



KNOW YOUR RIGHTS WORKSHOP: Understanding Immigration Rights and Options

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PART 1: RIGHTS REGARDLESS OF STATUS



I pledge allegiance to
the Flag of the United
States of America, and
to the Republic for
which it stands, one
Nation under God,
indivisible, with liberty
and justice for all.



Undocumented Status and Crime

- ▶ Criminals are normally those who have violated criminal law and must go through the criminal courts
- ▶ Unlawful entry is a misdemeanor
- ▶ Overstay is not a crime under criminal law
- ▶ One does not get deported solely because they committed a crime, but because they violated the law
 - ▶ One can get deported even if they have not committed a crime
 - ▶ Ex/ overstaying a visa is a violation of the law and can subject someone to deportation
- ▶ Deportation and removal is not done through the criminal courts
 - ▶ Civil courts
 - ▶ Administrative




8 U.S.C. § 1325 : US Code - Section 1325: Improper entry by alien

- ▶ Under federal criminal law, it is misdemeanor for an alien (i.e., a non-citizen) to:
 - ▶ Enter or attempt to enter the United States at any time or place other than designated by immigration officers;
 - ▶ Elude examination or inspection by immigration officers; or
 - ▶ Attempt to enter or obtain entry to the United States by willfully concealing, falsifying, or misrepresenting material facts.
- ▶ Penalties include:
 - ▶ Up to six months in prison
 - ▶ (1) at least \$50 and not more than \$250 for each such entry (or attempted entry); or
 - ▶ (2) twice the amount specified in paragraph (1) in the case of an alien who has been previously subject to a civil penalty under this subsection.
- ▶ 5 year statute of limitations for first improper entry



Other “crimes” in California with similar penalties as improper entry

- ▶ \$250 penalty (but no prison time):
 - ▶ jaywalking
 - ▶ illegal u-turn
 - ▶ speeding
 - ▶ failure to stop at stop sign
- ▶ Misdemeanors with up to 6 months in prison (with up to \$1000 penalty):
 - ▶ Driving with a suspended license
 - ▶ Petty theft



More serious crimes under 8 U.S.C. § 1325

- ▶ **Marriage fraud.** Any individual who knowingly enters into a marriage for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, or fined not more than \$250,000, or both.
- ▶ **Immigration-related entrepreneurship fraud.** Any individual who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, fined in accordance with title 18, or both.
- ▶ Other statutes provide immigration related crimes such as:
 - ▶ **Reentry After Deportation** – 8 U.S.C. §1326
 - ▶ **Aiding or Assisting Certain Aliens to Enter** – 8 U.S.C. §1327



Rights of all people regardless of immigration status

- ▶ 14th Amendment
 - ▶ No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.
 - ▶ Due Process
 - ▶ Equal Protection
 - ▶ Yick Wo v. Hopkins
- ▶ Incorporates many other rights including but not limited
 - ▶ Freedom of speech
 - ▶ Freedom of religion



Rights to all people regardless of immigration status (continued)

- ▶ Fifth and Sixth Amendment rights including but not limited to:
 - ▶ Right to jury trial
 - ▶ Double jeopardy
 - ▶ Against self-incrimination
 - ▶ Right to an attorney
- ▶ Fourth Amendment: Search and seizure
- ▶ Note that many rights are for those of CRIMINAL COURTS
 - ▶ Deportation/Removal is civil and administrative
- ▶ Right to sue (ex/ CA wage violations, but no right to organize)
- ▶ No right to vote or any other rights exclusive to US citizens
- ▶ No right to work unless proper authorization



U.S. Immigration and Customs Enforcement (ICE)

- ▶ Federal law enforcement agency under the Department of Homeland Security (DHS)
- ▶ Enforces U.S. immigration laws
- ▶ Responsible for deportations
 - ▶ U.S. Customs and Border Protection (CBP) also assists in deportation related activities
- ▶ In the news:
 - ▶ ICE raids



