

WORK, U.S.A. & YOU.

Employment Resource Guide for Immigrants



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Work, U.S.A. & You

The purpose of this booklet is to give our immigrant community members **valid**, useful information and resources, so they can be well informed of their opportunities for legal employment and labor rights in the U.S.A. This book is not legal advice nor is it intended as a replacement for any official source, but rather as a **guide** to answer questions and as a reference of best sources for information, almost all of which are free.

Immigrant members of our community, regardless of residency status, are entitled to many of the same rights and protections as U.S. citizens and residents. These include basic human rights and fundamental work rights, as a byproduct of our government and social system. We hope that this book will enlighten both visitors and residents in our nation.

Many of the topics presented in this booklet are generalized. More specific information can be obtained from the cited agencies and organizations (full contact information listed in the Resources section), since the laws involving immigration and working in the U.S. are lengthy and complicated. Caution should be used when reviewing online or other resources that are not listed in this book, or are not obviously a non-profit, public organization. Otherwise, for-profit companies that appear official and very similar to actual government sites may take advantage of individuals by charging fees for otherwise free services.

We welcome any feedback on the contents of this book to improve future editions. Also, if you find this book useful, we encourage you to share it with others in the community. Additional copies can be ordered from the information below, and a PDF can be found at www.kccjky.org.

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For Spanish speakers, call United Way 2-1-1.
Simply dial 2-1-1.

Information gathered in June of 2006. This information is correct at the time of printing; however, it may change in the future.

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Section 1: Positive Paths for Employment

There are specific avenues for being legally employed in the United States. Legal employment calls for particular paperwork and requirements for those who are not U.S. citizens. This section will discuss these paths to employment in detail.

? Why should I bother with documents when I have a good paying job already?

The paths for legal employment in the U.S. may require a high level of commitment to see the paperwork through, which can be time-consuming, costly (if using a lawyer) and stressful. Consequently, you may wonder why you should bother with it, especially if you already have employment and good wages. ***Simply put, becoming a legal worker will safeguard certain aspects of your job as well as help to prevent others, including criminals, from taking advantage of you or your fellow community members. Plus, if you are working in the U.S. without proper documentation, you are breaking the law.***

All workers, whether legally documented or not, are entitled to certain work privileges. However, being a documented worker, you may feel more inclined to exercise your rights, and will have additional job protection. For instance, if you filed a complaint with a government agency against your employer for back wages, you may indeed be awarded those back wages but would not have the right to keep your job or be reinstated to your job if you are an undocumented worker.

A more significant reason for pursuing legal employment in the U.S. is to deter criminals and others who take advantage of illegal workers. Whether it be paying someone to bring you into the country or purchasing counterfeit documents such as a birth certificate or driver’s license, you are breaking the law, and the money generated by this activity supports criminal networks. Consequently, they damage the community by their other activities, such as selling drugs or counterfeiting. For instance, a supplier of fake IDs may also forge checks to be cashed at local businesses and banks; those businesses and banks will be mistrusting of certain checks, certain people and may no longer offer check-cashing services to people they do not know. Plus, activities such as check counterfeiting will also attract attention from government security offices,

such as the FBI who will be looking for these criminals. One of the easiest ways to find these criminals is through those people who purchase their goods, such as fake IDs.

Finally, becoming a legal worker in the U.S. will encourage others to seek positive paths to employment as well as contribute to your efforts toward naturalization and citizenship. Being legal also has a direct impact on the social perception of immigrants everywhere.

? What do I need in order to work legally in the U.S.?

U.S. employers are required to check that all employees, regardless of citizenship or national origin, are allowed to work in the U.S. This section will explain what is needed to work legally in the U.S.

Who is allowed to work in the U.S.

U.S. citizens (born as such or those who have been naturalized) and permanent residents are allowed to work in the U.S. Specifically, permanent and conditional permanent residents have an Alien Registration Card that proves they may work in the U.S.

If you are not a legal, permanent resident or a U.S. citizen, you will most likely need a work permit, unless you fall into a certain category. These categories are very specific, such as an H-1B temporary worker, a refugee or asylee, or a student with valid nonimmigrant status who will work on-campus. A complete list of these exceptions can be requested from the U.S. Citizenship and Immigration Services (USCIS) or found on their website. See the Resources section for contact information.

? I don't seem to fit any of these residency categories. Does that mean I can't work legally in the U.S.?

Maybe. If you have entered the country illegally or stayed beyond the time of your visa, you will not be able to work legally in the United States. If you have a valid visa or are in the process of immigrating to the U.S., you will most likely need a work permit.

To learn about legal immigration, see the Immigration and Naturalization section of this booklet. More about work permits is described further in this section.

If you are currently in the U.S. under legal conditions and have a question about working not addressed in this section, you should feel free to contact the USCIS

(see Resources section for contact information). If you are an illegal immigrant with any question or concern about working not addressed in this booklet, you should seek the advice of a lawyer **experienced in immigration law** before submitting any paperwork or appearing in front of the USCIS (formerly Immigration and Naturalization Service – INS).

? A company wants to hire me. I've heard that they can get my permanent papers if they sponsor me. Is this true?

