UFCW

# Raid Preparedness Manual

NOVO LEGAL


**Immigration Law & Policy Context**
Practical Guidance & Resources

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NOVO LEGAL

# Novo Legal & the UFCW

## History

Novo Legal Group is a private law firm operating out of Denver, Colorado; Seattle, Washington; and Walla Walla, Washington. Although focusing predominantly on immigration matters, both before United States Citizenship and Immigration Services (USCIS) and cases before the Executive Office for Immigration Review (EOIR), Novo also represents clients in criminal defense matters in both Colorado and Washington state courts, as well as represents plaintiffs in civil rights suits against the government in federal district court.

Since 2019, Novo has also assisted the United Food and Commercial Workers (UFCW) International Union in providing on-the-ground immigration support and counsel to thousands of their impacted members. Through citizenship workshops (UCAN), TPS clinics, Labor Dispute Deferred Action workshops (DALE), and Worksite Raid Response, Novo has been able to help local members achieve their immigration goals of naturalizing, adjusting their status, finding relief from removal, or earning a work permit. In 2024 alone, Novo assisted over 1,000 UFCW local members across UCAN and DALE workshops hosted in local communities around the United States.

## Our Team

Aaron Elinoff

Bryce Downer

Luis Cortes Romero

Jessica Villalobos

Collin Cannon

Aaron, Bryce, and Luis, the Partner Attorneys at Novo Legal Group, determine strategy and direction for all of our UFCW workshops and counsel, while Jessica Villalobos and Collin Cannon manage the day-to-day implementation of that strategy on the ground.

# Services for the UFCW

## Locals

Through Novo Legal Group's partnership with the UFCW International, Local chapters are entitled to the following services with our firm upon their request and approval:

- Workshop support for events like naturalization, deferred action, renewals, and more. If you believe that your members could benefit from an event with us, send us an email or visit our website to get started with the request.
- We will also review applications completed by local staff on behalf of members before they are submitted to government agencies for review.
- We can provide presentations to your local members to help inform them of their rights during a workplace raid or to better understand what is happening in immigration news.
- We provide monthly immigration news updates and guidance through newsletters that are available on our website and also are distributed by the international.

## Members

Members of the UFCW are also entitled to services with Novo Legal Group. They can receive these services via our website or by calling our office and letting the support staff know which local chapter they are affiliated with.

These services include:

- One free, 30-minute consultation per year.
- Discounted full legal representation for their affirmative benefit request to USCIS or with their removal defense case with the immigration court.
- Access to our "Pro Se Guides" to help the member apply for certain benefits on their own without needing to pay for a lawyer.
- Post-filing support.

Phone: (303) 335-0250
Email: ucan@novo-legal.com
www.novo-legal.com/ufcw/

# Why this packet? Why now?

The primary purpose of this compendium is to serve as a comprehensive resource that complements the Immigration 101 and Know Your Rights presentation. It is meticulously designed to equip non-lawyer volunteers with a deeper understanding of immigration laws, rights, and the various challenges immigrants face. By providing detailed explanations, practical guidelines, and essential information, the compendium aims to empower volunteers to effectively support and assist immigrants during future events and outreach activities. This resource ensures that volunteers are well-informed, confident, and capable of offering accurate information and compassionate assistance to those in need.