Deportation

- ▶ ICE is primarily responsible for deportations
- ▶ President and DHS determine priorities for deportation and ICE uses as guide
- ▶ Who can be deported:
 - ▶ People without legal status
 - ▶ Can be deported anytime
 - ▶ Includes both those who entered with a legal status and overstayed and those who entered without legal status
 - ▶ People with legal status
 - ▶ Can be deported if the person was convicted of a crime
 - ▶ Even if no jail time was served
 - ▶ Even if it happened a long time ago
 - ▶ Even if the person has US citizen relatives
 - ▶ Threats to national security
 - ▶ US Citizens CANNOT be deported



ICE Raids

- ▶ Common tactics used under the Obama administration
 - ▶ Used workplace raids in the beginning but eventually stopped
 - ▶ Work in teams
 - ▶ Arrive early in the morning to homes (5am to 8am)
 - ▶ Use of administrative warrants, but tried to get consent (sometimes deceitfully)
 - ▶ Use of physical force (interpreted opening of door as consent)
 - ▶ Other deception
 - ▶ Tricked residents into thinking they were police
 - ▶ Requested help with criminal investigation
 - ▶ Claim that person has been target of ID theft
 - ▶ Ask person to “clear up an accusation”



Aguilar v. ICE

- ▶ On September 20, 2007, a class action suit was filed where 22 Latino citizens, lawful permanent residents and others, who in 2006 and 2007, had their homes raided by armed immigration agents in the pre-dawn hours, without court warrants or other legal justification.
 - ▶ Families asked for warrant and ICE did not have one
 - ▶ ICE admitted to not having warrants or exigent circumstances to justify entering or searching homes, but claimed to have obtained consent to enter and search during these operations.
- ▶ Case was settled on April 4, 2013, requiring a new national policy governing the conduct of immigration agents during raids; \$1 million in damages and fees; and immigration benefits for several of our clients.




New Policy as a Result of Aguilar

- ▶ The new policy requires ICE agents to:
 - ▶ seek consent to enter or search a private residence in a language understood by the resident whenever feasible;
 - ▶ to have Spanish-speaking officers available to seek such consent when the target is from a Spanish-speaking country;
 - ▶ to seek consent to enter the outside areas of homes where there is a reasonable expectation of privacy, such as a backyard; and
 - ▶ to train agents in the law prohibiting so-called “protective sweeps” without an articulable suspicion of danger.

Know Your Rights Worksheets

Immigration Defense Project



Immigrant Defense Project has been monitoring Immigration and Customs Enforcement (ICE) arrests in the community.

KNOW YOUR RIGHTS with ICE

Who is at risk of being arrested by ICE?

The law allows the federal government to deport certain immigrants, including:

- Anyone without lawful immigration status
- People with status (e.g., lawful permanent residents, refugees and visa holders) who have certain criminal convictions

The people the Trump Administration announced ICE will initially focus on deporting include:

- people with pending criminal cases and/or prior criminal convictions;
- people with final orders of removal;
- people who have committed fraud or misrepresentation in applications to the government;
- people they believe pose a threat to public safety or national security

People with legal status and prior convictions

Be aware: You may be a target even if:

- Your conviction is from years ago;
- You didn't serve time in jail;
- Your case was minor or a misdemeanor;
- You've been an LPR for a long time; and/or
- All the other members of your family are US citizens.

Are ICE agents approaching anyone they think they can deport?

ICE agents usually identify the person they want to arrest ahead of time. Then, they go to homes, courthouses, shelters and even workplaces to look for that person. Sometimes they wait on the street to make the arrest.

If I know I'm at risk, what can I do?

- **Make a plan** with your loved ones in case you are picked up by ICE!
- **Avoid contact with Immigration** – don't apply to change your immigration status or to renew your greencard and don't travel outside of the United States without talking to a lawyer first!
- **Avoid contact with the Criminal Justice System** (the police share your fingerprints with Immigration)!

IF YOU OR A LOVED ONE IS AT RISK OF DEPORTATION, HAVE A PLAN!