Partly. A United States company may sponsor a foreigner in order to employ them, but this is very rare and can be done only under very specific circumstances. If the employer needs a foreign worker to fill a vacancy in a job in which there are insufficient qualified U.S. workers available and willing to perform the work at wages that meet or exceed the prevailing wage paid for the occupation, they can seek an **Alien Labor Certification**. The intent behind this qualification is to ensure that hiring foreign workers will not adversely affect the job opportunities, wages and working conditions of American workers, while allowing companies to fill vacancies.

If this condition is met for the open position, the employer can pursue certification for the employee, and must work with different government agencies to obtain the needed paperwork and approvals **before** the employee can be hired and/or come to the United States. Typically, the company will help the employee obtain a labor certification visa to enter the country and other documentation. The process is long and complicated, and is not typically done on a large-scale basis by U.S. employers.

Work permits

A work permit is issued by the USCIS. It is titled an **Employment Authorization Document (EAD)**. An EAD is required for (but not limited to): asylum seekers; students seeking particular types of employment; applicants to adjust to permanent residence status; people in or applying for temporary protected status; fiancés of American citizens; a dependent of certain foreign government or international organization personnel; and persons granted withholding of deportation status.

An EAD should not be confused with a “green card,” which is a **Lawful Permanent Resident Card**, and allows the cardholder the right to work in the U.S. See the Immigration and Naturalization section for more information about becoming a permanent resident.



? How do I apply for an Employment Authorization Document?

As of May 2006, to apply for an EAD, you must file an application with your local USCIS office, pay a base fee of \$180 plus a \$70 biometrics service (fingerprinting) fee. You should take care to read the entire form carefully, submit the right documents, photos and fee. You can contact USCIS to request a form (see Resources section for contact information).

? I can't afford the fee – is there anything I can do about this?

Immigration and Naturalization Service agents can waive the fee if an applicant requests a waiver and demonstrates “inability to pay.” Several factors are considered in determining inability to pay, such as:

- Income level – being destitute or earning wages below the poverty level
- Disability (requires verification)
- If the applicant has qualified for public benefits such as Medicaid or food stamps in the last 180 days
- Age if over 65
- The age and number of dependents of the principal applicant
- Any other evidence or factors demonstrating inability to pay or extreme hardship

? How long do I have to wait after I apply?

The USCIS has an unspecified amount of time to respond to your application. However, if the USCIS does not approve or deny your application within 90 days (30 days for asylum applicants who applied 150 days from the date of the original asylum application), you may request an interim EAD. This can be done through your local USCIS office, which will require proof of identity and any documents and correspondence received from the USCIS about your application.

? I got a letter denying my application. Is there anything I can do?

If you are denied an EAD, you can submit a motion to reopen with the office that made the decision. This motion must state **new** facts for consideration, and be accompanied by documents and/or affidavits. For help or advice with your application, you may contact the USCIS.

Required documents for employment

When you go to your new job for the first time, you will be asked to fill out several forms including a **Form I-9**, a three-page employment eligibility verification form. The government requires all employers to obtain this completed form within the first three days of employment. You will be asked to fill out a certain section of it, and show the employer your identification and work authorization documents. Typically, employers will ask for your driver's license and Social Security card, but for purposes of the I-9, you have a choice of documents to submit as long as they fall within the categories shown on the back of the form. This “List of Acceptable Documents” should always accompany your I-9, even if the employer has made photocopies of the form. A copy of this list current as of May 2006 is shown on the next page.



IMPORTANT: You should take extra care to ensure you answer the questions truthfully. In Section 1 of the I-9, it specifically asks you to check one of three work status conditions under penalty of perjury. The first option is listed as “A citizen or national of the United States.” **You should not, under any circumstances, check this box if you are not a citizen or national of the U.S., since it is grounds for deportation and will bar you from ever being eligible for almost any immigration benefit.** This applies even to permanent residents as they are not citizens or nationals of the U.S. There is no waiver for this ground.

If you refuse to fill out the form or do not do so within the required number of days, your employer will have no choice but to fire you. This does not mean they are allowed not to pay you for the time you have worked; it simply means they cannot continue to employ you without the proper documentation. If employers are audited for paperwork by the government, they can receive large fines for each employee who does not have a corresponding I-9 on file.

? I can't read the paperwork which is only in English, so I should not have to sign it, correct?

Incorrect. You still have to sign the I-9 and may need to sign other forms given to you by your employer. The I-9 allows for someone else to prepare or translate the form. There is a section on the I-9 for the Preparer and/or Translator to fill out, and even if someone else completes the section for you, you must sign the form yourself.

