

TERMS IN USE ON THE IMMIGRATION TOPIC

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Anchor Babies: This is a term typically used by immigration opponents to describe a situation where a child is born to undocumented immigrants. Under the provisions of the 14th Amendment of the U.S. Constitution, such children are fully citizens. Immigration opponents use the term “anchor baby” as a pejorative term to imply that immigrant families will attempt to use the child’s citizenship status and the family reunification provisions of immigration law to apply for legal status.

Asylee: This is a category that can provide a basis for legal immigration under current law. It describes the status of persons appearing at a U.S. port of entry claiming that they are unable or unwilling to return to their countries of origin because of a well-founded fear of persecution. The fear of persecution can be based on race, religion, nationality, membership in a particular social group or political opinion. If the standards for asylum are met, persons in this category can apply for permanent residence status after one year. Current immigration law limits the number of permanent residence admissions for asylees to 10,000 per year. Asylum status differs from refugee status in that asylees present themselves at a U.S. port of entry without first having a determination of their refugee status. Refugees already have their qualifications for admission adjudicated before being brought to the United States.

Birthright Citizenship: This refers to a provision of the 14th Amendment to the U.S. Constitution declaring that “All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.” The United States is one of only a few countries in the world following the practice of determining citizenship status by this simple matter of geography. A person born in the United States is a citizen, regardless of the citizenship status of either parent.

Brain Drain: This term refers to the problem allegedly created for developing countries when large numbers of highly-skilled and well-educated professionals depart to work for firms based in developed countries.

Deferred Action for Childhood Arrivals (DACA): This program was created by President Obama with a June 16, 2012 announcement. He took this executive action, not with a formal executive order, but rather as a new immigration enforcement policy announced through the Department of Homeland Security, then headed by Janet Napolitano. In announcing the new policy, President Obama referenced the repeated failure of Congress to pass the DREAM Act – a measure that would have protected from deportation certain immigrant students. In particular, the DACA program applied to persons who came to the United States under the age of sixteen, had continually resided in the United States from 2007 to 2012, had graduated from a U.S. high school or received a GED, had not been convicted of a felony and who were not over the age of 30. President Donald Trump attempted to end the DACA program in September of 2017. He instructed the Justice Department to issue a memorandum declaring that the DACA program, as initiated by the Obama administration was an illegal overreach of executive authority and would be terminated after a six month period. U.S. District Court judges in California and New York have blocked the termination of the DACA program, orders that have so far been upheld by the U.S. Supreme Court (as of March 2018).

Diversity Visa Program: This program is contained in Section 203(c) of the Immigration and Nationality Act (INA), as amended in the Immigration Act of 1990. This program provides for a class of immigrants known as “diversity immigrants,” from countries with historically low rates of immigration to the United States. Diversity visas are distributed among six geographic regions with a stipulation that no single country can receive more than 7% of the visa allocations for any given year. In recent years more than ten million applicants annually enter the lottery while no more than 50,000 can be selected. Lottery winners are carefully screened by the U.S. Citizenship and Immigration Services (USCIS), using biometric, criminal and security background checks and in-person interviews. Only those persons passing the screening process are given a “green card” granting them lawful permanent residency status in the

United States. President Trump vehemently opposes the Diversity Visa system and has asked Congress to end it.

Development, Relief and Education for Alien Minors (DREAM Act): This is the name given to various pieces of legislation, starting in 2001 that have proposed to protect from deportation persons who were brought to the United States at an early age and meet certain educational standards. Most versions of the DREAM Act have also provided a path to citizenship for program participants. None of the proposed DREAM Acts have, as of March 2018, passed Congress. President Obama created the Deferred Action for Childhood Arrivals (DACA) program as a result of his frustration over congressional failure to pass the DREAM Act.

E-Verify: This computer-based system is designed to help employers know whether prospective employees are legally eligible to work in the United States. The program began in 1997 as a voluntary program, though the Department of Homeland Security has since made its use mandatory for all companies with federal contracts. The computer system is designed to compare the information from an employee's I-9 form to information in the database of the Social Security Administration to determine the accuracy of the information on the form. Some state governments now require private employers to use the E-Verify, though its use is not yet mandatory according to federal law.

