



IMMIGRATION 101 FOR PARALEGALS AND ACCREDITED REPRESENTATIVES

By Peggy Gleason

Immigration law is complex and ever-changing. Thus, it can be intimidating for even the most experienced practitioners. There are dozens of moving pieces, in part because so many different government agencies within the executive branch implement and influence immigration law. There are also hundreds of acronyms that numb the mind and make immigration legal concepts difficult to understand. Like any foreign language, it helps to have some basic vocabulary to comprehend what is being communicated. This practice advisory aims to give you some basic tools to understand the number one issue in U.S. politics these days, and to begin working in the field of legal advocacy for immigrants.

This advisory¹ is merely a general introduction. For more information on substantive areas of immigration law, please visit the ILRC's website for webinars and manuals, www.ilrc.org.

I. The Immigration and Nationality Act and Its Regulations

The Immigration and Nationality Act of 1952 (INA) defines the world in terms of U.S. citizens, and everyone else – called “aliens” in the INA. We use the less offensive term “foreign citizens,” since alien (to some) implies something less than human. Most of the regulations for immigration are found in title (volume) 8 of the U.S. Code of Federal Regulations (CFR). You can find the law and regulations under legal resources at www.uscis.gov.

II. Who is a Citizen?

A. U.S. Citizen

Our founding Constitution's Fourteenth Amendment provides that anyone born in the United States is a U.S. citizen. This includes people born in U.S. territories, such as Puerto Rico, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Marianas. At one time, birth in Panama and the Panama Canal Zone conferred citizenship as well.

Example: Mariana was born in Maryland. She has been a U.S. citizen since she was born. Her parents are undocumented but that does not impact her citizenship.

Citizenship can also be acquired at birth by certain people who have one or both parents that are U.S. citizens at the time of their birth (acquisition of citizenship). There is also a process called derivation of citizenship, which can happen through a later event, such as the naturalization of one's parents. Both acquisition and derivation of citizenship are very complicated areas of law, and the requirements often vary depending on when you were born.

Example: Viola was born in Jamaica. Her grandfather was a U.S. citizen. Because her grandfather lived in the United States for a certain period of time and met other requirements, Viola’s mother acquired citizenship. Viola’s mother did not know she was a U.S. citizen, but because she also lived in the United States for a certain period of time, Viola acquired citizenship at birth.

Naturalization describes the process where someone who is a lawful permanent resident (LPR, or green card holder) applies to become a U.S. citizen. This is the process where a green card holder, generally after five years in that status, can apply for citizenship if they meet certain requirements and are able to pass a test of basic English and knowledge of civics. A person who gains their lawful permanent residence through marriage to a U.S. citizen can apply for naturalization after three years. There are also different requirements for certain members of the U.S. armed forces.

Example: Marco obtained a green card in 2017 through a U.S. citizen spouse who petitioned for him. He’s approaching his three-year anniversary and is currently preparing an application for naturalization to become a U.S. citizen.

There are many advantages to citizenship: A U.S. citizen generally cannot be deported (now called “removed” under the INA). The only exception is the rare case where someone committed fraud in the process of applying for naturalization. Also, a U.S. citizen can vote and hold certain public elected positions and jobs that require U.S. citizenship.

B. Foreign Citizen

Under immigration law, anyone who is not a U.S. citizen is an “alien,” which we refer to as a foreign citizen. This group of people are further divided into many groups, depending on their status in the United States, including immigrants or lawful permanent residents, sometimes called green card holders; nonimmigrants, who have various temporary visas that allow them to be in the United States for specified time periods and under certain conditions; people who hold various other forms of immigration status, such as asylum, temporary protected status (TPS), deferred action for childhood arrivals (DACA), and many more; and undocumented individuals.

A foreign citizen can be removed from the United States for committing certain acts or not having permission from the government to be here. This applies to green card holders, as well as to undocumented people.

Example: Sergio has a green card. He was convicted of armed robbery. He can be removed from the United States after a hearing before an immigration judge if the government can show that his conviction was a deportable offense (and if he does not apply for and receive any relief from deportation).

Example: Mira entered the United States without papers and applied for asylum. She was denied and did not appeal. She can be removed from the United States.