Knowing which rights you have and exercising them is complicated. For more information on ICE community arrests, please see IDP's longer booklet at immigrantdefenseproject.org/ice-arrests or contact KYR@immdefense.org

If you want to report a raid within NYC, call IDP at 212-725-6422

If you want to report a raid outside of NYC, contact United We Dream at 1-844-363-1423

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National Immigration Law Center

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KNOW YOUR RIGHTS

Everyone has certain basic rights, no matter who is president

NOVEMBER 10, 2016

By now everyone knows that Donald Trump has been elected president of the United States and will begin to serve his term in January 2017. No matter who is president, everyone living in the U.S. has certain basic rights under the U.S. Constitution. Undocumented immigrants have these rights, too. It is important that we all assert and protect our basic rights.

If you find you have to deal with Immigration and Customs Enforcement (ICE) or other law enforcement officers at home, on the street, or anywhere else, remember that you have the rights described in this factsheet. The factsheet also provides suggestions for what you should do to assert your rights.



- ✓ **You have the right to remain silent. You may refuse to speak to immigration officers.**
 - Don't answer any questions. You may also say that you want to remain silent.
 - Don't say anything about where you were born or how you entered the U.S.
- ✓ **Carry a know-your-rights card and show it if an immigration officer stops you.**
 - The card explains that you will remain silent and that you wish to speak with an attorney.
- ✓ **Do not open your door.**
 - To be allowed to enter your home, ICE must have a warrant signed by a judge. Do not open your door unless an ICE agent shows you a warrant.

KNOW YOUR RIGHTS!

If you are stopped by immigration or the police:

- ✓ Hand this card to the officer, and remain silent.
- ✓ The card explains that you are exercising your right to refuse to answer any questions until you have talked with a lawyer.

To: Immigration or Other Officer:
Right now I am choosing to exercise my legal rights.

- I will remain silent, and I refuse to answer your questions.
- If I am detained, I have the right to contact an attorney immediately.
- I refuse to sign anything without advice from an attorney.

Thank you.

LOS ANGELES (Headquarters)
3435 Wilshire Blvd. #108 - 62
Los Angeles, CA 90010
213 879-3900
213 879-3911 fax



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Sensitive Locations Policy

- ▶ “The ICE and CBP sensitive locations policies, which remain in effect, provide that enforcement actions at sensitive locations should generally be avoided, and require either prior approval from an appropriate supervisory official or exigent circumstances necessitating immediate action. DHS is committed to ensuring that people seeking to participate in activities or utilize services provided at any sensitive location are free to do so without fear or hesitation”
- ▶ Trump administration indicated that the policy remains in effect



Sensitive Location Examples

- ▶ **Schools**, such as known and licensed daycares, pre-schools and other early learning programs; primary schools; secondary schools; post-secondary schools up to and including colleges and universities; as well as scholastic or education-related activities or events, and school bus stops that are marked and/or known to the officer, during periods when school children are present at the stop;
- ▶ **Medical treatment and health care facilities**, such as hospitals, doctors' offices, accredited health clinics, and emergent or urgent care facilities;
- ▶ **Places of worship**, such as churches, synagogues, mosques, and temples;
- ▶ **Religious or civil ceremonies or observances**, such as funerals and weddings; and
- ▶ **During public demonstration**, such as a march, rally, or parade.



Trump Executive Orders

- ▶ What is an executive order?
- ▶ January 25, 2017, President Trump signed “Enhancing Public Safety in the Interior of the United States” Executive Order.
 - ▶ This received less attention due to the “Protecting the Nation from Foreign Terrorist Entry into the United States”
 - ▶ Also issued “Border Security and Immigration Enforcement Improvements”
 - ▶ Discusses border wall
 - ▶ Change in asylum procedures
 - ▶ Detain more trying to cross illegally
- ▶ February 20, 2017, DHS Secretary John Kelly issued a memorandum outlining an implementation plan for that Executive Order titled “Enforcement of the Immigration Laws to Serve the National Interest”



Enforcement of Enhancing Public Safety in the Interior of the United States

- ▶ Under this executive order, with extremely limited exceptions, **DHS will not exempt classes or categories of removal aliens from potential enforcement. All of those in violation of the immigration laws may be subject to enforcement proceedings, up to and including removal from the United States.** The guidance makes clear, however, that ICE should prioritize several categories of removable aliens who have committed crimes, beginning with those convicted of a criminal offense.
- ▶ Department personnel should prioritize removable aliens who:
 - ▶ (1) have been convicted of any criminal offense;
 - ▶ (2) have been charged with any criminal offense that has not been resolved;
 - ▶ (3) have committed acts which constitute a chargeable criminal offense;
 - ▶ (4) have engaged in fraud or willful misrepresentation in connection with any official matter before a governmental agency;
 - ▶ (5) have abused any program related to receipt of public benefits;
 - ▶ (6) are subject to a final order of removal but have not complied with their legal obligation to depart the United States; or
 - ▶ (7) in the judgment of an immigration officer, otherwise pose a risk to public safety or national security.

