



How the United States Immigration System Works

U.S. immigration law is very complex, and there is much confusion as to how it works. The Immigration and Naturalization Act (INA), the body of law governing current immigration policy, provides for an annual worldwide limit of 675,000 permanent immigrants, with certain exceptions for close family members.¹ Lawful permanent residency allows a foreign national to work and live lawfully and permanently in the United States. Lawful permanent residents (LPRs) are eligible to apply for nearly all jobs (i.e., jobs not legitimately restricted to U.S. citizens) and can remain in the country even if they are unemployed. Each year the United States also admits noncitizens on a temporary basis. Annually, Congress and the President determine a separate number for refugee admissions.

Immigration to the United States is based upon the following principles: the reunification of families, admitting immigrants with skills that are valuable to the U.S. economy, protecting refugees, and promoting diversity. This fact sheet provides basic information about how the U.S. legal immigration system is designed.

I. Family-Based Immigration

Family unification is an important principle governing immigration policy. The family-based immigration category allows U.S. citizens and LPRs to bring certain family members to the United States. Family-based immigrants are admitted either as immediate relatives of U.S. citizens or through the family preference system.

Prospective immigrants under the immediate relatives' category must meet standard eligibility criteria, and petitioners must meet certain age and financial requirements.² Immediate relatives are:

- spouses of U.S. citizens;
- unmarried minor children of U.S. citizens (under 21-years-old);³ and
- parents of U.S. citizens (petitioner must be at least 21-years-old to petition for a parent).

A limited number of visas are available every year under the family preference system, but prospective immigrants must meet standard eligibility criteria, and petitioners must meet certain age and financial requirements.⁴ The preference system includes:

- adult children (married and unmarried) and brothers and sisters of U.S. citizens (petitioner must be at least 21-years-old to petition for a sibling), and
- spouses and unmarried children (minor and adult) of LPRs.

In order to balance the overall number of immigrants arriving based on family relationships, Congress established a complicated system for calculating the available number of family preference visas for any given year. The number is determined by starting with 480,000 and then subtracting the number of immediate relative visas issued during the previous year and the number of aliens “paroled” into the U.S. during the previous year.⁵ Any unused employment preference immigrant numbers from the preceding year are then added to this sum to establish the number of visas that remain for allocation through the preference system.⁶ However, by law, the number of family-based visas allocated through the preference system may not be lower than 226,000.⁷ In reality, due to large numbers of immediate relatives, the actual number of preference system visas available each year has been 226,000. Consequently, the total number of family-based visas often exceeds 480,000.⁸

In Fiscal Year (FY) 2014, family-based immigrants comprised 64 percent of all new LPRs in the United States⁹

The family-based immigration system is summarized in Table 1.

Table 1: Family-Based Immigration System

Category	U.S. Sponsor	Relationship	Numerical Limit
Immediate Relatives	U.S. Citizen adults	Spouses, unmarried minor children, and parents	Unlimited
Preference allocation			
1	U.S. citizen	Unmarried adult children	23,400*
2A	LPR	Spouses and minor children	87,900
2B	LPR	Unmarried adult children	26,300
3	U.S. citizen	Married adult children	23,400**
4	U.S. citizen	Brothers and Sisters	65,000***
* Plus any unused visas from the 4th preference.			
** Plus any unused visas from 1st and 2nd preference.			
***Plus any unused visas from the all other family-based preferences.			

Worldwide level of family preference allocation: 480,000 minus visas issued to immediate relatives and parolees, plus unused employment-visas from previous fiscal year. Floor for preference categories: 226,000.

Source: William A. Kandel, Permanent Legal Migration to the United States, (CRS Report No. R42866) (Washington, DC: Congressional Research Service, 2014), <https://www.fas.org/sgp/crs/homesecc/R42866.pdf>.

In order to be admitted through the family-based immigration system, a U.S. citizen or LPR sponsor must petition for an individual relative, establish the legitimacy of the relationship, meet minimum income requirements, and sign an affidavit of support stating that the sponsor will be financially responsible for the family member(s) upon arrival in the United States.¹⁰

The spouses and children who accompany or follow the principal immigrants (those who qualify as immediate relatives or in family-preference categories) are referred to as derivative immigrants. The number of visas granted to derivative immigrants is counted under the appropriate category limits. For example, in FY 2013, 65,536 people were admitted as siblings of U.S. citizens; 27,022 were actual siblings of U.S. citizens (the principal immigrants); 14,891 were spouses of principal immigrants; and 23,623 were children of principal immigrants.¹¹

II. Employment-Based Immigration

The United States provides various ways for immigrants with valuable skills to come to the country on either a permanent or a temporary basis.