III. Main Government Agencies that Work in Immigration

A. Department of Homeland Security

Foreign citizens can only be given permission to enter or remain in the United States by officers of the U.S. government. Since 2002, most of the immigration-related government agencies have been organized under the Department of Homeland Security (DHS): the U.S. Citizenship and Immigration Services (USCIS), which is responsible for adjudicating applications for immigration benefits and citizenship; the U.S. Immigration and

Customs Enforcement (ICE, now a well-known acronym from its raids and many arrests of immigrants), which is responsible for enforcement within the United States; and U.S. Customs and Border Protection (CBP), which enforces immigration laws at ports of entry and near the land borders of the United States. Prior to the creation of DHS, immigrant benefits were adjudicated by the Immigration and Naturalization Service (INS), which converted into USCIS under the Homeland Security Act's reorganization.²

DHS is a sprawling mega-agency that also includes the Coast Guard, the Secret Service, the Citizenship and Immigration Services Ombudsman, and an Office of Civil Rights and Civil Liberties. The Ombudsman exists to handle requests for assistance from individuals who are having difficulty with their application for immigration benefits with USCIS. The ombudsman's complaint system online is found here <https://www.dhs.gov/case-assistance>. All of these components have separate websites that contain their contact information.³

USCIS, and all the DHS components, maintain files on foreign citizens who they come in contact with. The primary identifier used to locate those files is called an A (for "alien") number, which is an A followed by eight or nine digits. To obtain a copy of those files, an individual or their representative can file a Freedom of Information Act request, called FOIA. Each of these agencies has information on how to file a FOIA with them on their websites.⁴

Within USCIS, there are sub-offices that have separate responsibilities.⁵ There is the Administrative Appeals Office (AAO) which can review decisions made by local and regional officials of USCIS and decide to overturn or affirm them. USCIS itself is a nation-wide system of field, district, and regional offices where citizenship and other applications for benefits are adjudicated. USCIS has centralized processing centers such as the National Benefits Center, Potomac Service Center, Nebraska Service Center, California Service Center, and Texas Service Center where initial review of applications takes place and files are re-routed to local offices if they are scheduling an applicant interview.

Most applications are sent by mail to USCIS, although some types of applications can also be submitted online. Even before the applications are sorted and go through initial review at Service Centers, they are submitted to an office called a lockbox, where the fees for applications are taken in, and receipts for the application are sent out. USCIS maintains separate offices for the handling of asylum adjudications.

CBP is usually the first enforcement agency that people encounter when crossing the border into the United States, but it can also be ICE, which operates all over the country. CBP is the largest law-enforcement agency in the United States, with more than 60,000 employees.⁶ ICE has more than 20,000 employees and is divided into Enforcement and Removal operations (ERO) and Homeland Security Investigations (HSI).⁷

B. Department of State

Complicating the immigration picture further is the Department of State (DOS), which operates at all the U.S. consulates overseas, and has an immigrant and nonimmigrant office, as well as an office that assists U.S. citizens who are abroad. DOS processes temporary and permanent residence visas for persons who are overseas and are applying to enter the United States.

Example: Angel lives in Mexico and is applying for a tourist visa to visit the United States. He will have to apply through a U.S. consulate in Mexico.

Some foreign citizens who live in the United States have to return to their home country when applying for permanent residence, and DOS operates those adjudications overseas. To handle the preparations for those immigrant visa appointments, there is an office in the United States called the National Visa Center, or NVC, which

is located in Portsmouth, New Hampshire. The DOS and NVC have been moving away from paper filing and toward on-line filing of applications and documents, a process that is slowly being introduced at USCIS as well.

C. Department of Justice

Also involved in the immigration field is the Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), which operates the immigration court system and the Board of Immigration Appeals (BIA). The BIA reviews decisions made by immigration judges and publishes their controlling opinions, called precedents. The immigration courts are where ICE brings cases against individuals, charging them with being removable. A removal proceeding is initiated by a charging document that outlines the government's arguments that the person is removable. This charging document is called the Notice to Appear (NTA). Foreign citizens can have a hearing in front of an immigration judge and present defenses to deportation, called relief from removal. They may contest the government's allegations that they are removable and/or they may argue that even though they are removable, they merit relief from removal in some manner.

Example: Claudia was placed in removal proceedings. ICE is arguing that she is removable because she entered without inspection or parole. Claudia is contesting removal because she argues she automatically became a citizen when her father naturalized.