Family Immigration: The largest category of legal immigration to the United States is based on family reunification, accounting for about 65% of total legal immigration. Current U.S. law provides for immediate relative visas: (IR-1: Spouse of a U.S. citizen; IR-2: Unmarried child under 21 years of age of a U.S. citizen; IR-3: Orphan adopted abroad by a U.S. citizen; IR-4: Orphan to be adopted by a U.S. citizen and IR-4: Parent of a U.S. citizen who is at least 21 years old). The second category of family visas is called "family preference," involving more distant family relationships: (F1: Unmarried sons and daughters of U.S. citizens and their minor children; F2: Spouses, minor children and unmarried sons and daughters age 21; F3: Married sons and daughters of U.S. citizens and their spouses and minor children; F4: Brothers and sisters of U.S. citizens and their spouses and minor children). The current annual quota limit for family-based visas is 480,000 with at least 226,000 of these being reserved for the family preference categories. One additional complication is that current law sets a 7% cap each year for family visas issued for persons from any one country. President Trump has announced that he seeks an end to the "family preference" category of visas, while continuing the family-based visas for "immediate relatives."

Green Card: This refers to Permanent Resident Card, Form I-551, a form issued by U.S. Citizenship and Immigration Services that provides evidence of Lawful Permanent Resident status in the United States. This form is no longer green in color, but it has great value in establishing an immigrants right to live and work permanently in the United States. This form is an acceptable form of proof for completing the I-9 form. Some permanent resident cards have no expiration date and others must be renewed after ten years. A related form provides only "conditional" permanent resident status, valid for two years.

H-1B Visa: This is a non-immigrant visa for highly-skilled persons authorizing them to live and work in the United States for a sponsoring employer. H-1B visas are for a period of 3 years, renewable for another three years. This visa type provides a special sub-section for fashion models "of distinguished merit and ability" and for government research projects administered by the Department of Defense.

H-2A Visa: This is a non-immigrant visa for temporary agricultural workers performing seasonal agricultural work. These visas are available only to nationals of countries that the U.S. Secretary of Homeland Security has designated as eligible to participate – a list that is revised annually.

H-2B Visa: This is a non-immigrant visa for temporary or seasonable non-agricultural work. These visas are used by sponsoring employers to bring persons to the United States to work in ski resorts, amusement parks, cruise ships, restaurants, hotels or other similar endeavors. As with the H-2A Visa, the Secretary of Homeland Security must designate certain countries as eligible to participate in the program.

Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA): This piece of legislation requires that undocumented immigrants living in the United States must return to their country of origin before becoming eligible to apply for legal immigration to the United States. Persons who have been present in the United States without proper authorization for a period less than one year must absent

themselves for at least three years. For persons who have been present in the United States without authorization for more than one year, the period of absence must be at least 10 years. This legislation creates a major barrier preventing undocumented immigrants from applying for legal status.

Immigration Act of 1990 (IMMACT90): This Act increased the quotas for legal immigration to the United States and revised the process for exclusion and deportation. This Act created the Diversity Visa program as well as several new non-immigrant visa categories, including the H-1B visa.

Immigration and Customs Enforcement (ICE): This is the enforcement arm of the U.S. Department of Homeland Security as it relates to immigration matters. ICE agents are involved in deportation processes as well as border enforcement.

Immigration and Nationality Act (INA): This Act of October 3, 1965 abolished national origin and race as criteria restricting for immigration to the United States, and replaced this national origins quota system with a first-come, first served basis, with preference for relatives of U.S. citizens and for people with special occupational skills needed in the U.S. It also established the category of immediate relatives as numerically unrestricted.

Immigration Reform and Control Act (IRCA) of 1986: This Act, signed into law by President Ronald Reagan, provided a path to legalization for millions of undocumented immigrants who had been continually present in the United States for at least the previous six years. This Act also established, for the first time, strong penalties for employers who knowingly hire persons not eligible to work in the United States. It was this Act that created the I-9 form, requiring employers to have their employees document either that they are citizens of the United States or have otherwise established their ability to legally work in the United States. IRCA also provided stronger border enforcement measures.

Immigration and Naturalization Service (INS): This agency performed the immigration enforcement functions of the federal government until it was replaced in 2003 by three agencies of the Department of Homeland Security: U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection.

