
	Number	Percent	Number	Percent	Number	Percent
Total . . . . .	53,691	100.0	22,405	100.0	29,916	100.0
Congo, Democratic Republic . . . . .	9,377	17.5	7,878	35.2	12,958	43.3
Burma . . . . .	5,078	9.5	3,555	15.9	4,932	16.5
Ukraine . . . . .	4,264	7.9	2,635	11.8	4,451	14.9
Eritrea . . . . .	1,917	3.6	1,269	5.7	1,757	5.9
Afghanistan . . . . .	1,311	2.4	805	3.6	1,198	4.0
Syria . . . . .	6,557	12.2	62	0.3	563	1.9
Iraq . . . . .	6,886	12.8	140	0.6	465	1.6
Sudan . . . . .	980	1.8	76	0.3	382	1.3
El Salvador . . . . .	1,124	2.1	725	3.2	311	1.0
Colombia . . . . .	233	0.4	128	0.6	298	1.0
All other countries, including unknown.	15,964	29.7	5,132	22.9	2,601	8.7

Source: U.S. Department of State.

# Asylee Approvals by Country of Nationality

## Individuals Granted Asylum Affirmatively or Defensively by Country of Nationality: Fiscal Years 2017 to 2019

(Ranked by 2019 country of nationality)

Country	2017		2018		2019	
	Number	Percent	Number	Percent	Number	Percent
Total . . . . .	26,199	100.0	37,567	100.0	46,508	100.0
China, People's Republic . . . . .	5,550	21.2	6,794	18.1	7,478	16.1
Venezuela . . . . .	550	2.1	5,849	15.6	6,821	14.7
El Salvador . . . . .	3,453	13.2	2,919	7.8	3,212	6.9
Guatemala . . . . .	2,948	11.3	2,322	6.2	2,591	5.6
India . . . . .	671	2.6	1,301	3.5	2,259	4.9
Egypt . . . . .	1,154	4.4	1,566	4.2	2,301	4.9
Honduras . . . . .	2,040	7.8	1,998	5.3	1,819	3.9
Turkey . . . . .	28	0.1	501	1.3	1,799	3.9
Mexico . . . . .	1,028	3.9	1,344	3.6	1,593	3.4
Russia . . . . .	347	1.3	883	2.4	1,408	3.0
All other countries, including unknown .	8,430	32.2	12,090	32.2	15,227	32.7

Note: Data exclude follow-to-join asylees.

Source: U.S. Department of Homeland Security and U.S. Department of Justice.

# Victims of Abuse

- VAWA – Violence Against Women Act
  - For victims of battery or extreme cruelty, self-petition
  - Requires evidence of the victim's good moral character
  - Spouse of USC or LPR – IB1, IB6
  - Child of USC or LPR – IB2, IB7
  - Parent of USC – IB5, IB0
- SIJS – Special Immigrant Juvenile Status
  - Abused, abandoned, or neglected child – SL6
  - Must get state court finding, then self-petition



# Victims of serious crimes/trafficking

## U visa

- For victims of qualifying criminal activities (e.g. stalking, extortion, witness tampering, felonious assault, sex assault, obstruction of justice)
- Requires law enforcement agency certify victim's helpfulness
- 10,000 visas available each year

## T visa

- For victims of severe forms of sex or labor trafficking
- Requires compliance with any reasonable request from law enforcement and demonstration of extreme hardship involving unusual and severe harm if removed from the U.S.

# Diversity

- DV1-3, DV6-8
- Green card lottery for nationals of eligible countries (low recent immigration rates to U.S.)
- Requires high school diploma or 2 years of work experience that requires 2 years of training/experience
- 55,000 visas available annually (12 million applicants in 2019)

# Other!

- Cancellation of removal
- Cuban Adjustment Act
- NACARA
- Interpreters for U.S. in Iraq, Afghanistan
- SAW
- HRIFA

# Recent LPR statistics

**New Lawful Permanent Residents by Major Class of Admission: Fiscal Years 2017 to 2019**

Category of admission	2017		2018		2019	
	Number	Percent	Number	Percent	Number	Percent
Total	1,127,167	100.0	1,096,611	100.0	1,031,765	100.0
Family-sponsored immigrants	748,746	66.4	695,524	63.4	709,904	68.8
Immediate relatives of U.S. citizens	516,508	45.8	478,961	43.7	505,765	49.0
Spouses	292,909	26.0	268,149	24.5	304,334	29.5
Parents	148,610	13.2	144,018	13.1	140,128	13.6
Children*	74,989	6.7	66,794	6.1	61,303	5.9
Family-sponsored preferences	232,238	20.6	216,563	19.7	204,139	19.8
Unmarried sons/daughters of U.S. citizens	26,219	2.3	27,251	2.5	24,497	2.4
Spouses and children of lawful permanent residents	113,500	10.1	109,841	10.0	93,398	9.1
Married sons/daughters of U.S. citizens	23,260	2.1	19,531	1.8	25,213	2.4
Siblings of U.S. citizens	69,259	6.1	59,940	5.5	61,031	5.9
Employment-based preferences	137,855	12.2	138,171	12.6	139,458	13.5
Priority workers	41,060	3.6	39,514	3.6	39,471	3.8
Professionals with advanced degrees	39,331	3.5	40,095	3.7	39,506	3.8
Skilled workers, professionals, unskilled workers	38,083	3.4	39,228	3.6	41,787	4.1
Special immigrants	9,504	0.8	9,711	0.9	9,609	0.9
Investors	9,877	0.9	9,623	0.9	9,085	0.9
Diversity programs	51,592	4.6	45,350	4.1	43,463	4.2
Refugees and Asylees	146,003	13.0	185,909	17.0	106,911	10.4
Refugee adjustments	120,356	10.7	155,734	14.2	80,908	7.8
Asylee adjustments	25,647	2.3	30,175	2.8	26,003	2.5
Parolees	26	-	14	-	16	-
Other categories	42,945	3.8	31,643	2.9	32,013	3.1
Children born abroad to lawful permanent residents or nationals	75	-	69	-	60	-
Certain Iraqis and Afghans employed by U.S. Government and their spouses and children	19,191	1.7	10,297	0.9	8,081	0.8
Cancellation of removal	3,539	0.3	4,421	0.4	4,033	0.4
Subject to annual limit	2,849	0.3	3,695	0.3	3,585	0.3
Not subject to limit (NACARA <sup>1</sup> Section 203)	690	0.1	726	0.1	448	-
Victims of human trafficking	1,317	0.1	1,208	0.1	818	0.1
Victims of crimes and their spouses and children	18,065	1.6	15,012	1.4	18,442	1.8
Other <sup>2</sup>	758	0.1	636	0.1	579	0.1

\*Includes adoptees.

<sup>1</sup>Nicaraguan Adjustment and Central American Relief Act of 1997.

<sup>2</sup>Primarily consists of those admitted or adjusted under special legislation.

- Figure rounds to 0.0.

Source: U.S. Department of Homeland Security.