Example: Veronica has a green card and was placed in removal proceedings. ICE is arguing that she is removable because she was convicted of a deportable controlled substances offense. Veronica is contesting removal because she argues that her conviction is not a deportable offense.

Example: Alec is undocumented and was placed in removal proceedings. ICE is arguing that he is removable because he overstayed his tourist visa. Alec conceded that he was removable but is arguing that he is eligible to obtain a green card through his U.S. citizen wife.

The decision of an immigration judge can be appealed to the BIA. Certain decisions from the BIA can be appealed to federal circuit courts.

D. Health and Human Services

The U.S. Department of Health and Human Services (HHS) runs a program for unaccompanied alien children (UACs) that is responsible for caring for such minors who arrive from abroad without lawful immigration status, and for placing them with a sponsoring relative, when possible.⁸ That program is called the UAC program of the Office of Refugee Resettlement (ORR). They run the shelters where detained children are held after they are transferred by the arresting agency - usually ICE or CBP.

E. The Executive Branch

All of these agencies are within the Executive Branch, but it is worth noting that the White House itself is another enormous player in the immigration law arena. President Trump has campaigned on and run a government trying to limit virtually every aspect of legal and illegal immigration. His executive orders, such as the Muslim Ban, asylum ban, construction of a border wall, and a host of other orders, have increased enforcement against all immigrants and have reduced access to immigration benefits across the board.

IV. Who is Admitted to the United States? Who is Deported?

There are two sets of rules that apply to foreign citizens. The grounds of inadmissibility are a long list of characteristics or acts that can result in a person being refused admission to the United States. These grounds apply to foreign citizens who are undocumented, as well as persons who are applying to enter the country. You can find INA Section 212 (a) and the inadmissibility grounds at www.uscis.gov under legal resources, <https://www.uscis.gov/legal-resources/immigration-and-nationality-act>.

A. Grounds of Inadmissibility

The grounds of inadmissibility can be thought of as a list of the kinds of noncitizens that Congress wants to “keep out” out the country. They apply to noncitizens who want to enter the United States temporarily or permanently, and also to noncitizens who apply for certain kinds of immigration status. The list is found at INA § 212(a). Congress came up with the first version of this list in 1882. Ever since, Congress has added and subtracted items from the list of grounds of inadmissibility. In the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Congress revised and added grounds, and changed the name used in the Act from “grounds of exclusion” to “grounds of inadmissibility.”

The grounds of inadmissibility punish many different kinds of behavior and status. For example, a noncitizen is inadmissible for having “bad” behavior if he or she:

- has been convicted of certain crimes;
- is a terrorist;
- helped smuggle other noncitizens into the United States; or
- has committed immigration fraud;

A noncitizen is also inadmissible as a potential threat to the U.S. public, if he or she:

- has certain contagious diseases; or
- will probably be reliant on government cash assistance in the United States;

A noncitizen is also inadmissible if he or she:

- does not have a valid visa or legal permission to enter the United States; or
- has entered the United States without permission.

These are just a few examples. The list of grounds of inadmissibility found at INA § 212(a) is quite long.

B. What Can Happen to a Noncitizen Who is Inadmissible?

An inadmissible noncitizen might have problems in three different contexts. One, she might not be admitted at the U.S. border. Two, if she enters the United States without being admitted, she could be removed for being inadmissible. And, three, she might be ineligible to become a lawful permanent resident or acquire some other immigration status.

If a CBP agent decides that a noncitizen who is trying to enter the United States is inadmissible (for example, because the agent thinks her entry documents are fake, or she is likely to go on welfare, or she has committed a crime), the noncitizen may have a very difficult time gaining lawful entry to the United States. The agent may refuse to let her enter and try to convince her to withdraw her request to enter. If the agent asserts that the person is lying

at the time of entry or lied to get her visa (visa fraud), they can similarly bar her entry and in many cases she will not have the right to see a judge (this procedure is called expedited removal).

If a noncitizen enters the United States without permission, she can be removed from the country for being inadmissible. The inadmissibility ground that would apply is being present in the United States without having been admitted or paroled. See INA § 212(a)(6)(A). Thus, a noncitizen who entered the United States without permission and lived here for twenty years would still be held to be “inadmissible” and “seeking admission” because she was not inspected and admitted when she entered.