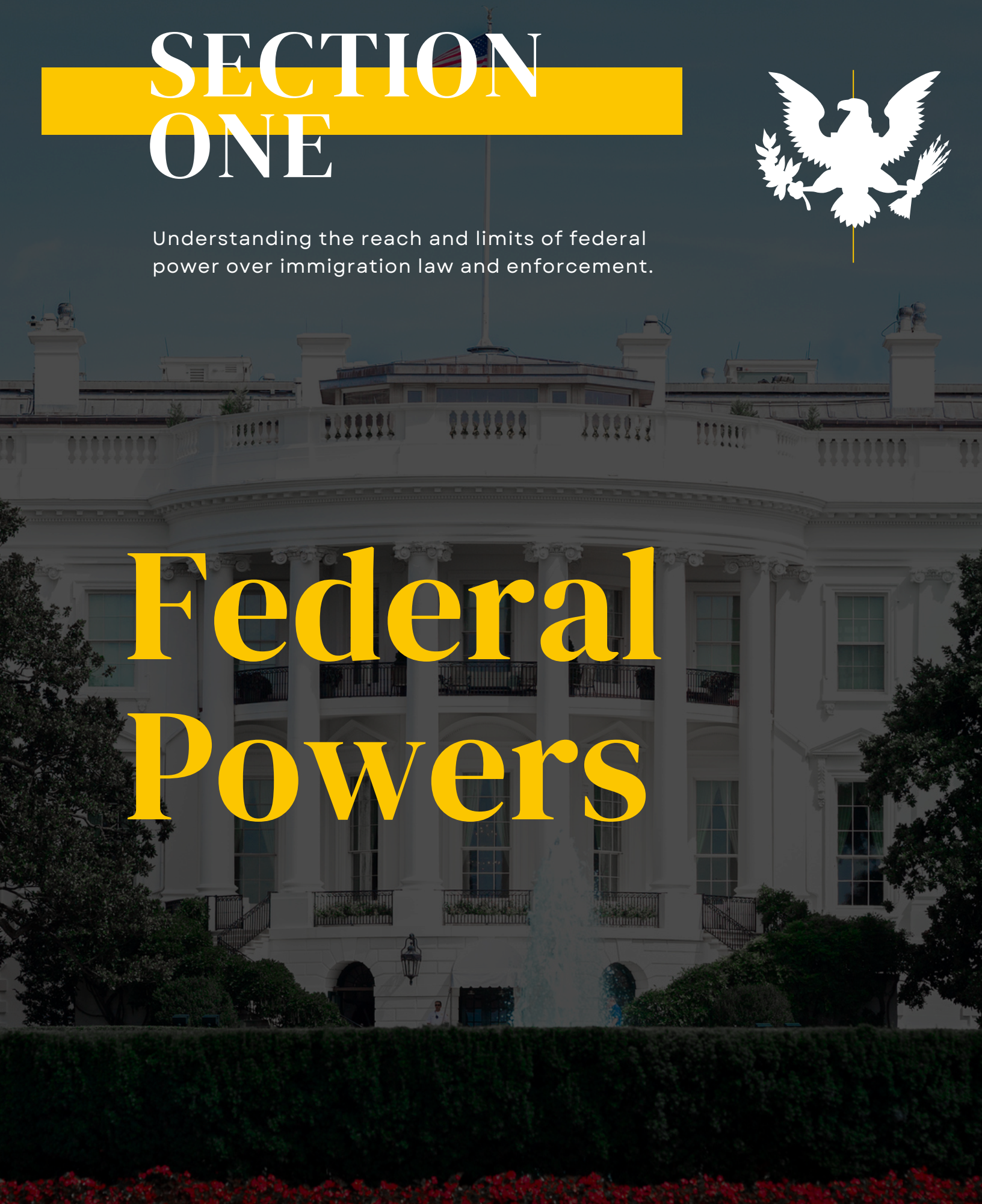
With a second Trump Administration now in effect and prioritizing immigration enforcement the way that it is, it is essential that immigrant communities prepare for increased enforcement activity from Immigration and Customs Enforcement, both at home and in the workplace. This guide explains the many powers of federal agents to enforce immigration laws, but it also stresses the limits of that power, too. This packet is as much focused on explaining the legal context for immigration policy as it is explaining eligibility for forms of relief and giving practical guidance and resources for noncitizens to know their rights.