Temporary Visa Classifications

Temporary employment-based visa classifications permit employers to hire and petition for foreign nationals for specific jobs for limited periods. Most temporary workers must work for the employer that petitioned for them and have limited ability to change jobs.¹² There are more than 20 types of visas for temporary nonimmigrant workers. These include L-1 visas for intracompany transfers; various P visas for athletes, entertainers, and skilled performers; R-1 visas for religious workers; various A visas for diplomatic employees; O-1 visas for workers of extraordinary ability; and various H visas for both highly-skilled and lesser-skilled employment. The visa classifications vary in terms of their eligibility requirements, duration, whether they permit workers to bring dependents, and other factors. In most cases, they must leave the United States if their status expires or if their employment is terminated.

Permanent Immigration

The overall numerical limit for permanent employment-based immigrants is 140,000 per year.¹³ This number includes the immigrants plus their eligible spouses and minor unmarried children, meaning the actual number of employment-based immigrants is less than 140,000 each year. The 140,000 visas are divided into five preference categories, detailed in Table 2.

Table 2: Permanent Employment-Based Preference System

Preference Category	Eligibility	Yearly Numerical Limit
1	“Persons of extraordinary ability” in the arts, science, education, business, or athletics; outstanding professors and researchers, multinational executives and managers.	40,000*
2	Members of the professions holding advanced degrees, or persons of exceptional abilities in the arts, science, or business.	40,000**
3	Skilled workers with at least two years of training or experience, professionals with college degrees, or “other” workers for unskilled labor that is not temporary or seasonal.	40,000*** “Other” unskilled laborers restricted to 5,000
4	Certain “special immigrants” including religious workers, employees of U.S. foreign service posts, former U.S. government employees and other classes of aliens.	10,000
5	Persons who will invest \$500,000 to \$1 million in a job-creating enterprise that employs at least 10 full time U.S. workers.	10,000

*Plus any unused visas from the 4 th and 5 th preferences.
**Plus any unused visas from the 1 st preference.
***Plus any unused visas from the 1 st and 2 nd preference.
Worldwide level of employment-based immigrants: 140,000 for principal applicants and their dependents.
Source: Kandel, William A. Kandel, <i>Permanent Legal Migration to the United States</i> , (CRS Report No. R42866) (Washington, DC: Congressional Research Service R42866, October 29, 2014), 4, https://www.fas.org/sgp/crs/homsec/R42866.pdf .

In FY 2014, immigrants admitted through the employment preferences made up 15 percent of all new LPRs in the United States.¹⁴

III. Per-Country Ceilings

In addition to the numerical limits placed upon the various immigration preferences, the INA also places a limit on how many immigrants can come to the United States from any one country. Currently, no group of permanent immigrants (family-based and employment-based) from a single country can exceed seven percent of the total amount of people immigrating to the United States in a single fiscal year.¹⁵ This is not a quota to ensure that certain nationalities make up seven percent of immigrants, but rather a limit that is set to prevent any immigrant group from dominating immigration patterns to the United States.

IV. Refugees and Asylees

Protection of Refugees, Asylees, and other Vulnerable Populations

There are several categories of legal admission available to people who are fleeing persecution or are unable to return to their homeland due to life-threatening or extraordinary conditions.

Refugees are admitted to the United States based upon an inability to return to their home countries because of a “well-founded fear of persecution” due to their race, membership in a particular social group, political opinion, religion, or national origin.¹⁶ Refugees apply for admission from outside of the United States, generally from a “transition country” that is outside their home country. The admission of refugees turns on numerous factors, such as the degree of risk they face, membership in a group that is of special concern to the United States (designated yearly by the President of the United States and Congress), and whether or not they have family members in the United States.

Each year the President, in consultation with Congress, determines the numerical ceiling for refugee admissions.¹⁷ The total limit is broken down into limits for each region of the world as well. After September 11, 2001, the number of refugees admitted into the United States fell drastically, but annual admissions have steadily increased as more sophisticated means of conducting security checks have been put into place.¹⁸

For FY 2016, the President set the worldwide refugee ceiling at 85,000,¹⁹ shown in Table 3 with the regional allocations.