The grounds of inadmissibility are also used as the test for those who may receive some kinds of immigration benefits and status. For example, if a person is married to a U.S. citizen and is applying for a green card through the marriage, he will face the grounds of inadmissibility. If the person is inadmissible, for example, because of immigration or criminal violations, his application for a green card may be denied.

C. Inadmissibility and Waivers

Determining whether someone is inadmissible is a very complex task and should only be undertaken by an expert if there is any doubt whatsoever, such as if the person has criminal convictions. Even the non-crimes inadmissibility grounds are very technical and require up-to-date information, as they have been more strictly applied by USCIS, immigration courts, and the consulates in the past three years.

For example, a foreign citizen is inadmissible if they are likely to become a public charge.⁹ In August 2019, USCIS published a new rule – which was then barred from enforcement, called enjoined, by several federal courts and is not in effect as of the date of this publication.¹⁰ The rule re-interprets how the public charge inadmissibility grounds will be judged, the impact of which is to increase scrutiny of applicant’s finances, family situation, education, employment history, and medical condition. There’s a ground of inadmissibility for anyone who has assisted someone to enter the United States illegally, called smuggling by the INA, and this can be applied even to someone who is helping their own relative to come here.¹¹

Some of the inadmissibility grounds can be waived, meaning that the law allows an application for forgiveness in limited circumstances. For example, the smuggling grounds can be waived for certain individuals who assisted their own spouse, parent, son or daughter to enter.¹² Waivers have to be applied for separately, and they are discretionary, meaning that there is no entitlement to them, and the adjudicator can weigh positive and negative factors in coming to a determination.

D. The Grounds of Deportability

The grounds of deportability apply to a person who has already been admitted to the United States, either for a temporary stay or as a permanent resident. (As we discussed above, the grounds of deportability do not apply to a person who entered the United States without being inspected and admitted. The grounds of inadmissibility would apply to that person instead.)

The grounds of deportability are a list of reasons or conduct that can result in a person who was already allowed in to be removed from the United States. The list is found in INA § 237.

The list includes several grounds that are similar to grounds of inadmissibility and some that are different. For example, a noncitizen can be removed if he or she:

- has been convicted of certain crimes;
- is a terrorist;
- obtained legal status by committing marriage fraud;
- helped smuggle noncitizens into the United States;
- falsely claimed to be a U.S. citizen in order to get a benefit from the government; or
- was really inadmissible at the time he or she was admitted to the United States.

The last ground is important. A noncitizen is deportable if, at the time the person was admitted to the United States, he really was inadmissible. In other words, noncitizens whom the CBP could have refused to admit to the United States do not have the right to stay in the United States just because the CBP made a mistake by admitting them at the border.

Example: Marta is inadmissible because she committed visa fraud when she obtained her visitor's visa at the U.S. consulate in the Philippines. Despite that, she managed to get through CBP inspection at the Los Angeles International Airport because at the time, CBP did not detect the fraud, and she was admitted to the United States.

Three months later, CBP discovers that they should not have admitted Marta when she came in. Marta is deportable now because, at the time she entered the United States, she was actually inadmissible.

V. What is a Green Card? How Does a Foreign Citizen Become a Green Card Holder/Lawful Permanent Resident?

Many foreign citizens want permission to work and live in the United States indefinitely. To do so, they need to become a lawful permanent resident (LPR). This is also called obtaining an immigrant visa, or a "green card," because many years ago the document that immigration authorities issued to LPRs was green.

Congress has outlined specific paths to obtain lawful permanent residence; not everyone can apply. The most common way is through family. There are also some narrow categories of foreign citizens whose employers can sponsor them, and these also have many qualifying criteria and a long wait before they can result in LPR status. A smaller group of foreign citizens are able to apply based on humanitarian categories, which have been severely cut back under the Trump administration. These include asylee/refugees, people who win the diversity visa lottery, and victims of domestic violence (VAWA), crime (U visa), or human trafficking (T visa). See the next section for more information. Keep in mind, however, that this is not an exhaustive list.

An LPR has the right to live and work permanently in the United States and travel freely. However, an LPR can be deported if found by an immigration judge to have triggered a ground of deportability, or to have abandoned their lawful permanent residence (such as by moving abroad). An LPR can apply for U.S. citizenship after a certain number of years.

An LPR cannot vote in elections that require one to be a U.S. citizen, or hold certain jobs that require U.S. citizenship. An LPR can file a petition for a green card for their spouse and unmarried sons and daughters, although the wait before those relatives can obtain their LPR status is often years.