Expansion of 287(g)

- ▶ “The INA § 287(g) Program has been a highly successful force multiplier that **allows a qualified state or local law enforcement officer to be designated as an "immigration officer" for purposes of enforcing federal immigration law.** Such officers have the authority to perform all law enforcement functions specified in section 287(a) of the INA, including the authority to investigate, identify, apprehend, arrest, detain, and conduct searches authorized under the INA, under the direction and supervision of the Department.”
- ▶ Includes allowing CBP to possibly resume “task force” agreements authorizing local police to arrest potentially removable noncitizens in the field.
 - ▶ Previously discontinued due to significant concerns that it would encourage the use of racial profiling by local law enforcement.



DACA under the Executive Order

From Q&A: DHS Implementation of the Executive Order on Enhancing Public Safety in the Interior of the United States

- ▶ **Q22:** Do these memoranda affect recipients of Deferred Action for Childhood Arrivals (DACA)?
- ▶ **A22:** No.
- ▶ However, does not mean DACA will be continued through the Trump administration.



Tips for non-U.S. Citizens in the U.S.

- ▶ **Be aware of your surroundings**
- ▶ **Don't post rumors on social media**
- ▶ **Try to stay out of trouble**
- ▶ **Be careful with your tattoos**
- ▶ **If you are a permanent resident, always carry your green card**
 - ▶ According to 264(e) of the Immigration and Nationality Act (I.N.A.), if you are a permanent resident, you must carry your green card (or official evidence of your legal permanent resident status) at all times.
 - ▶ Failure to do so is a misdemeanor and shall upon conviction for each offense be fined not to exceed \$100 or be imprisoned not more than thirty days, or both.
- ▶ **Don't ever claim to be a U.S. citizen if you are not**
 - ▶ "death penalty"
- ▶ **Be proactive**



PART 2: PATH TO THE GREEN CARD



Coming to the United States

▶ Nonimmigrants

- ▶ Nonimmigrant visas are issued to persons with a permanent residence outside the United States but who wish to be in the U.S. on a temporary basis.

▶ Immigrants

- ▶ Immigrant visas are issued to people wishing to live permanently in the United States.



Nonimmigrant Visas

- ▶ Tourists, business people, people seeking medical treatment (B1/B2 visa)
- ▶ Temporary workers (H, O, L, C visas and several others)
- ▶ Students/Cultural Exchange (J visa)
- ▶ Victims of criminal activity and human trafficking (U and T visas)



Permanent Residents Obligations

- ▶ Follow the law and don't do anything that can get you deported
- ▶ File your income taxes and report all income to both state and federal taxing authorities
- ▶ Expected to support the democratic form of government and not to change the government through illegal means
- ▶ Required, if you are a male age 18 through 25, to register with the Selective Service
- ▶ Keep all permanent resident documents up to date
- ▶ Always carry evidence of permanent residency
- ▶ Be careful with how much time you spend abroad



Family Based Green Card Eligibility


To qualify for permanent residency (green card), you must:

- ▶ Be eligible for one of the immigrant categories established in the Immigration and Nationality Act (INA)
- ▶ Have a qualifying immigrant petition filed and approved for you (with a few exceptions)
- ▶ Have an immigrant visa immediately available
- ▶ Be admissible to the United States



Path to the Green Card (Family Based)

- ▶ Adjust Status
 - ▶ If person seeking Green Card is already in the U.S. and entered the U.S. legally, may be able to change current status to permanent resident status
 - ▶ When applying to “adjust status,” may also be able to get work authorization and advanced parole
 - ▶ Includes person coming in on nonimmigrant K visa (Fiance Visa) then after getting married in the U.S. apply for a green card
- ▶ Petition relative
 - ▶ Petition relative abroad
 - ▶ When green card is available submit visa application
 - ▶ Interview
 - ▶ Green Card