Table 3: Presidential Determination on Refugee Admissions, FY 2016

Africa	25,000
East Asia	13,000
Europe and Central Asia	4,000
Latin America/Caribbean	3,000
Near East/South Asia	34,000
Unallocated Reserve	6,000
TOTAL	85,000
<i>Source: U.S. Departments of State, Homeland Security, and Health and Human Services, Proposed Refugee Admissions for Fiscal Year 2016: Report to the Congress, (Washington, DC, 2015).</i>	

Asylum is available to persons already in the United States who are seeking protection based on the same five protected grounds upon which refugees rely.²⁰ They may apply at a port of entry at the time they seek admission or within one year of arriving in the United States. There is no limit on the number of individuals who may be granted asylum in a given year nor are there specific categories for determining who may seek asylum. In FY 2014, 23,533 individuals were granted asylum.²¹

Refugees and asylees are eligible to become LPRs one year after admission to the United States as a refugee or one year after receiving asylum.²²

IV. The Diversity Visa Program

The Diversity Visa lottery was created by the Immigration Act of 1990 as a dedicated channel for immigrants from countries with low rates of immigration to the United States. Each year 55,000 visas are allocated randomly to nationals from countries that have sent less than 50,000 immigrants to the United States in the previous 5 years.²³ Of the 55,000, up to 5,000 are made available for use under the NACARA program. This results in a reduction of the actual annual limit to 50,000.

Although originally intended to favor immigration from Ireland (during the first three years of the program at least 40 percent of the visas were exclusively allocated to Irish immigrants), the Diversity Visa program has become one of the only avenues for individuals from certain regions in the world to secure a green card.

To be eligible for a diversity visa, an immigrant must have a high-school education (or its equivalent) or have, within the past five years, a minimum of two years working in a profession requiring at least two years of training or experience. Spouses and minor unmarried children of the principal applicant may also enter as dependents. A computer-generated random lottery drawing chooses selectees for diversity visas. The visas are distributed among six geographic regions with a greater number of visas going to regions with lower rates of immigration, and with no visas going to nationals of countries sending more than 50,000 immigrants to the United States over the last five years.

People from eligible countries in different continents may register for the lottery. However, because these visas are distributed on a regional basis, the program especially benefits Africans and Eastern Europeans.

V. Other Forms of Humanitarian Relief

Temporary Protected Status (TPS) is granted to people who are in the United States but cannot return to their home country because of “natural disaster,” “extraordinary temporary conditions,” or “ongoing armed conflict.”²⁴ TPS is granted to a country for six, 12, or 18 months and can be extended beyond that if unsafe conditions in the country persist. TPS does not necessarily lead to LPR status or confer any other immigration status.

Deferred Enforced Departure (DED) provides protection from deportation for individuals whose home countries are unstable, therefore making return dangerous.²⁵ Unlike TPS, which is authorized by statute, DED is at the discretion of the executive branch. DED does not necessarily lead to LPR status or confer any other immigration status.

Certain individuals may be allowed to enter the U.S. through **parole**, even though they may not meet the definition of a refugee and may not be eligible to immigrate through other channels. Parolees may be admitted temporarily for urgent humanitarian reasons or significant public benefit.²⁶

VI. U.S. Citizenship

In order to qualify for U.S. citizenship through naturalization, an individual must have had LPR status (a green card) for at least five years (or three years if he or she obtained the green card through a U.S.-citizen spouse or through the Violence Against Women Act, VAWA). There are other exceptions including, but not limited to, members of the U.S. military who serve in a time of war or declared hostilities.²⁷ Applicants for U.S. citizenship must be at least 18-years-old, demonstrate continuous residency, demonstrate “good moral character,” pass English and U.S. history and civics exams (with certain exceptions), and pay an application fee, among other requirements.²⁸