VI. Paths to Lawful Immigration Status

Congress created many different types of lawful immigration status in addition to green cards. Many of them are themselves pathways to green cards, but not all. This section will describe some of the more common ways people can obtain immigration status in the United States. This is not an exhaustive list.

A. Family Petitions

1. Step One – The I-130 Petition

U.S. citizens and LPRs can sponsor certain categories of close relatives for a green card by filing a petition with USCIS, although there is a limit on how many visas of certain categories are issued annually. Many relatives, even if they are successfully petitioned in one of these categories, will have to wait years before they can do the second step of the process and either adjust their status to permanent residence in the United States, or apply for an immigrant visa, that is, permanent residence, at a U.S. consulate abroad.

The spouses and minor children of U.S. citizens are called immediate relatives, and they do not have to wait to immigrate because there is no number limit on the number of immediate relatives who can immigrate. The remaining categories of relatives are called “family preferences”: adult, unmarried sons and daughters of U.S. citizens; married sons and daughters of U.S. citizens; spouses and minor children of LPRs; and siblings of U.S. citizens. These are the only categories of relatives allowed in through family petitions.

The family petition, called the I-130 Alien Relative petition, is filed by mail or online to USCIS. The I-130 must be submitted with a fee and documents showing that the foreign citizen has the required relationship to the petitioner and that the petitioning relative is a U.S. citizen or LPR.

2. Step Two – Adjustment of Status or Consular Processing

Once USCIS approves the I-130 family-based petition, the beneficiary can apply for a green card as soon as a visa is available in their particular category. For immediate relatives applying affirmatively, there is no wait time, and the beneficiary can apply for a green card at the same time as filing the I-130 petition. For all others, and for immediate relatives in immigration court, they will have to do these steps separately.

The number limit on the family preference categories is per country, and the wait time to become a permanent resident varies based on the number of people applying from a certain country. The State Department controls the number of total immigrant visas and publishes a monthly bulletin called the Visa Bulletin that lets applicants know approximately how long they will have to wait before they can apply for permanent residence. You can find the visa bulletin here <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>. Wait times can be very long in some of the preference categories. For example, unmarried adult sons and daughters over 21 years-old petitioned by their U.S. citizen parents must wait 22 years if they are from Mexico under the visa bulletin in effect in November 2019. Unmarried sons and daughters over 21 years old petitioned by their LPR parent must wait 10 years if they are from the Philippines, 21 years if they are from Mexico, and 5 years if they are from anywhere else in the world.

The visa bulletin is organized by priority date, meaning that the applications are processed roughly in the order in which they are received. The date on which USCIS receives an LPR’s or a U.S. citizen’s family petition for their relative is called a priority date and appears on the upper left-hand side of the Form I-797, Notice of Action, which

is the receipt that USCIS sends. The applicant will then have to compare their priority date to the date in the visa bulletin for their category and country to know when there is a visa available. There is a good explanation of priority dates and the visa bulletin at <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>.

Applying for a green card in the United States is called adjustment of status. Applying outside the United States is called consular processing. Only certain people are eligible to adjust status in the United States, including people who entered lawfully and fulfill other criteria (unless they meet certain exceptions). See INA § 245(i). All others must consular process.

B. Asylum and Refugee Status

Another group of people that can eventually apply to become permanent residents are persons who are approved for asylum in the United States or approved for refugee status abroad before entering the United States. Asylum law is found in INA § 208, and it requires that the foreign citizen prove a fear of persecution in their home country on account of race, religion, nationality, political opinion, or membership in a particular social group. The administration has targeted the asylum process by creating new and restrictive rules, such as requiring would-be asylum applicants to apply for asylum and be denied in every country they transit through if they arrive at the southern border.¹³ CBP is now enforcing new policies which force many asylum seekers to remain in Mexico for many months before they have the opportunity to apply for asylum in the United States.¹⁴

A refugee is also a person who has proved that they have a well-founded fear of persecution and cannot return to their home country, but they have applied and been approved before entering the United States. The number of refugees allowed in each year is set by executive order. In 2016, the number of refugee admissions was 84,989 persons.¹⁵ The present executive has drastically reduced refugee numbers to 18,000 for 2020.¹⁶

One year after either admission as a refugee or a grant of asylum, the person can apply to adjust status to lawful permanent residence.