Other paperwork may also require your signature and personal information, such as tax-withholding forms W-4 or W-9, both of which gather information for tax purposes. Your employer may also require you to read and sign documents related to employment at your particular company, such as permission to do a background check or drug test. You do not have to agree and sign this paperwork, but the company can refuse to hire you for doing so if it is part of their normal

LISTS OF ACCEPTABLE DOCUMENTS				
LIST A Documents that Establish Both Identity and Employment Eligibility	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Eligibility
1. U.S. Passport (unexpired or expired)		1. Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address		1. U.S. social security card issued by the Social Security Administration (other than a card stating it is not valid for employment)
2. Certificate of U.S. Citizenship (Form N-560 or N-561)		2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address		2. Certification of Birth Abroad issued by the Department of State (Form FS-545 or Form DS-1350)
3. Certificate of Naturalization (Form N-550 or N-570)		3. School ID card with a photograph		3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal
4. Unexpired foreign passport, with I-551 stamp or attached Form I-94 indicating unexpired employment authorization		4. Voter's registration card		4. Native American tribal document
5. Permanent Resident Card or Alien Registration Receipt Card with photograph (Form I-151 or I-551)		5. U.S. Military card or draft record		5. U.S. Citizen ID Card (Form I-197)
6. Unexpired Temporary Resident Card (Form I-688)		6. Military dependent's ID card		6. ID Card for use of Resident Citizen in the United States (Form I-179)
7. Unexpired Employment Authorization Card (Form I-688A)		7. U.S. Coast Guard Merchant Mariner Card		7. Unexpired employment authorization document issued by DHS (other than those listed under List A)
8. Unexpired Reentry Permit (Form I-327)		8. Native American tribal document		
9. Unexpired Refugee Travel Document (Form I-571)		9. Driver's license issued by a Canadian government authority		
10. Unexpired Employment Authorization Document issued by DHS that contains a photograph (Form I-688)		For persons under age 18 who are unable to present a document listed above:		
		10. School record or report card		
		11. Clinic, doctor or hospital record		
		12. Day-care or nursery school record		

Source: Employment Eligibility Verification form, Department of Homeland Security, U.S. Citizenship and Immigration Services, OMB No. 1615-0047; expires 03/31/07.

hiring process. Regardless, if you cannot read the paperwork and there is no one to translate it for you, you should exercise caution and find someone who will translate it for you. If your employer tries to coerce you to sign paperwork without translating it or providing translation first, you should consider leaving their employment or not taking the job.



I used fake documents and/or a false work history when I applied. Should I be worried?

Yes. If you have supplied fake documents or false information and this is discovered by your employer after you have been hired, they will likely fire you immediately and may report you to the authorities if they are aware of your illegal status. **Lying on a job application is grounds for dismissal regardless of your work status or citizenship.**

If you have supplied fake documents or false information and you are in the process of being hired, you should demonstrate caution since you have broken the law and can be arrested. Some companies perform standard background checks done through other agencies that will likely flag your information. The government is also launching a new program – **Systematic Alien Verification for Entitlements program (SAVE)** – which will allow Social Security cards,



resident alien cards, driver's licenses and birth certificates to be screened as stolen items or counterfeits. Plus, authorities have been known to ask companies to verify information through the local police and/or government agencies. This can be done while you are present at your job and can lead to your immediate arrest.

The legal consequences for having and/or using fake documents are becoming increasingly severe. Using fake immigration documents is a federal crime, and more and more states and local communities are implementing laws concerning fake documents. Consequently, possession of fake documents is a crime nearly everywhere in the U.S., a felony in many places, and these cases **are** being prosecuted. Keep in mind that most immigration reform proposals currently being discussed will most likely be applied retroactively and involve new penalties for document fraud including ineligibility for new legalization programs. To clarify, this means a person who was in possession of or used fake documents before a new legalization law was implemented could still be subject to immigration penalties as well as criminal prosecution. **For these reasons and in order to avoid deportation, imprisonment, fines and permanent ineligibility for nearly all immigration benefits, it is in your best interest not to have or use fake documents.**

Finally, if on your job application you have claimed to be a U.S. citizen when you are not, this could jeopardize your application for residency or citizenship.



Section 2: Your Labor Rights

Regardless of your work status (legal or illegal), you have certain basic rights when working in the U.S. If you have a problem, concern or question regarding your present job, you should bring it to the attention of your supervisor first (or company owner if you do not have a supervisor). If your supervisor cannot resolve it or answer your question, you should follow the established company policy of resolving your issue or question, which typically includes going to your human resource contact or department if your company has one or to your union representation if you are part of a union.

Important note regarding state laws: States may establish a broad range of laws protecting workers or providing benefits, for example a higher minimum wage, higher overtime pay, safer work conditions, antidiscrimination for those not protected by the federal law, etc. These laws may be more protective or beneficial to workers than the federal law, but never less protective or beneficial. The details of such state-specific laws are beyond the scope of this booklet, however, you can find out more information regarding your state laws by contacting your local government. The government pages (often blue pages) in the phone book will list your local and state contacts.

Minimum wage and overtime

Wages*: The federal government sets a minimum wage for workers, which is currently \$5.15 United States Dollars (U.S.D.) per hour. Employers with “tip credit” employees, such as wait staff whose income is determined by tips left by customers, must pay at least \$2.13 per hour. These employers must also make up the difference if “tip credit” employee wages (tips plus the base hourly wage of \$2.13) do not equal the minimum hourly wage of \$5.15.

Overtime pay*: Non-exempt employees that work over 40 hours in a single work week are entitled to a minimum of 1-1/2 times their regular rate of pay for those hours in excess of 40. A work week is the static, 7-consecutive-day time period defined by the employer.

***IMPORTANT:** There are very specific occupations, establishments and workers who are exempt from minimum wage and overtime provisions. For example, agricultural (farm) workers as defined by the Fair Labor Standards Act (FLSA) do not have to be paid overtime for hours in excess of 40 in a single work week. Also, certain agricultural (farm) workers employed on small farms do not have to pay the federal minimum wage. For more information about these exemptions, contact the Department of Labor (DOL), Wage and Hour Division (see Resources section for contact information).



