

Spotlight: Immigration

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Inside Issue 5

- We introduce a mini-series on family-based immigration where we will discuss which relatives qualify, who is eligible for a waiver, what is the visa bulletin, and what can you reasonably expect in the process.

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What is Family-Based Immigration?

Legal Services for Immigrants is excited to present a new series on family based immigration. For the next few months our newsletters will discuss who qualifies for family based petitions, how to apply, inadmissibility problems, how to apply for a waiver, and the dreaded priority system. We hope to clarify confusion, misconceptions, and common misunderstandings about family-based immigration. First, let's talk about how family-based immigration works.

People who want to live in the United States usually try and get lawful permanent residency. Sometimes people call lawful permanent residency a "green card". Getting a green card always requires two things. First, you have to get an immigrant visa. Second, once you have the immigrant visa you use it to apply for lawful permanent residency. It's important to know that these are two different processes and that you might qualify for an immigrant visa but that does not mean that you will get lawful permanent residency.

There are two types of visas: non immigrant visas and immigrant visas. Non immigrant visas do not allow you to live permanently in the United States. Typical examples are tourist visas, student visas, and cultural exchange visitor visas. Immigrant visas, on the other hand, are those that allow you to stay and live in the United States. Family-based based, refugee and asylee status, and as victims of crime and domestic violence visas are the most common types of immigrant visas. The trick is to pick the right immigrant visa for the person who wants to immigrate.



Some immigrant visas make it much easier to get lawful permanent residency and others make it much harder. The reason is something called the "grounds of inadmissibility". The grounds of inadmissibility are the reasons that the United States government will not give you a green card, it derives from an understanding that you are not *admissible* into the country if you meet certain criteria, such as certain types of criminal convictions, previous deportations, and whether or not you have lied about being US citizens, among others. There are lot of things that make you inadmissible, so check first.

The reason that picking the right immigrant visa is so important is that some immigrant visas can apply for waivers, and other cannot. A waiver is a separate application asking the government for forgiveness for specific grounds of inadmissibility. Sometimes the immigrant visa that might seem the best is truly not if there is not a corresponding waiver available. Family based immigration does allow for some waivers, but not every family member will be eligible to receive one. This is important to remember so that you can correctly choose which immigrant visa to apply for.

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The information presented in this newsletter should not be considered legal advice. Please remember that immigration laws and regulations can change at any time. If you have a question about immigration law, you should speak with an immigration attorney. To schedule an intake appointment at Catholic Charities, please call (414) 643 8570 x. 4418.

By the Way...

There has been a lot of confusion about the new Visa Bulletin and LSI wanted to clarify some of the misunderstandings. For the most part, **nothing has changed**. The new bulletin gives certain persons the opportunity to submit their application earlier, but will not affect the day it is processed. This new bulletin was created so that the Department of State can have a better estimate of the number of visas to process per month. **THIS WILL NOT MEAN THAT YOU WILL RECEIVE YOUR VISA EARLIER.** It simply means that some eligible immigrants, specifically those eligible to apply from within the US, can submit their application earlier than originally expected. I repeat, this does not signify that you will receive your visa sooner. The new system works in much the same way as the original. If your priority date is shown on the new bulletin then speak with an attorney to begin gathering evidence to submit to USCIS. Your visa will not be available until your priority date is displayed on the original visa bulletin.

Family—based immigration...(continued)

But first, let's talk about which family members can apply for other family members. United States citizens may apply for their spouses, their children (regardless of age or marital status), their parents and their brothers and sisters. It is important to know, however, that a United States citizen must be at least 21 years old to apply for a parent or a sibling.

Lawful permanent residents, on the other hand, can apply for their spouses and their unmarried children regardless of their child's age but the child cannot be married. In other words, a lawful permanent resident can apply for a child who is three years old or a child who is thirty years old, but the child must be unmarried.

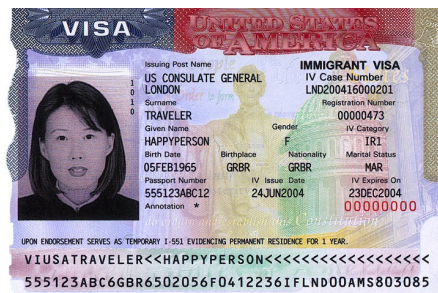
There are some very important distinctions within these family categories. Some relatives are called immediate relatives and others are relatives in the priority system. Immediate family relatives are parents of US citizens, spouses of US citizens, and minor,

unmarried children of US citizens. **No other relative is considered immediate and will be placed in the priority system.**

The advantage to being an immediate relative is that there is no limit on how many immigrant visas the United States gives out each year. The disadvantage to being in the priority system is that there is a limit on how many immigrant visas that the United States gives out each year. There is one category of family immigrant visa that has been waiting since 1994! There is, however, one very big advantage to being in the priority system. The person getting the immigrant visa will also be able to come with his spouse and his minor, unmarried children. That is not an advantage that immediate relatives of United States citizens have. So, even though you may have to wait many years, you may still be able to come with your entire family!

This process is much more complicated than we have drawn out, so it is important for you to speak to an

Example of Immigrant Visa



attorney **before** you begin any application. Notary publics are **not** attorneys and do not have the experience or expertise needed to fulfill these complicated cases. If you do not consult with an appropriate representative you may end up spending hundreds, even thousands, of dollars on an application or waiver that you do not qualify for. We will continue next month with more information on which relatives of US citizens or lawful permanent residents can apply for a waiver.