C. Other Humanitarian Forms of Relief

There are also a several humanitarian programs that grant foreign citizens temporary permission to remain in the United States, some of which can eventually lead to permanent residence.

1. VAWA

The Violence against Women Act, VAWA, is a law that since 1994 has allowed victims of domestic violence by a U.S. citizen or LPR spouse or parent, or U.S. citizen child, to self-petition, filing an I-360 application with USCIS.¹⁷ The successful VAWA applicant can apply immediately for permanent residence if their abuser was a U.S. citizen, or when a visa is available in the category of spouse or child of a permanent resident, if their abuser was an LPR.

2. U Visa

For victims of certain serious crimes who cooperate with law enforcement, Congress created an eventual path to permanent residence called the U nonimmigrant status, or U visa. This became law in 2000.¹⁸ There are only 10,000 U nonimmigrant visas that can be granted per year. Due to the limited number, there is currently a very long waiting period before the U petition is adjudicated. After three years in U nonimmigrant status, the crime victim is eligible to apply for permanent residence.¹⁹

3. T Visa

There are also certain victims of human trafficking who can qualify for T nonimmigrant T status.²⁰ Like the U visa, this form of relief requires someone to show that they were a victim and cooperated with law enforcement (subject to some limited exceptions), and can lead to permanent residence.

4. SIJS

Some children are able to self-petition as Special Immigrant Juveniles (SIJs) for an immigrant visa because they cannot be reunified with one or both parents due to abandonment, abuse, or neglect.²¹ An individual must apply for SIJS before turning 21.

5. DACA

Deferred Action for Childhood Arrivals (DACA) is a program that provides temporary permission to remain and work in the United State to certain eligible young people who entered the United States before the age of 16 and met other eligibility criteria. DACA began with an executive order in 2012, and currently only exists for persons who are renewing their previously obtained DACA status.²² The future of DACA is uncertain, because the President sought to end it, the courts enjoined him, and it will be argued in the U.S. Supreme Court in fall of 2019 to determine whether it will continue. More than 660,000 young people were in valid DACA status as of June 2019.²³

D. Forms and Fees

Forms are used to apply for almost every immigration benefit, such as to enter an appearance as a legal representative, request a copy of a file under the Freedom of Information Act, change an address on file, sponsor someone as a relative, apply for permanent residence, file for a waiver, or self-petition under VAWA. USCIS forms are on its website, together with the form instructions, the required fee, and filing instructions. Most applications are filed by postal mail to USCIS lockboxes or service centers, and then are sent to the field offices if an interview is needed in the district where the applicant lives. Nowadays, some forms can be filed online with USCIS, including I-90s to replace a green card, or naturalization applications, unless the individual is requesting a fee waiver in addition. The forms and fees are revised often, so it is imperative to check to make sure you are using the most up-to-date information. The most accurate version of the form and fee will be found at www.uscis.gov.

The Immigration Courts (EOIR) have their own forms, found at www.usdoj.gov/eoir. There is also a practice manual for the immigration court that provides many sample pleadings and forms, found at <https://www.justice.gov/eoir>.

E. Further Resources

All of the concepts introduced here are described in much greater detail in practice advisories available on our web site www.ilrc.org. ILRC also holds frequent webinars on these topics and has manuals that cover these topics in depth.