Path to the Green Card (Family Based) Continued

- ▶ The prospective immigrant needs a family sponsor.
- ▶ Requirements to be a sponsor (petitioner):
 - ▶ Family relationship between sponsor and prospective immigrant
 - ▶ US Citizen or Permanent Resident
 - ▶ No age requirement to be a sponsor, BUT sponsors must sign an Affidavit of Support
 - ▶ Requirements to sign an Affidavit of Support:
 - ▶ 18 years old
 - ▶ Domicile in the U.S.
 - ▶ Need to make a enough money to support his or her family (including the immigrant)



Being a Sponsor

- ▶ The sponsor signs a contract with the U.S. government promising that the prospective immigrant will not use certain need based public benefits (food stamps, Medi-Cal (not including emergency Medi-Cal) and other public benefits).
- ▶ If the immigrant uses certain need based public benefits, the sponsor will have to reimburse the government.
- ▶ The sponsor must show that his or her household income is equal to or higher than 125% of the U.S. poverty level for his or her household size. (Household size includes the sponsor, dependents of the sponsor, any relatives living with the sponsor, and the sponsored immigrants.)



2016 HHS Poverty Guidelines for Affidavit of Support

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-864P
Supplement

2016 HHS Poverty Guidelines*

Minimum Income Requirements for Use in Completing Form I-864

For the 48 Contiguous States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands:

<u>Sponsor's Household Size</u>	<u>100% of HHS Poverty Guidelines*</u>	<u>125% of HHS Poverty Guidelines*</u>
	<i>For sponsors on active duty in the U.S. Armed Forces who are petitioning for their spouse or child</i>	<i>For all other sponsors</i>
2	\$16,020	\$20,025
3	\$20,160	\$25,200
4	\$24,300	\$30,375
5	\$28,440	\$35,550
6	\$32,580	\$40,725
7	\$36,730	\$45,912
8	\$40,890	\$51,112
	Add \$4,160 for each	Add \$5,200 for each



Family Relationships

- ▶ Limits to how many immigrants can enter the United States.
- ▶ Limits are determined by the family relationship category.
- ▶ No limits on all immediate relatives of U.S. citizens which include parents, spouses, and unmarried children under 21.
- ▶ Immigrants who gained residency through marriage but have been married for less than 2 years receive Conditional Residency
 - ▶ After two years, may take conditions off



Non-Immediate Family Relationships

- ▶ **First: (F1)** Unmarried Sons and Daughters of U.S. Citizens: 23,400 plus any numbers not required for fourth preference.
- ▶ **Second:** Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents: 114,200, plus the number (if any) by which the worldwide family preference level exceeds 226,000, plus any unused first preference numbers:
 - ▶ A. **(F2A)** Spouses and Children of Permanent Residents: 77% of the overall second preference limitation, of which 75% are exempt from the per-country limit;
 - ▶ B. **(F2B)** Unmarried Sons and Daughters (21 years of age or older) of Permanent Residents: 23% of the overall second preference limitation.
- ▶ **Third: (F3)** Married Sons and Daughters of U.S. Citizens: 23,400, plus any numbers not required by first and second preferences.
- ▶ **Fourth: (F4)** Brothers and Sisters of Adult U.S. Citizens: 65,000, plus any numbers not required by first three preferences.



Visa Bulletin

- ▶ 2 charts: Final Action Date and Date for Filing Application
- ▶ Charts tell when immigrant visa applicants should be notified to assemble and submit required documentation to the National Visa Center
- ▶ Final Action Date used for Adjustment of Status
- ▶ When USCIS determines that there are more immigrant visas available for the fiscal year than there are known applicants for such visas, USCIS will state on its website that applicants may instead use the “Dates for Filing Visa Applications” charts in this Bulletin.