I have not been receiving these wage benefits.
What can I do?

If you are not receiving the minimum hourly wage or overtime and have exhausted your avenues within your company or with your employer, contact the Department of Labor’s Wage and Hour Division. After investigating your case, you may be awarded back pay from your employer who also cannot retaliate against you for filing the complaint or against others who participate in the proceedings. Retaliation is action or behavior that seeks to punish you for your claim such as firing you from your job, reducing your work hours or threatening to have you deported. Employers who are found in violation may have civil or criminal penalties imposed against them.

Undocumented workers have the right to file a complaint with the Department of Labor and receive back pay for the employer violations of the minimum wage and overtime provisions of the law. Undocumented workers cannot be reinstated to their jobs and may be unable to seek back pay in instances where they were retaliated against for filing complaints alleging violations of the minimum wage and overtime provisions of the law.

Child labor

In general, children (defined as people under the age of 18) must be at least 14 years of age to work, and the hours of work are limited for minors under the age of 16. No child may work in a hazardous job as defined by the Secretary of Labor at the Department of Labor.

For those **under 14** years of age, you may not work except for special exemptions and for typical neighborhood jobs, such as doing a neighbor’s yard work or some babysitting.

For those **14 and 15** years of age, hour restrictions include the number of hours worked in a week (different for a school week and non-school week) and the times of the day. Specifically these children cannot work:

- Before 7 a.m.
- After 7 p.m. except from June 1 through Labor Day when they can work til 9 p.m.
- More than 3 hours per day on school days, including Fridays
- More than 18 hours per week in school weeks
- More than 8 hours per day on non-school days
- More than 40 hours per week when school is not in session.

For those **16 and 17** years of age, the only restriction is that you may not work in hazardous jobs as determined by the Secretary of Labor at the Department of Labor.

Exemptions to child labor laws include working in a family business and agricultural (farm) jobs. Regardless, no child may work in hazardous conditions or perform hazardous duties as defined by the Secretary of Labor at the Department of Labor.



I know of children who are being taken advantage of. Is there anything I can do?

If you believe an employer is in violation of child labor laws, you may report it to the Department of Labor's Wage and Hour Division. See the Resources section for contact information.

Safe working environment

You have the right to a safe and healthful workplace including the right to notify your employer or the government (specifically the Occupational Safety and Health Administration – OSHA) about hazards in your workplace. OSHA sets standard of safety for employers to avoid death and injury to workers. Any worker, legal or undocumented, may report concerns confidentially to OSHA. However, you may be asked for more information if OSHA decides to investigate the workplace. OSHA protects workers against retaliation for reporting unsafe conditions in the workplace to employers or the government.

Non-discrimination

Discrimination based on national origin is prohibited, both in the hiring, firing and everyday environment of your workplace. In fact, under Title VII of the U.S. Civil Rights Act, you have the right to be free from discrimination in your workplace based on race, color, religion, sex and national origin. Other laws protect workers from discrimination based on age or physical or mental disability.

Unlawful conduct regarding national origin discrimination may include an employer tolerating or promoting a hostile work environment rife with ethnic slurs, insults, or taunting by supervisors or co-workers. Treating employees with an accent differently and imposing “speak-English only” rules are also prohibited when the accent or inability to speak English does not interfere with the employee’s ability to do their job, and there is no safety justification.

Freedom from sexual harassment in the workplace is another right. This can include unwanted sexual advances, sexual and derogatory comments that interfere with your work and create a hostile, intimidating or offensive environment.

If you are experiencing any form of discrimination listed above, contact the **Equal Employment Opportunity Commission (EEOC)** or your state’s **human rights commission**. Employees subjected to a hostile work environment because of their protected class status (e.g. national origin, race, sex, etc.) normally must report the harassment to their employers and follow all steps required by the employer’s anti-discrimination policies and procedures.

Retaliation

Your employer cannot retaliate against you for filing a complaint or protesting wages, unsafe environment, or workplace discrimination. Retaliation is action or behavior that seeks to punish you for your claim such as firing you from your job or reducing your work hours. Employers also cannot threaten to contact the **U.S. Immigration and Customs Enforcement – ICE** (formerly INS) if you are an illegal worker. All workers can file a complaint for violation of the right not to be retaliated against, though illegal workers cannot be reinstated to their jobs, because working in the United States without legal documentation is illegal.

Migrant workers

Migrant and seasonal agricultural workers have the right to:

- Receive written information about wages and working conditions in English, Spanish or other native language. This can be requested by the worker before or after job acceptance.
- Have the employer follow the terms of the work agreement, including being paid wages when they are due and receiving a written statement of earnings for each pay period.
- Purchase goods from vendors other than the employer.
- If transported by the employer, be transported in vehicles that are properly insured, operated by licensed drivers, and meet federal and state safety standards to and from the work site.

- If provided by the employer, have safe housing that complies with federal and state health standards. The terms and conditions of occupancy must be written and posted at the housing site where it can be seen or be given to workers.
- Potable drinking water, suitably cool and in sufficient amounts, and readily accessible to all employees.
- Access to toilets and handwashing facilities (one for every 20 employees) within a quarter-mile walking distance or at the closest point of vehicular access, unless working three hours or less each day including travel to and from work.