End Notes

- ¹ Questions on this advisory can be directed to Peggy Gleason at pgleason@ilrc.org.
- ² The reorganization of 22 departments into the unified DHS is described at <https://www.dhs.gov/creation-department-homeland-security> (last visited Nov. 2019).
- ³ The contact information for each of the DHS components can be found at <https://www.dhs.gov/component-agency-contacts> (last visited Nov. 2019).
- ⁴ For further information on the process, see ILRC, *A Step-By-Step Guide to Completing DHS FOIA Requests*, (Nov. 2017) https://www.ilrc.org/sites/default/files/resources/foiaa-step_by_step-20171117.pdf.
- ⁵ For more information on how USCIS is organized, see their organizational chart diagram at <https://www.uscis.gov/about-us/uscis-organizational-chart> (last visited Nov. 2019).
- ⁶ See background on CBP's number of employees and budget at <https://www.cbp.gov/about> (last visited Nov. 2019).
- ⁷ See background on ICE's number of employees and budget at <https://www.ice.gov/about> (last visited Nov. 2019).
- ⁸ A unaccompanied minor child or UAC is defined by the statute at 8 U.S.C. §1232(g) as a child who has no lawful immigration status in the United States, has not attained 18 years of age, and with respect to whom there is no parent or legal guardian in the United States or no parent or legal guardian who is in the United States who is available to provide care of physical custody. The Trafficking Victims Protection Reauthorization Act of 2008 included certain protections for UACs. 8 U.S.C. §1232 *et seq.*
- ⁹ INA § 212(a)(4).
- ¹⁰ DHS, Interim Final Rule, *Inadmissibility on Public Charge Grounds*, 84 Fed. Reg. 41292 (Aug. 14, 2019), which was enjoined by federal courts upon its planned effective date of October 15, 2019. USCIS, *Public Charge Fact Sheet* (Oct. 16, 2019) <https://www.uscis.gov/news/fact-sheets/public-charge-fact-sheet>.
- ¹¹ INA § 212(a)(6)(E).
- ¹² INA § 212(d)(11).
- ¹³ DHS and DOJ, 83 Fed. Reg. 55934, Interim Final Rule, *Aliens Subject to Bar on Entry under Certain Presidential Proclamations-Procedures for Protection Claims* (Nov. 9, 2018).
- ¹⁴ The remain in Mexico policy was announced by DHS in January 25, 2019 and has now been expanded to six ports of entry along the Mexico-United States border. For more information see DHS, *DHS Expands MPP Operations to Eagle Pass*, (Oct. 28, 2019) <https://www.dhs.gov/news/2019/10/28/dhs-expands-mpp-operations-eagle-pass>. DHS claims authority under a department issued policy called the Migrant Protection Protocols, found at <https://www.dhs.gov/news/2019/01/24/migrant-protection-protocols> (last visited Nov. 2019).
- ¹⁵ DHS, Office of Immigration Statistics, *Refugee and Asylees 2016* (Jan. 2018). https://www.dhs.gov/sites/default/files/publications/Refugees_Asylees_2016_0.pdf.
- ¹⁶ *Presidential Determination on Refugee Admissions for Fiscal Year 2020*, (Nov. 1, 2019) <https://www.whitehouse.gov/presidential-actions/presidential-determination-refugee-admissions-fiscal-year-2020/>.
- ¹⁷ The Violence Against Women Act (VAWA), INA § 204(a)(1).
- ¹⁸ INA § 101(a)(15)(U), and INA § 245(m).
- ¹⁹ For more information on U visas see resources listed at <https://asistahelp.org/resource-library/u-visa-resources/>.
- ²⁰ For resources on T visas see <https://asistahelp.org/resource-library/t-visas/>.
- ²¹ For more information on SIJs, see ILRC, *Humanitarian Forms of Relief Part II, Asylum and SIJs* (Aug. 2019) https://www.ilrc.org/sites/default/files/resources/humanitarian_part_ii.asylum.sijs_.pdf.
- ²² For more information on who is eligible see USCIS, *Who Can File for Renewal of DACA*, <https://www.uscis.gov/humanitarian/deferred-action-childhood-arrivals-response-january-2018-preliminary-injunction> (July 17, 2019).
- ²³ AILA Infonet Doc. N. 19061403, *Approximate Active Daca Recipients* (June 20, 2019) <https://www.aila.org/infonet/uscis-approximate-active-daca-recipients>.



San Francisco

1458 Howard Street
San Francisco, CA 94103
t: 415.255.9499
f: 415.255.9792

ilrc@ilrc.org www.ilrc.org

Washington D.C.

1015 15th Street, NW
Suite 600
Washington, DC 20005
t: 202.777.8999
f: 202.293.2849

Austin

6633 East Hwy 290
Suite 102
Austin, TX 78723
t: 512.879.1616

San Antonio

500 6th Street
Suite 204
San Antonio, TX 78215
t: 210.760.7368

About the Immigrant Legal Resource Center

The Immigrant Legal Resource Center (ILRC) works with immigrants, community organizations, legal professionals, law enforcement, and policy makers to build a democratic society that values diversity and the rights of all people. Through community education programs, legal training and technical assistance, and policy development and advocacy, the ILRC's mission is to protect and defend the fundamental rights of immigrant families and communities.