

# Immigration

## What is immigration law?

Immigration law is a very complex area of law which deals mainly with non-U.S. citizens who want to enter and/or remain in the United States for various purposes. Immigration law is very complex because it is fact-specific and the rules and regulations may or may not apply to a particular person depending on the circumstances of his or her individual case. Failure to comply with immigration laws can carry harsh consequences, so it is recommended that you consult a professional before filing a document or contacting the immigration authorities.

## Who are the immigration authorities and who enforces immigration law?

After March 1, 2003, the Immigration and Naturalization Service, commonly known as INS, transitioned into the Department of Homeland Security (DHS). Thus, the former INS was divided into three agencies within DHS: U.S. Citizenship and Immigration Services (USCIS), Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP).

## Where can I find the laws on immigration?

Most of the immigration laws can be found in the United States Code at 8 USC §§1101-1537 and in the Immigration and Nationality Act at INA §§101-537. Additionally, immigration laws can be interpreted by the Board of Immigration Appeals and the Federal Courts. Finally, immigration laws have rules and regulations. You can find out more information by going to the website of the United States Citizenship and Immigration Services at [www.uscis.gov](http://www.uscis.gov).

## What is the difference between an immigrant visa and a non-immigrant visa?

An immigrant visa allows a foreigner the opportunity to live and work permanently in the United States. With some exceptions, a non-immigrant visa allows a foreigner the opportunity to enter the U.S. for a specific purpose (work, study, etc.) for a determinate period of time with the understanding that the foreigner will go back to his or her country of origin after the expiration of the visa.

## What kind of non-immigrant visa can a temporary worker obtain to work in the United States?

There are many visas that give a person authorization to temporarily work in the United States. Each of them entails specific requirements and eligibility, and some

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### CONTACT INFORMATION STATE BAR OF NEVADA

#### Las Vegas Office

3100 W. Charleston Blvd., Ste. 100  
Las Vegas, NV 89104  
Ph: 702-382-2200  
Toll-free 1-800-254-2797  
Fax: 702-385-2878  
Toll-free 1-888-660-6767

#### Reno Office

9456 Double R Blvd., Ste. B  
Reno, NV 89521  
Ph: 775-329-4100  
Fax 775-329-0522

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are subject to a cap on the number issued each year. Therefore, before applying for any of the visas below, please consult an attorney. The following are examples of non-immigrant visas:

- **E visas:** Treaty traders (E1) or Treaty investors (E-2).
- **H visas:** There are many categories, mainly for professionals, temporary or seasonal agricultural workers and temporary non-agricultural workers in short supply.
- **J visas:** Exchange visitors.
- **L visas:** Intracompany transferees.
- **O visas:** Person with “Extraordinary Ability.”
- **P visas:** Athletes and entertainers.
- **Q visas:** International cultural exchange visitors.
- **R visas:** Religious workers.
- **TN visas:** Mexican and Canadian NAFTA professional workers.

### How can I immigrate to the United States?

There are different ways a person can immigrate to the United States. The two most common ways to immigrate are through family petitions and employment. Other ways to immigrate to the United States entail specific requirements and eligibility, such as: immigration through investment; through court order before an immigration judge; through an asylum or refugee application; through Diversity Lottery Visa; through the Legal Immigration Family Equity Act (LIFE); through international adoption; through Violence Against Women’s Act (VAWA); through “the Registry” provided by the Immigration and Nationality Act; or through Country Specific Acts (Cuba, Iraq, Haiti, Syria, Nicaragua, Vietnam, Cambodia, Laos). Therefore, before applying, please consult an immigration attorney to ensure the desired results.

### What is a Green Card?

A “green card” is a document issued by USCIS to prove that a foreign person has become a legal permanent resident and can live and work in the United States permanently. Originally, the legal permanent resident card was colored green. Over the years it took many different colors. Today, the card is green and has security enhanced features. However, it has the same purpose, and is still called a “green card.”

### How can I bring my family or relatives to the United States?

If you obtain a non-immigrant visa, you can bring, in some cases, your wife and minor children. If you are a U.S. citizen, you can petition immigrant visas for your spouse, minor children, parent, older single children, older married children and your siblings. If you are a legal permanent resident, you can petition for immigrant visas for your spouse, minor children, and adult single children only. Please note that some of the immigrant visas are immediately available and some others could take many years before your family member could obtain the green card.

### What is Adjustment of Status?

Adjustment of status is the process by which a foreigner can change status to that of a legal permanent resident while he/she is physically present in the United States. In other words, certain people can ask and receive their green card without leaving the

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[publications@nvbar.org](mailto:publications@nvbar.org)

Written and/or Edited by:  
Kathia Quiros, Esq.  
GWP IMMIGRATION LAW, LLP

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country. However, not everyone is eligible to apply for adjustment of status. Before you decide to apply for adjustment of status, please consult an immigration attorney.

### I am undocumented. If ICE finds me, can they deport me right away?

Generally, NO. Although this could change in the future, ICE cannot deport you without giving you the opportunity to have an immigration judge review your situation. However, some people do not have the opportunity to see a judge because they saw one before and received an order of removal or they were deported before by ICE (Immigrations and Customs Enforcement) or CBP (Customs and Border Protection). If you are sent to immigration court to see the judge, you will be placed in a process called "removal proceedings." The government will seek to "remove" you from the U.S. and you will have the opportunity to prove that you should not be removed because you have legal status or you are eligible to apply for an immigration benefit. The judge then will decide whether you stay inside the U.S. or you are given an order of removal from the U.S.

### I am a legal permanent resident. If ICE finds me, can they deport me?

Generally, NO. However, if you commit a crime involving moral turpitude (fraud, theft, rape, aggravated battery, etc.) within five years after the date of entry or admission to the United States and the offense is one for which a one year or longer sentence may be imposed, you may be subject to deportation proceedings in front of a judge. You can also be subject to deportation proceedings if you were convicted of or for: an aggravated felony at any time; controlled substances (drugs, with a few exceptions); firearms offense; money laundering; domestic violence after September 30, 1996; alien smuggling; immigration violations; and export violations. It is important to consult an attorney if you were convicted of any of the above crimes and you plan to travel abroad or apply to become a United States citizen.

### Who should I contact if I believe I might be eligible for an immigration benefit?

You should always contact a licensed attorney who is experienced in immigration law. Do not hire a "Notario" or "immigration consultant" to represent you in an immigration matter. Notarios claim to be experts in immigration law and claim to be cheaper than an attorney but they are not authorized to practice law and may ruin your future. Unfortunately, many people continue to be harmed by their often unscrupulous services. If you have been a harmed or defrauded by a Notario, contact the Nevada Bar Association or [www.stopnotariofraud.org](http://www.stopnotariofraud.org) for assistance.

### How do I find an attorney with experience in immigration matters?

You can contact the State Bar of Nevada's Lawyer Referral Service at 702-382-0504 (toll-free in Nevada at 1-800-789-5747). The state bar's main office (see numbers on first page) can tell you whether or not an attorney is licensed in Nevada and is in good standing. There are also different organizations such as the American Immigration Lawyers Association (AILA) that could give you a referral to a local attorney. You can call them at 1-800-954-0254.