

# Immigration and Refugee Basics

## Who Is an Immigrant?

According to U.S. law, an immigrant is a foreign-born individual who has been admitted to reside permanently in the United States as a Lawful Permanent Resident (LPR).

## How Do Immigrants Get Admitted to Permanently Reside Here?

Typically, a foreign-born individual seeking to become an LPR can do so in one of three ways:

1. Through family-sponsored immigration, a U.S. citizen can sponsor his or her foreign-born spouse, parent (if the sponsor is over the age of 21), minor and adult married and unmarried children, and brothers and sisters. A Lawful Permanent Resident can sponsor his or her spouse, minor children, and adult unmarried children. Our immigration system divides the family members eligible for sponsorship into two tiers. *Immediate relatives* of U.S. citizens—that is, spouses, unmarried minor children and parents, but not brothers and sisters or unmarried and married adult children—are admitted as their applications are processed.
2. Through employment-based immigration, a U.S. employer can sponsor an individual for a specific position where there is a demonstrated absence of U.S. workers.
3. By winning one of a limited number of immigrant visas available in the annual diversity visa lottery that is open to immigrants from certain countries.

## Who Is a Refugee?

A refugee is a person *outside* of the United States who seeks protection on the grounds that he or she fears persecution in his or her homeland. To obtain refugee status, a person must prove that he or she has a "well-founded fear of persecution" on the basis of at least one of five specifically-enumerated and internationally recognized grounds. Those grounds include the person's *race, religion, membership in a social group, political opinion, or national origin*. A person who has *already entered* the United States, and who fears persecution if sent back to his or her country, may apply for asylum here. Once granted asylum, the person is called an "asylee." Like a refugee, an asylum applicant must also prove that he or she has a "well-founded fear of persecution" based on the same enumerated grounds. Both refugees and asylees may apply to become LPRs after one year.

## How Does Someone Gain Refugee Status?

To qualify for refugee resettlement in the U.S., a person must come from a country designated by the Department of State. The person must meet the definition of a refugee by proving that she has a well-founded fear of persecution. The refugee applicant must prove that this fear is based on the possibility of persecution because of her *race, religion, membership in a social group, political opinion, or national origin*. In addition, a refugee must fit into one of a set of "priority" categories, which factor in degree of risk to the refugee's life, membership in certain groups of special concern to the U.S., and existence of family members in the U.S. A person claiming refugee status must undergo a vigorous screening process before being resettled in the U.S. First, the person is screened by the United Nations High Commissioner for Refugees (UNHCR) to determine if she qualifies as a refugee under international law. If she qualifies, she next is screened by the U.S. embassy in the host country, which contracts with private organizations to collect personal information about refugees. The embassy will check the name of the refugee in its Consular Lookout and Support System (CLASS), which contains the names of millions of persons who have been denied visas, or who may be otherwise ineligible for entry into the U.S. If she passes that test, an officer from U.S. Citizenship and Immigration Services (USCIS) conducts a face-to-face interview and reviews the file. The refugee is then photographed and fingerprinted by the State Department. Certain refugees must receive clearance from the FBI. If no problems arise in all

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of this screening, the refugee proceeds to the U.S., where an inspector from the Bureau of Customs and Border Protection conducts one more interview and compares the refugee with host country U.S. embassy records. While these redundant checks ensure that no one who is not entitled to refugee status will get it, they have greatly slowed the admissions system, and hampered our ability to protect vulnerable individuals. Thousands of refugee "slots" have gone unused in recent years, even as the admission ceilings have been greatly reduced from those of the recent past. Without additional resources, the U.S. is falling short of its commitment to protect refugees.

After refugees have been in the U.S. for one year, they are eligible to become permanent residents. There is no limit to the number of refugees who may become permanent residents each year.

### What Public Benefits Do Immigrants and Refugees Receive?

Determining whether or not an immigrant qualifies for public benefits is a complicated matter. Eligibility for benefits depends on a number of factors, among them:

- her immigration status;
- whether or not she entered the U.S. before or after the 1996 welfare reform law was enacted (August 22, 1996);
- length of residence in the U.S.;
- her income and resources and the income and resources of the family member who sponsored her;
- work history;
- whether she is a child or adult;
- her state of residence; and
- the various other eligibility requirements of the particular benefits program.

Most benefits programs are open only to long-term, lawful immigrants. A small number of programs (such as school lunch programs and emergency medical services) are open to all people in need. For federal means-tested public benefits, newly-arrived legal immigrants generally are:

1. barred for their first five years in the U.S.; **and**
2. subject thereafter to a process called "deeming" where the income and resources of the U.S. citizen or Lawful Permanent Resident sponsor of the immigrant are added to the immigrant's own income to determine whether the immigrant is poor enough to qualify for the benefit under the program's financial guidelines.

Deeming continues until the new immigrant either becomes a citizen or works 40 "qualifying quarters" (at least 10 years). The work of a spouse (or of a parent in the case of a child under 18) also counts towards the 40 quarters.

After becoming naturalized citizens, or working for 40 quarters, legal immigrants are generally eligible for federal and state programs provided they meet the general program criteria.

### Are Undocumented Immigrants Entitled to Any Federal Government Services?

While immigrants who are not here legally are ineligible for nearly all federal benefits, they are still eligible for certain very basic kinds of assistance, including: emergency Medicaid, immunizations, testing and treatment for the symptoms of communicable diseases, short-term non-cash disaster relief, school lunches and breakfasts, and certain other programs essential to public health and safety.

Source: <http://www.justiceforimmigrants.org/immigration-basics.shtml>