Visa Bulletin for March 2017

Family-Sponsored	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
F1	01JUN10	01JUN10	01JUN10	15MAY95	15DEC05
F2A	08MAY15	08MAY15	08MAY15	22APR15	08MAY15
F2B	15AUG10	15AUG10	15AUG10	22NOV95	01MAY06
F3	22APR05	22APR05	22APR05	22DEC94	08SEP94
F4	22FEB04	22FEB04	22JUL03	01JUN97	01AUG93

Final Action Date

Family-Sponsored	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
F1	01JAN11	01JAN11	01JAN11	01JUN95	01MAY06
F2A	22NOV15	22NOV15	22NOV15	22NOV15	22NOV15
F2B	08FEB11	08FEB11	08FEB11	01JUN96	01FEB07
F3	22AUG05	22AUG05	22AUG05	01MAY95	01JAN95
F4	01JUL04	01JUL04	01MAY04	01DEC97	01APR94

Date For Filing Application



Admissibility

- ▶ Some, but not all, reasons not to be admissible:
 - ▶ Crime including various felonies, entering the United States without inspection, and acts of terrorism
 - ▶ Health related:
 - ▶ communicable diseases such as leprosy, tuberculosis, pandemic flu, cholera, plague, smallpox, and yellow fever
 - ▶ physical or mental disorder that may cause public harm
 - ▶ drug abuse and addiction
 - ▶ Security related
 - ▶ Other reasons that USCIS considers
- ▶ Depending on the reason you are inadmissible, you may qualify for a waiver
 - ▶ No waiver for false claim to U.S. citizenship



Other ways to get a green card

- ▶ Employment Based
- ▶ Refugee or Asylee:
 - ▶ If a person is admitted as a refugee or is a derivative (spouse, children) of someone admitted as a refugee, the person **MUST** apply for permanent residency 1 year after the admittance into the US as a refugee.
 - ▶ If a person gains asylee status or is a derivative (spouse, children) of someone with asylee status, the person **MAY** apply for permanent residency 1 year after gaining asylee status.
- ▶ Special Immigrant Juvenile Status,
- ▶ Diversity Lottery
- ▶ Afghan/Iraqi who assisted the US Government
- ▶ Returning Resident



PART 3: PATH TO CITIZENSHIP



Benefits of Citizenship

Some benefits include (but not limited to):

- ▶ Vote
- ▶ Run for office
- ▶ Bringing family members to the U.S.
- ▶ Travelling with a U.S. passport
- ▶ Be eligible for Federal jobs
- ▶ Estate planning benefits
- ▶ Citizens cannot get deported



Ways to acquire citizenship

- ▶ By birth
 - ▶ Born in the U.S. including its territories such as Puerto Rico, Guam and U.S. Virgin Islands (but does not include children of foreign diplomats)
 - ▶ Child is born abroad to two U.S. citizen parents, most likely a U.S. citizen
 - ▶ Child born abroad to one U.S. citizen:
 - ▶ One parent was U.S. citizen when born
 - ▶ Citizen parent lived in U.S. for at least 5 years prior to birth
 - ▶ 2 of the 5 years citizen parent lived in the U.S. was after his or her 14th birthday
- ▶ Through Naturalization



Requirements for Naturalization

- ▶ Be at least 18 years old at the time of filing Form N-400, Application for Naturalization.
- ▶ Be a permanent resident (have a “Green Card”).
- ▶ Show that you have lived for at least 3 months in the state or USCIS district where you apply.
- ▶ Demonstrate continuous residence in the United States for at least 5 years immediately preceding the date of filing Form N-400.
- ▶ Show that you have been physically present in the United States for at least 30 months out of the 5 years immediately preceding the date of filing Form N-400.
- ▶ Be able to read, write, and speak basic English.
- ▶ Have a basic understanding of U.S. history and government (civics).
- ▶ Be a person of good moral character.
- ▶ Demonstrate an attachment to the principles and ideals of the U.S. Constitution.
- ▶ Males must register for Selective Services during ages 18 through 25. If male entered U.S. after turning 26, they do not have to register.