Investor Visas: The EB-5 Investor Visa was created by the Immigration Act of 1990 for the purpose of encouraging entrepreneurs, along with their spouses and unmarried children, to apply for Legal Permanent Resident status in the United States. This visa requires the applicant to make a minimum investment of at least one million dollars (or half that amount if the investment is made in a high-unemployment or rural area) and demonstrate that at least 10 permanent full-time jobs for qualified U.S. workers would be created by the investment. The EB-5 program operates with a quota of 10,000. In the early years of operation for the EB-5 program, only a few hundred visas were approved, but since 2014 the annual quota of 10,000 has been reached.

Lawful Permanent Resident (LPR): This term refers to any person who is not a U.S. citizen, but who has been given legal authorization to live and work in the United States on a permanent basis. The document establishing LPR status is commonly called a “green card” based on the I-551 form. Other terms used synonymously with LPR status are “permanent resident alien,” “resident alien permit holder” and “green card holder.”

Nonimmigrant: More than 70 of the visas used to legally enter the United States are officially termed “nonimmigrant” visas. Examples of nonimmigrant visas are H-1B, H-2A and H-2B. Persons holding these visas are legally eligible to live (and sometimes work) in the United States, but they are in the country only temporarily and do not have Legal Permanent Resident status. In many cases, however, holders of nonimmigrant visas are eligible to apply for Legal Permanent Resident status.

Refugee: This is one of the categories of legal immigration to the United States, assuming that they have applied for and been granted “refugee” status by the U.S. government. International law defines refugees as “aliens who are unable to remain in their country of origin due to persecution or a well-founded fear of persecution based on race, religion, nationality, membership in a particular social group or political opinion.” But in order to be granted refugee status allowing entry into the United States, they must be carefully screened and also be subject to ceilings by geographic area set annually by the President in consultation with Congress – a number that fluctuates, but has been significantly reduced by the Trump

administration. Refugees differ from asylees in that people outside the United States apply for refugee status, but people already in the United States apply for asylee status.

Special Agricultural Workers (SAW): This was the term used in the Immigration Reform and Control Act of 1986 (IRCA) to describe undocumented immigrants who had been employed in perishable agricultural products for at least 90 days a year for the three years preceding 1986. IRCA granted a path to citizenship for workers who qualified for SAW designation.

Temporary Protected Status (TPS): This status was created by the Immigration Act of 1990. Under its terms, the U.S. Attorney General or Secretary of the Department of Homeland Security can designate the nationals of a particular country as eligible for protected status (meaning they will not be deported for a specified period) if conditions in that country are found to be a danger to personal safety. TPS is granted for six to 18 months initially and may be extended, depending on the situation. Aliens in TPS status receive work permits and are immune from removal proceedings, so long as their protected status has not expired. TPS status is typically granted for the following conditions: ongoing armed conflict (such as civil war); an environmental disaster (such as earthquake or hurricane) or other extraordinary and temporary conditions. Grants of TPS are initially made for periods of 6 to 18 months and may be extended upon the discretion of the President. The United States has, in recent years, provided TPS status for persons from El Salvador, Haiti, Honduras, Nicaragua and Syria.

U Visa: The U visa is a non-immigrant visa available to non-immigrant aliens who: (1) have suffered severe physical or mental abuse as a result of being a victim of criminal activity; (2) have been, are being or are likely to be of help to a Federal, state or local investigation of the criminal activity causing the abuse and (3) have certification from a Federal, state or local judge, prosecutor, law enforcement officer or other justice system official involved in prosecuting the criminal activity that he or she has been, is being, or is likely to be of help to a Federal, state or local investigation of the criminal activity causing the abuse. The maximum length of the "U" visa is four years unless extended. The holder of a U visa is eligible to apply for lawful permanent resident status with three years of continuous residence after receiving U visa status.

U.S. Citizenship and Immigration Services (USCIS): This is a federal agency in the Department of Homeland Security with oversight over lawful immigration to the United States. The functions of USCIS include the following: Granting employment authorization to eligible foreign nationals; issuing documentation of foreign national employment authorization; maintaining Forms I-9 and administering the E-Verify employment eligibility verification program.

U.S. Customs and Border Protection (CBP): An agency of the Department of Homeland Security that is responsible for securing the homeland by preventing the illegal entry of people and goods while facilitating legitimate travel and trade.

Visa Waiver Program (VWP): This program enables most citizens or nationals of participating countries to travel to the United States for tourism or business for stays of 90 days or less without first obtaining a visa, when they meet certain requirements