There are many other rights for employees and requirements for employers in agricultural positions, depending on the classification of agricultural work being performed. For complete details or to report any violation of these rights, contact the Department of Labor, Wage and Hour Division.



Section 3: Immigration and Naturalization

IMMIGRATION LAW IS VERY COMPLICATED. IT IS RECOMMENDED THAT YOU OBTAIN AN EXPERIENCED ATTORNEY SPECIALIZING IN IMMIGRATION LAW BEFORE YOU DO ANYTHING.

Important! It is critical that you always contact an immigration attorney before you submit any documents to the U.S. Citizenship and Immigration Services (formerly INS) or make any appearance before the U.S. Citizenship and Immigration Services. It is also important that you make sure that the attorney is a person knowledgeable and qualified in immigration law. Persons who are not attorneys or attorneys who do not understand or have experience in immigration law may put you in danger of deportation. To find an attorney with experience in immigration law, contact the American Immigration Lawyer's Association (see Resources for contact information).

Notary publics in the U.S.

A notary public in the United States is authorized solely by state law to record sworn statements and witness personal signatures. This function has absolutely nothing to do with the practice of law. The main function of the notary public is to verify, using reasonable resources, the identity of the individual whose signature appears on the specified document. In other words, the notary confirms that the person who signs the document to be notarized is the same person whose signatures appears on said document. **It's important to be aware that a notary public is by no means an attorney, and should not be sought out for legal advice of any kind.** It is a crime for non-attorneys to engage in the unauthorized practice of law.



How can I become a legal resident of the U.S.?

There are three general ways to become a legal resident of the U.S. The first is by having a close relative who is a citizen or legal resident petition for you. The second is by the employer sponsoring you in a profession or trade in which there are insufficient U.S. workers. Your employer must sponsor your application. The third is based on various humanitarian reasons, such as living in the U.S. for many years or facing a danger of persecution in your country.

? How can I immigrate by way of my family?

You can immigrate through family if you have a U.S. citizen spouse, parent, brother, sister or child who is at least 21 years old. Also, you can immigrate if your spouse or parent is a legal permanent resident of the U.S. It is not possible to immigrate through a cousin, aunt or uncle, grandparent, or other relative.

? If the family member I need to immigrate through is abusive or has abused me, is there a way to immigrate without him or her having to petition for me?

Yes. If you have been physically or emotionally abused by your spouse, parent, step-parent or child (in cases where a child is taking care of their elderly parent), you may have protection under immigration laws. This may include eligibility for a Permanent Resident card (“green card”) if the spouse, parent or step-parent is a U.S. citizen or permanent resident or if the child is a U.S. citizen (in cases where the child is taking care of their elderly parent).

If you are in this situation, you should seek the advice of an experienced immigration lawyer or seek help from an organization that assists people with domestic violence, such as the National Domestic Violence Hotline (see Resources section for contact information).

? How do I obtain legal residence if I face danger of persecution in my home country?

If you have been threatened, have suffered persecution, or fear persecution in your country because of race, religion, nationality, political opinion, or being a member of a social group, you may be able to apply for asylum in the U.S. If you are from El Salvador or Guatemala and have been in the U.S. since 1990, you may qualify for a special immigration program.

You should not apply for asylum without first consulting an attorney. The law on asylum is **very complicated**. Applying for asylum could get you deported.

? If the U.S. Immigration and Customs Enforcement – ICE (formerly INS) arrests me for being undocumented, is there anything I can do to be able to stay in the U.S.?

If the U.S. Immigration and Customs Enforcement (ICE) arrests you for being undocumented, you can apply for cancellation of removal if you have been present in the U.S. for at least 10 years. You may only have left the U.S. for very brief period during those ten years. You must show good moral character for the 10 years before you filed your application.

Also, your deportation must cause exceptional and extremely unusual hardship for your U.S. citizen or legal resident spouse, parent, or child. The law recognizes that all people who are deported will suffer hardship. To qualify for cancellation of removal, the hardship that your family would suffer must be even **more extreme than the normal hardship one will suffer from deportation.**

? Are there any reasons my application will NOT be approved?

Yes. Even if you fall within one of the categories listed above, your application may be denied if there are certain conditions that will disqualify you from immigrating. The following are some of the things that can make you ineligible for legal residence:

- If you have committed certain crimes. It is VERY important to speak to an attorney if you ever have been arrested, no matter how minor the offense.
- If you committed a drug-related crime. In most cases, people who have been convicted of a drug-related crime or who admit that they have committed a drug-related crime are not eligible for legal residence.
- If you do not attend deportation proceedings after receiving proper notice of the hearing.
- If you ever said you are a U.S. citizen when you were not a U.S. citizen.
- If you gave false information to obtain an immigration benefit.
- If you helped any other person enter the U.S. illegally, except in the case of your spouse or child.

? Am I disqualified from becoming a legal resident if I have been in the U.S. illegally?

In some cases you might be. Whether you are disqualified depends on how long you have been in the U.S. illegally and whether you leave the country.

If you have been in the U.S. illegally for more than 180 days, but for less than a year, and then leave the U.S., you will be ineligible to get legal residence until you have spent three years outside the U.S.

