

Five Major Ways Of Attaining Legal Residence In The United States

There are several ways of attaining legal residence in the United States. In this lead article, I will discuss what I consider to be the five major routes to legal residence, namely, family based visas, study visas, work visas, asylum and refugee status and the diversity visa program. In the rest of this article, I will summarize each one of them.

It should be noted that within one of the categories you can have a further classification as to whether the visa is an immigrant or non-immigrant. A non-immigrant visa is one that allows an alien to be resident in the United States for a short period of time for a particular purpose. A study visa is a good example of a non-immigrant visa. On the other hand, an immigrant visa allows the recipient to be resident in the United States for the long term, for example the Diversity Visa Program.

1. Family-based immigrants

Spouse of US Citizen

If you are an American citizen you have two ways to bring your foreign spouse (husband or wife) to the United States to live. You can file an immigrant Petition for Alien Relative; Form I-130 or Nonimmigrant visa for spouse (K-3); Form I-129. It is important to note that application for the nonimmigrant visa for spouse (K-3) who married a U.S. citizen must be filed and the visa must be issued in the country where the marriage took place. After the visa process has been completed, and the visa is issued, the spouse can travel to the United States to wait for the processing of the immigrant visa case.

Fiancé of US Citizen

A fiancé is a person who is engaged or contracted to be married. The marriage must be legally possible according to laws of the state in the United States where the marriage will take place. In general, the two people must have met in person within the past two years. The Department of Homeland Security's U.S. Citizenship and Immigration Services grants some exceptions to this requirement. For example, it may be contrary in some traditions for a man and woman to meet before marriage.

You must file the Petition for Alien Fiancé, Form I-129F, with the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS) office that serves the area where you live. See the Department of Homeland Security's USCIS Field Offices for information on where you can file the petition. After the USCIS approves the petition, it sends the petition to National Visa Center for processing, prior to sending it to the embassy or consulate where your fiancé will apply for a K-1 nonimmigrant visa for a fiancé.

2. Study Visas

Every year, hundreds of thousands of people come to study in the United States from all over the world. This provides diversity to the US classroom, and makes a US education so vital in broadening each student's world view. The Immigration and Nationality Act provides two nonimmigrant visa categories for persons wishing to study in the United States. The "F" visa is reserved for non-immigrants wishing to pursue academic studies and/or language training programs, and the "M" visa is reserved for non-immigrants wishing to pursue nonacademic or vocational studies.

You first must apply to study at a USCIS-approved school in the United States. When you contact a school that you are interested in attending, you should be told immediately if the school accepts foreign national students. If you are accepted, the school should give you USCIS Form I-20 A-B/ID (Certificate of Eligibility for Nonimmigrant (F-1) Student Status - for Academic and Language Students) or Form I-20 M-N/ID (Certificate of Eligibility for Nonimmigrant (M-1) Student Status - For Vocational Students), which you will need to apply for your student visa.

3. Work Visas

a.I-129 Non-immigrant Petition for Temporary Workers

Employers who wish to hire foreign workers to temporarily perform services or labor or to receive training may file an I-129 petition. Form I-129 is mainly used for non-immigrant categories; thus, in most cases, workers who enter the United States under this petition must depart the U.S. when their maximum period of stay has been reached. Form I-129 may also be used to petition for an extension of stay or change of status for certain non-immigrants.

There are many categories of workers who are temporary visitors and who may be petitioned for on the I-129. The most common visa for temporary

workers is the H-B, which is normally valid for 3 years and is renewable for a maximum of 6 years.

b.I-140, Immigrant Petition for Alien Worker

Form I-140 is used for an immigrant visa petition, meaning the petitioner intends to relocate to the United States for the long term. This is in contrast to Form I-129 which is used for temporary workers. However, the petitioner has to meet a very high standard of excellence in their field of endeavor.

U.S. employer may file this petition for an outstanding professor or researcher, with at least three years of experience in teaching or research in the academic area, who is recognized internationally as outstanding and is a member of the profession holding an advanced degree or is claiming exceptional ability in the sciences, arts, or business, and is seeking an exemption of the requirement of a job offer in the national interest.

4. Refugees and Asylees

If you are currently in the United States and you have a risk of persecution for your political opinion or for belonging to a particular social group in your home country, you may be eligible to apply for asylum. If you currently outside the United States and face a similar danger of persecution you may be eligible to apply for protection by the United States as a refugee.

In order to qualify for asylum, you must establish that you are a refugee who is unable or unwilling to return to his or her country of nationality, or last habitual residence in the case of a person having no nationality, 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. This means that you must establish that race, religion, nationality, membership in a particular social group or political opinion was or will be at least one central reason for your persecution or why you fear persecution. The US law that provides for the asylum benefit for persecuted aliens is 8 CFR PART 208. If you are granted asylum, you and any eligible spouse or child included in your application will be permitted to remain and work in the United States and may eventually adjust to lawful permanent resident status.

5. Diversity Visa Program

Every year, thousands of people from all over the world are given an opportunity to become US residents, in a deliberate program to promote immigration. This program reinforces the fact that the United States is a nation of immigrants and that despite security challenges in the last few years, remains open to welcome visitors and residents from foreign lands.

The Diversity Visa Program is a congressionally mandated program that makes available 50,000 to 55,000 permanent resident visas annually, drawn from random selection among all entries to persons who meet strict eligibility requirements from countries with low rates of immigration to the United States. It is free to submit the application, anybody or organization that solicit a fee from you must disclose that they are charging you a fee for their services in assisting you file the application, and non of the fees charged will be forwarded to the Diversity Visa Program, because it is free.

For latest information, prospective applicants should check the Diversity Visa Program website at <http://www.dvlottery.state.gov> Information about the program for each particular year is normally available at the State Department website in the second half of the year, the next program will be the DV-2010 and information should be available in late 2008.

About the Author

I am an immigrant in the USA. I have done some research and would like to share some information on different options for attaining legal residence in the United States. Blog: <http://legal-alien-usa.blogspot.com> Website: <http://www.legal-alien.com>

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