Permanent Resident requirement

- ▶ At least 5 years as a permanent resident
 - ▶ May apply 90 days before you meet the requirement
- ▶ Only 3 years required if married to a U.S. Citizen
 - ▶ May apply 90 days before you meet the requirement
- ▶ Only 1 year if actively served in military
- ▶ If you were married to a U.S. citizen who died in active service in the military, you may apply for citizenship as long as you are a permanent resident
- ▶ U.S. national (America Samoa, Mariana Islands) who owes allegiance to the U.S., resides in a U.S. state and otherwise eligible, do not need to be a permanent resident to naturalize

5 Year Requirement of Physical Presence v. Continuous Residence

- ▶ Physical Presence: total number of days you were in the U.S. during period required for naturalization
- ▶ Continuous Residence: time you resided lawfully in the U.S. without any single absence long enough to “break” the continuity for naturalization purposes
- ▶ Intent of person could be determinative
- ▶ Sample from USCIS:
 - ▶ An applicant became a Permanent Resident on January 1, 1994
 - ▶ She lived in the U.S. for 3 years, then returned to her native country for 1 year and 3 months.
 - ▶ She got a Re-entry Permit before leaving the U.S. so she could keep her Permanent Resident status.
 - ▶ When is she eligible for naturalization?
 - ▶ April 2, 2002, 4 years and 1 day after she returned to the U.S. The last 364 days the applicant was out of the U.S. counts toward her time as a Permanent Resident in “continuous residence”, but the 3 years in the U.S. before leaving the U.S. do not



English Requirements and Civics Tests

- ▶ English test:
 - ▶ Speaking skills: Evaluated during interview
 - ▶ Reading skills: read aloud one out of three sentences correctly to demonstrate an ability to read in English
 - ▶ Writing skills: write one out of three sentences correctly to demonstrate an ability to write in English.
- ▶ Civics test:
 - ▶ asked up to 10 questions from the list of 100 questions and must answer correctly six of the 10 questions to pass
- ▶ Applicants have two opportunities to take the English and civics tests per application. If they fail any portion of the test during their first interview, they will be retested on the portion of the test that they failed between 60 and 90 days from the date of their initial interview.



Exemptions to the Tests

You Are Exempt From The English Language Requirement, But Are Still Required To Take The Civics Test If You Are:

- ▶ Age 50 or older at the time of filing for naturalization and have lived as a permanent resident (green card holder) in the United States for 20 years (commonly referred to as the “50/20” exception).
OR
- ▶ Age 55 or older at the time of filing for naturalization and have lived as a permanent resident in the United States for 15 years (commonly referred to as the “55/15” exception).
- ▶ Still must take civics test, but can do so in your native language
 - ▶ Must bring own interpreter who can speak both English and your native language
- ▶ If you are age 65 or older and have been a permanent resident for at least 20 years at the time of filing for naturalization, you will be given special consideration regarding the civics requirement.
- ▶ You may be eligible for an exception to the English and civics naturalization requirements if you are unable to comply with these requirements because of a physical or developmental disability or a mental impairment.



Good Moral Character (GMC)

- ▶ Normally look at 5 years preceding application, but must keep GMC up until oath of allegiance
- ▶ Some examples that negatively effect GMC:
 - ▶ Variety of crimes (crimes against person with intent to harm, crime that involves fraud or evil intent, crime for substance abuse)
 - ▶ Two or more crimes that's combined sentence was 5 years or more
 - ▶ Incarceration for aggregate of 180 days due to a conviction
 - ▶ Lying to gain immigration benefits
 - ▶ Prostitution
 - ▶ Smuggling of a person
 - ▶ Polygamy
 - ▶ Gambling
 - ▶ Habitual drunkard
 - ▶ Not paying child support



Oath of Allegiance

"I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God."



Oath of Allegiance continued

- ▶ Support the Constitution;
- ▶ Renounce and abjure absolutely and entirely all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which the applicant was before a subject or citizen;
- ▶ Support and defend the Constitution and laws of the United States against all enemies, foreign and domestic;
- ▶ Bear true faith and allegiance to the same; and
- ▶ A. Bear arms on behalf of the United States when required by the law; or
B. Perform noncombatant service in the Armed Forces of the United States when required by the law; or
C. Perform work of national importance under civilian direction when required by the law.



Thank you!

Part 4: Questions and Answers

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