If you have been in the U.S. illegally for a year or more and then leave the U.S., you will be ineligible to get legal residence until you have spent ten years outside the U.S.

You can apply for a waiver of these disqualifications if you have a spouse or parent who is a U.S. citizen or legal permanent resident and the denial of the waiver would result in extreme hardship for your spouse or parent.

If you have been in the U.S. illegally for more than a year, and then leave the U.S., and later re-enter illegally, you will be prohibited from returning for the rest of your life, although you can reapply for admission after ten years outside the U.S.

These disqualifications to re-entry will apply even if you are married to a U.S. citizen or legal permanent resident of the U.S. These disqualifications are also very important because sometimes the only way someone can become a legal resident is by leaving the U.S. and going to the U.S. consulate in his or her country. In these situations, if the applicant has been illegally present in the U.S. for more than 180 days, he or she will be disqualified upon leaving the U.S., even though the only reason for the departure was to apply for permanent residence. **Therefore, if you illegally entered the U.S. or if you overstayed a visa, do not leave the country without first consulting an experienced immigration attorney.**

? Are there any other groups of people who are barred from becoming legal residents?

Yes. Drug addicts and abusers are prohibited from entering. You do not have to be convicted of a crime to be considered a drug addict or abuser.

If the government believes it's likely that you will become a public charge (that you will need public benefits to survive), you will be prohibited from becoming a legal resident. When deciding whether you are likely to become a public charge, the U.S. Citizenship and Immigration Services looks at your age, health, family status, income, resources, education, and other skills. In addition, if you immigrate through a relative, the person who petitions for you must sign a written agreement promising to support you. If the sponsor does not have enough income to support you, the sponsor must find another person to sign an affidavit to cosponsor you. If no one signs an affidavit for you, you will not be allowed to immigrate.

Naturalization

A legal resident may become a U.S. citizen through a process called naturalization.

? If I am a legal resident of the United States, how do I become a U.S. citizen?

Generally, you must have been a legal resident for five years. Also, you must have knowledge of English and U.S. history and have good moral character. **It is VERY important to speak to an immigration attorney if you ever have been arrested or convicted of any crime, no matter how minor. Certain offenses not only will result in a denial of naturalization but could lead to deportation.**

? Must I speak English perfectly to be able to become a citizen?

No. You must be able to read, write, and speak basic English. Some schools have classes to help people get ready for the test. You do not have to take the English test if any of the following apply to you:

- If you are over 50 and have lived in the U.S. as a legal resident for at least 20 years.
- If you are over 55 and lived in the U.S. as a legal resident for at least 15 years.
- If you have a physical or mental disability that prevents you from learning. Your doctor must complete a form which explains why your disability makes it impossible for you to learn English and American civics and history. It is best to talk to an attorney if you think this applies to you.

? What is the history/civics test like?

You must understand basic U.S. history and government. Sample questions are, “Who was the first President of the U.S.?” “Name the senators from your state.” and “What are the colors of our flag?” Many schools help people prepare for this test. If you do not pass the civics test, you may take it again within 90 days. You do not have to take the civics test if:

- You obtained legal residence through the amnesty process and passed the English and U.S. history test at that time; or
- You have a physical or mental disability that prevents you from learning.

? How long must I have lived in the U.S. as a legal resident to apply for naturalization?

The general rule is you must be a legal resident for five years before you may file for naturalization. If you are married to a U.S. citizen, you need to have been a legal resident for only three years, but you must have lived with your spouse during the entire period.

? How is my case affected if I travel outside the U.S.?

If you left the U.S. for less than six months, your residency is not affected. If you left the U.S. for more than six months but less than one year, it might affect your residency. If you left the U.S. for more than one year, the time you were not in the U.S. probably will not count toward your U.S. residency requirement.

You also must have been actually physically present in the U.S. for at least half of the required period of residence. The Bureau of Citizenship and Immigration Services will look at the TOTAL number of days you were outside the U.S. Therefore, if you took many short trips or some long trips outside the U.S., it could affect your eligibility for naturalization. In extreme cases, the Bureau of Citizenship and Immigration Services may claim that you abandoned your legal residence. Consult with an immigration attorney if you spent a substantial period of time outside the U.S.

What is “good moral character”?

You must be of good moral character to become a naturalized citizen. If you committed certain crimes, the U.S. Citizenship and Immigration Services may decide you lack good moral character. It is VERY important to speak to an immigration attorney if you ever have been arrested or convicted of any crime, no matter how minor. Certain offenses not only will result in a denial of naturalization, but also could lead to deportation. In addition, other types of conduct also could prevent you from showing that you have good moral character, including:

- Failing to pay child support
- Failing to pay taxes or file tax returns
- Helping people enter the U.S. illegally
- Failing to register for Selective Service System (see Resources section for contact information) if you are a male born after 1959

You should consult with an immigration attorney before applying for naturalization if any of these grounds apply to you.

NOTE: If you do not tell the truth during your interview, the U.S. Citizenship and Immigration Services may deny your application. If the U.S. Citizenship and Immigration Services approves your application but finds out later you did not tell the truth, your citizenship may be revoked.

Who can apply for naturalization?