Endnotes

1. This number results from adding the family-based annual limit, the employment-based annual limit, and the diversity program annual limit; also see Ruth Ellen Wasem, *U.S. Immigration Policy on Permanent Admissions* (CRS Report No. RL32235) (Washington, DC: Congressional Research Service, 2010), p. 3. <https://www.fas.org/sgp/crs/homesecc/RL32235.pdf>.
2. INA §212(a) and INA §212(a)(4). Also see William A. Kandel, *U.S. Family-Based Immigration Policy* (Washington, DC: Congressional Research Service, February 17, 2016), p. 7.
3. Visa numbers are also available for children adopted by U.S. citizens. See U.S. Department of State, "Intercountry Adoption," accessed August 11, 2016, <https://travel.state.gov/content/adoptionsabroad/en.html>.
4. *Ibid.*
5. INA §201(c).
6. Ruth Ellen Wasem, *U.S. Immigration Policy on Permanent Admissions* (Washington, DC: Congressional Research Service, March 13, 2012), p. 3, <https://www.fas.org/sgp/crs/homesecc/RL32235.pdf>.
7. INA §201(c)(1)(B)(ii).
8. Ruth Ellen Wasem, *U.S. Immigration Policy on Permanent Admissions* (Washington, DC: Congressional Research Service, March 13, 2012), p. 3, <https://www.fas.org/sgp/crs/homesecc/RL32235.pdf>.
9. Nadwa Mossad, "U.S. Lawful Permanent Residents: 2014," *U.S. Department of Homeland Security Office of Immigration Statistics*, April 2016, p. 3. https://www.dhs.gov/sites/default/files/publications/LPR%20Flow%20Report%202014_508.pdf.
10. An affidavit of support is a document an individual signs to accept financial responsibility for another person who is coming to the U.S. to live permanently. Sponsors of the affidavit of support must be at least 18 years old, be a U.S. citizen or lawful permanent resident, and reside in the U.S. and provide evidence their annual income is no less than 125% of the federal poverty level. See USCIS, "Affidavit of Support," <https://www.uscis.gov/green-card/green-card-processes-and-procedures/affidavit-support>.
11. William A. Kandel, *U.S. Family-Based Immigration Policy* (Washington, DC: Congressional Research Service, February 17, 2016), p. 7.
12. Some nonimmigrant visa classifications permit foreign workers to work in the United States without an employer having first filed a petition on the foreign worker's behalf. These include such nonimmigrant classifications as E-1, E-2, E-3 and TN. USCIS, "Temporary (Nonimmigrant) Workers," accessed June 12, 2016, <https://www.uscis.gov/working-united-states/temporary-nonimmigrant-workers>.
13. INA §201(d); U.S. Department of State, "Employment-Based Immigrant Visa," accessed June 1, 2016, <https://travel.state.gov/content/visas/en/immigrate/employment.html>.
14. Nadwa Mossad, "U.S. Lawful Permanent Residents: 2014," (Washington, DC: U.S. Department of Homeland Security, Office of Immigration Statistics, April 2016), p. 4. https://www.dhs.gov/sites/default/files/publications/LPR%20Flow%20Report%202014_508.pdf
15. INA §202(a)(2). There are exceptions to this limit, mainly in the area of family-based immigration. For example, 75% of the second family preference immigrants are exempt from the per-country limit. See Ruth Ellen Wasem, *U.S. Immigration Policy on Permanent Admissions* (Washington, DC: Congressional Research Service, March 13, 2012), <https://www.fas.org/sgp/crs/homesecc/RL32235.pdf>.
16. 8 U.S.C. §1101 *et seq.* P.L. 96-212, March 17, 1980. This definition conforms with the definition used in the United Nations Convention and Protocol relating to the status of refugees.
17. INA §207(a).
18. Andorra Bruno, *Refugee Admissions and Resettlement Policy*, (Washington, DC: Congressional Research Service, February 18, 2015).
19. ¹⁹ U.S. Department of State, U.S. Department of Homeland Security, and U.S. Department of Health and Human Services, *Proposed Refugee Admissions for Fiscal Year 2016: Report to the Congress*, October 1, 2015, <http://www.state.gov/j/prm/releases/docsforcongress/247770.htm>.
20. INA §208.
21. U.S. Department of Homeland Security, "Table 16: Individuals Granted Asylum Affirmatively or Defensively: FYs 1990-2014," *Yearbook of Immigration Statistics: 2014 Refugees and Asylees*, last published June 1, 2016, <https://www.dhs.gov/yearbook-immigration-statistics-2014-refugees-and-asylees>.
22. INA §209(a). Asylees may apply for LPR status after one year, but are not required to do so. There are no numerical limitations on

refugee or asylee adjustments of status.

23. INA §203(c).
24. INA §244.
25. U.S. Citizenship and Immigration Services, “Delayed Enforced Departure,” updated July 14, 2015, <https://www.uscis.gov/humanitarian/temporary-protected-status/deferred-enforced-departure>.
26. U.S. Citizenship and Immigration Services, “Humanitarian Parole,” updated March 18, 2016, <https://www.uscis.gov/humanitarian/humanitarian-parole>.
27. INA §319.
28. William A. Kandel, *U.S. Naturalization Policy*, (Washington, DC: Congressional Research Service, January 16, 2014), pp. 4-7.