

The Legal Immigration Process

The legal immigration process in the United States is complicated, lengthy, costly, and not available to many who would like to be part of it. For these reasons, and because the process does not provide the United States with the number of workers its economy demands, the U.S. immigration system is widely regarded as “broken.”

Opportunities for Legal Immigration

The first step in legally immigrating to the United States is to obtain an immigrant visa. Most immigrants obtain visas through the sponsorship of close family members or employers. Others qualify for visas as asylees or refugees, fleeing persecution in their home countries. Of all others wishing to come, only the luckiest few will have a chance to do so legally; those coming from countries like Mexico will have virtually no opportunity whatsoever. Below are the four most common ways of obtaining an immigrant visa:



1. Family-based: A U.S. citizen or a legal permanent resident (a “green card” holder) sponsors a family member for immigration. Waiting periods for obtaining such visas vary depending on the closeness of the family relationship, and can be lengthy, because a limited number of visas are available each year.

Sponsor	Family relationship	Wait for visa
U.S. citizen	Spouse, minor child, parent	Immediate
U.S. citizen	Adult unmarried child	3.5 years (up to 14*)
U.S. citizen	Adult married child	6.5 years (up to 14*)
U.S. citizen	Brother or sister	12 years (up to 20*)
Perm. resident	Spouse, minor child	5 years
Perm. resident	Adult unmarried child	9 years

*Some countries of origin, including Mexico, China, and the Philippines, have more restrictive visa availabilities.

2. Employment-Based: Employers sponsor a potential employee for immigration; in select cases extraordinarily-qualified immigrants may immigrate without an employer-sponsor. Employer sponsors must demonstrate that there are an insufficient number of qualified workers available in the United States to meet their need. The wait can last 7 to 8 years because of the limited number of visas.

3. Asylum and Refugee Status: These protections are available to people who are unable or unwilling to return to their home countries 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. In general, asylee status is granted in the United States and refugee status is granted outside of it.

4. Diversity Lottery: For those who don’t have a family member or employer to sponsor them, the Diversity Lottery may be an option. Only 50,000 winners are granted visas annually in this process. Not everyone is eligible to enter the lottery: The program aims to increase immigration from underrepresented countries, so each year the State Department issues a list of those countries whose citizens may **not** apply. For 2008, immigrants from the following countries are **excluded** from the visa lottery: Brazil, Canada, China, Colombia, the Dominican Republic, El Salvador, Haiti, India, Jamaica, Mexico, Pakistan, the Philippines, Peru, Poland, Russia, South Korea, the United Kingdom and Vietnam.

Completing the Immigration Process

An immigrant must have a legal immigrant visa to be eligible for legal permanent residency and U.S. citizenship, but the visa is not enough. To acquire a “green card,” an immigrant must first apply to adjust his status to legal permanent resident. The Department of Homeland Security then verifies that there are no medical, financial, criminal or prior immigration violation grounds to deny the application, which costs \$1,010. Most people need an attorney to help them navigate the complex process, incurring additional costs of several thousand dollars. Most legal permanent residents are allowed to apply for citizenship after five years. To gain citizenship, they must demonstrate good moral character and a basic knowledge of English, U.S. history and government. The citizenship application costs \$675.

It is important to note that immigration law is a type of administrative – not criminal – law. Immigration legal procedures like deportations do not proceed through the U.S. judicial system. They take place within the U.S. Department of Justice. Because deportation is considered an administrative correction and not a criminal punishment, undocumented immigrants facing deportation do not have the right to legal counsel provided by the government. As most cannot afford legal representation, they face the system alone.