Any mentally competent adult 18 or older may file for naturalization. In addition, in certain circumstances a U.S. citizen also may petition for the citizenship of a child younger than 18, even if the child is outside the U.S.

If I obtain naturalization, do my children also become citizens?

Possibly. A child automatically becomes a citizen if **all** of the following exist:

- At least one parent is a U.S. citizen;
- The child is under 18 years of age; and
- The child is a legal resident and is living in the U.S. in the custody of the citizen parent.

How do I apply for naturalization?

You must submit form N-400 application for naturalization, two photographs, a copy of your Lawful Permanent Resident card (“green card”), and the filing fee. As of May 8, 2005, the filing fee is \$330 plus \$70 for fingerprinting. Be sure to verify this amount because the filing fee can change. These items must be filed with the regional U.S. Citizenship and Immigration Services service center. If you move, you can ask that the U.S. Citizenship and Immigration Services transfer your application to another office. To find out where your nearest U.S. Citizenship and Immigration Services service center is located, contact the USCIS.

What happens when I apply?

First, you will be called for an appointment to get your fingerprints taken. Next, you will be called for an interview and the test. If your application is approved, a date will be set for the oath ceremony. In this ceremony, you will swear to support the Constitution, to renounce loyalty to any other country, and to defend the U.S. If you can show that your religion does not allow you to serve in the military, you may get an exception from that requirement.

What are the benefits of naturalization?

- You have the right to vote.
- It is easier to petition for your relatives and you may petition for more relatives once you are naturalized.
- You cannot be deported.
- You can travel outside the U.S. for extended periods of time without having to worry about losing your residency.
- There are more jobs available to U.S. citizens. For example, there are many government jobs that require employees to be U.S. citizens.
- A legal resident must always have his residence card in his possession. Also, when a legal resident moves, he must report the change in address to the U.S. Citizenship and Immigration Services or he can be deported. A U.S. citizen does not have to carry an identification card nor tell the U.S. Citizenship and Immigration Services when he moves.
- You are eligible for various government benefit programs.



Section 4: Resources

Contact information for the organizations and government agencies listed in this book begin below. If you are unsure who to contact or need other essential services not mentioned within this booklet, contact United Way. Dialing United Way's 2-1-1 (if available in your area) will connect you with community services and volunteer opportunities such as:

- *Basic human needs resources:* food banks, clothing closets, shelters, rent or utility assistance.
- *Physical and mental health resources:* health insurance programs Medicaid and Medicare, maternal health, medical information lines, crisis intervention services, support groups, counseling, drug and alcohol intervention and rehabilitation.
- *Employment supports:* financial assistance, job training, transportation assistance, education programs.
- *Support for older Americans and persons with disabilities:* adult day care, congregate meals, Meals on Wheels, respite care, home health care, transportation, homemaker services.
- *Support for children, youth and families:* childcare, after school programs, Head Start, family resource centers, summer camps and recreation programs, mentoring, tutoring, protective services.
- *Volunteer opportunities and donations.*

If dialing 2-1-1 is not available in your area, go to www.211.org to search for phone numbers in your area.

If speaking a language other than English, the 2-1-1 counselor will have a translator join the line to help with your call.

Following is an alphabetical list of useful organizations and official government contacts for work and immigration issues. All the listed government offices have both English and Spanish speaking operators for assistance. Many of these organizations offer complete information through their websites.

American Immigration Lawyer's Association

National association of attorneys and law professors who practice and teach immigration law.

918 F Street, NW, Washington, D.C. 20004

Attorney Referral Service: 1-800-954-0254 or ilrs@aila.org

www.aila.org

Department of Labor (DOL)

Fosters and promotes the welfare of job seekers, wage earners and retirees.

Frances Perkins Building

200 Constitution Avenue NW, Washington D.C. 20210

1-866-4-USWAGE (1-866-487-9243)

TTY: 1-877-889-5627

www.dol.gov

www.youthrules.dol.gov (Useful site from the DOL for youth, parents and employers on child labor laws and requirements.)

www.dol.gov/esa/whd (Wage and Hour Division)

Equal Employment Opportunity Commission (EEOC)

The EEOC is charged with monitoring federal agency compliance with equal employment opportunity (EEO) laws and procedures, and reviewing and assessing the effect of agencies' compliance with requirements to maintain continuing affirmative employment programs to promote equal employment opportunity and to identify and eliminate barriers to equality of employment opportunity.

1801 L Street NW, Washington, D.C. 20507

1-800-669-4000

TTY: 1-800-669-6820

www.eeoc.gov

Immigrant Justice Project of the Southern Poverty Law Center

The Immigrant Justice Project educates immigrant workers about their legal rights in the workplace. The Project also provides free legal representation to immigrant workers in high-impact cases in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

400 Washington Avenue, Montgomery, AL 36104

1-800-591-3656

001-800-591-3656 (toll-free from Mexico)

www.splcenter.org

Indiana Legal Services

Responsible for compiling the information presented in Section 3: Immigration and Naturalization, Indiana Legal Services is a nonprofit law firm that provides free civil legal assistance to eligible low-income people throughout the state of Indiana.

Lee A. O'Connor, Directing Attorney

Hispanic Law Center

105 E. Jefferson Blvd., Suite 600, South Bend, IN 46601

574-234-8121, ext. 30

lee.oconnor@ilsi.net

Internal Revenue Service (IRS)

The IRS is a bureau of the Department of the Treasury and tax administrator for the U.S.

1111 Constitution Ave., NW, Washington, D.C. 20224

1-800-829-1040

TTY: 1-800-829-4059

www.irs.gov

Kentucky Commission on Human Rights

A state organization with a mission to eradicate discrimination in the Commonwealth of Kentucky through enforcement of the Kentucky Civil Rights Act.

332 West Broadway, Suite 700, Louisville, KY 40202

Email: kchr.mail@ky.gov

502-595-4024, 1-800-292-5566

TTD: 502-595-4048

Fax: 502-595-4801

www.state.ky.us/agencies2/kchr

Kentucky Conference for Community and Justice

A human relations organization dedicated to eliminating bias, bigotry, and racism by promoting understanding and respect among all people.

112 North Upper Street, Lexington, KY 40507

859-255-6999 (English only)

www.kccjky.org

Listing of federal departments and agencies

If you are not sure which department to call about a question, start by calling 1-800-FED-INFO (or 1-800-333-4636) to ask where to call. People who have difficulty hearing can call 1-800-326-2996. You can also visit www.FirstGov.gov for general information about federal departments and agencies.

Maxwell Street Legal Clinic

The Maxwell Street Legal Clinic is a non-profit organization that offers free or low-cost assistance and education to Kentucky's immigrant and refugee communities. The clinic provides services in immigration and certain employment-related matters.

315 Lexington Avenue, Lexington, KY 40508

859-233-3840

maxlegalaid@aol.com

National Domestic Violence Hotline

Open 24 hours a day, 365 days a year, callers can get assistance with crisis intervention, safety planning, information and referrals to agencies in all 50 states, Puerto Rico and the U.S. Virgin Islands. Interpreter services are available in Spanish and more than 140 languages.

1-800-799-SAFE (7233)

TTY: 1-800-787-3224

www.ndvh.org

National Labor Relations Boards

The federal agency that administers the National Labor Relations Act by conducting elections and investigating and remedying unfair labor practices by employers and unions.

1099 14th St. NW, Washington, D.C. 20570-0001

1-866-667-NLRB (1-866-667-6572)

TTY: 1-866-315-NLRB (1-866-315-6572)

www.nlr.gov

Occupational Safety & Health Administration (OSHA)

To report accidents, unsafe working conditions, or safety and health violations or questions:

200 Constitution Avenue, NW, Washington, DC 20210

1-800-321-OSHA (6742)

TTY: 1-877-889-5627

www.osha.gov

Selective Service System (SSS)

The mission of the Selective Service System is to provide manpower to the armed forces in an emergency, and to run an Alternative Service Program for men classified as conscientious objectors during a draft.

Registration Information Office

PO Box 94638, Palatine, IL 60094-4638

1-847-688-6888

TTY: 1-847-688-2567

www.sss.gov

Social Security Administration (SSA)

SSA is a branch of the government charged with the advancement of economic security of the nation's people through managing America's Social Security program.

Office of Public Inquiries

6401 Security Boulevard, Baltimore, MD 21235

1-800-772-1213

TTY: 1-800-325-0778

www.socialsecurity.gov

Southern Migrant Legal Services

A special project of Texas RioGrande Legal Aid that provides free legal services to migrant and seasonal farm workers in Kentucky, Tennessee, Arkansas, Alabama, Mississippi and Louisiana.

101 Church St., Suite 325, Nashville, TN 37201

615-251-3244, 1-866-721-7828

Fax: 615-251-3347

U.S. Citizenship and Immigration Services (USCIS) - (formerly Immigration and Naturalization Service – INS)

To get more specific and detailed information, you should consult the laws, regulations, forms, and guidance of U.S. Citizenship and Immigration Services (USCIS). You should always consult these more detailed resources for your specific immigration question or case.

www.uscis.gov

Call the National Customer Service Center:

1-800-375-5283

TTY: 1-800-767-1833

To get USCIS forms, call 1-800-870-3676 or look on the USCIS website.

U. S. Immigration and Customs Enforcement (ICE)

ICE was created after 9/11, by combining the law enforcement arms of the former Immigration and Naturalization Service (INS) and the former U.S. Customs Service, to more effectively enforce the immigration and customs laws and to protect the United States against terrorist attacks.

1-866-347-2423

www.ice.gov



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“When my mother and father separated, we had to make some very hard adjustments—we actually had to live in the streets for a while. Luckily, the Kentucky Conference for Community and Justice (KCCJ) gave me the right help at the right time. They educated me and encouraged me to start a diversity club. This was the turning point in my life.

Through KCCJ’s Lexington Youth Leadership Academy (LYLA), I learned to value my own culture and to be proud of my differences. Once I knew what my values were, I learned how to affect others’ lives and started to see positive change. I truly became a ‘change agent’ to the other minority teenagers at my school.

Today, I am working part-time at a bank and am getting close to graduating from college. And now, I am mentoring teenagers and challenging them to improve themselves just like I did.”

—Latasha Renay Jones, LYLA Youth Ambassador



The Kentucky Conference for
Community and Justice
Changing the world by making a difference.
www.kccjky.org