# Glossary of Terms

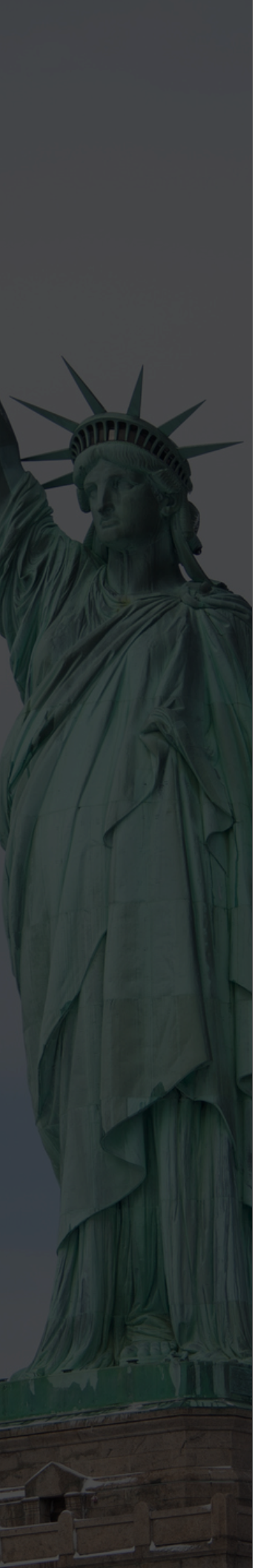
- INA: The "statutes" governing immigration in the United States are known as the "Immigration and Nationality Act" (INA). The laws of the INA exist at 8 U.S.C.
- CFR: The rules that accompany the statutes are the regulations, located at 8 C.F.R.
- "Alien" - this undesirable term is the term used by the U.S. government for anyone who is not a citizen or national of the United States. (See 8 U.S.C. 1101(a)(3)) We will use other terms like:
  - Undocumented: this is the term we use to refer to people who are currently within the United States without lawful immigration status. This can be because this person entered the United States unlawfully without status or because they have stayed past their allowed time for their visa.
  - Non-Immigrant Visa Holder: this is someone who has entered the United States on a visa, or otherwise been issued a visa in the time since their entry, and they remain in compliance with the terms of that visa. For example: B1/B2 Tourist Visa holders; H2B visa holders, etc.
  - Deferred Action: Deferred action is not a lawful immigration status; instead, it simply means that a recipient is in the United States with the government's acknowledgement that removal proceedings will not be taken against that individual for a set period of time. When someone has deferred action, they are not accruing "unlawful presence" in the United States.
  - Immigrant / Lawful Permanent Resident (LPR): The U.S. government uses the term "immigrant" to refer only to Lawful Permanent Residents of the United States. These are green card holders. Lawful permanent residents (LPRs) have their status permanently, even if their green card is expired, unless that status is removed by an immigration judge. A lawful permanent resident is eligible for citizenship after differing periods of times, depending on their situation.
- DHS: The Department of Homeland Security is the government Department existing within the Executive Branch (meaning that it acts on the orders of the President) that is responsible for carrying out everything related to immigration, among other things. DHS has three primary sub-agencies dealing with different parts of immigration: US-CIS, US-ICE, US-CBP.
- CIS: Citizenship and Immigration Services is the agency we, in affirmative, deal with most. This is the benefits agency within DHS; they are not the "police" or "enforcers" so much as they are the benefits people. They are in charge of naturalization, work authorization, among other things.
- ICE: Immigration and Customs Enforcement are the immigration police for the "interior" of the United States. Their job is to remove people from the United States if they can demonstrate that the person is not admissible to the United States or is removable. They begin removal proceedings against someone by writing a "Notice to Appear" and filing that document with the Immigration Court. If the immigration court agrees that the person should be removed, ICE removes that person. ICE also has authority over immigration detention centers. Everything with ICE is adversarial.
- CBP: Customs and Border Protection is in charge or entries and exits from the United States. They monitor ports of entry at the border, they allow people to enter through airports, and they have a lot of power to turn people away at the borders. We do not often deal with CBP directly, but they are important all the same.
- DOS: The Department of State handles all immigration matters occurring overseas. The rules governing the Department of State are found in the Foreign Affairs Manual (FAM).

# SECTION ONE

Understanding the reach and limits of federal power over immigration law and enforcement.



# Federal Powers



# ARTICLE II

Article II of the Constitution establishes the President as the Chief Executive, granting them the authority to oversee the federal agencies that implement and enforce the nation's laws. This includes the power to appoint agency heads, issue executive orders directing agency actions, and ensure that laws passed by Congress are faithfully executed. As Chief Executive, the President also has the authority to set policy priorities for federal agencies, shaping how regulations and enforcement are carried out across the executive branch.

# PLENARY POWER

Federal plenary power refers to the comprehensive and exclusive authority of the United States Congress and the federal government to regulate immigration. Rooted in the Constitution's delegation of foreign affairs and national security to the federal government, this doctrine asserts that immigration policy is solely within the purview of federal authorities, precluding significant intervention or regulation by state or local governments. Historically, the Supreme Court has upheld this principle, recognizing that immigration control is inherently linked to a nation's sovereignty and its ability to manage its borders and population. This broad authority allows the federal government to enact and enforce immigration laws, establish visa categories, determine eligibility for entry and residency, and set procedures for deportation and naturalization without undue restriction from other governmental levels.

The implications of federal plenary power are profound, as they centralize immigration decision-making and ensure uniformity in the application of immigration laws across the entire country. This centralized approach helps maintain consistency in how immigrants are processed and treated, fostering a standardized system that upholds national interests and legal standards. However, it also means that states and municipalities have limited ability to influence immigration policy directly, although they can implement complementary measures that do not conflict with federal laws. Additionally, the doctrine of plenary power has been a subject of debate, particularly concerning issues of federal overreach and the balance of power between federal and state governments. Despite these discussions, federal plenary power remains a foundational element of U.S. immigration law, underscoring the federal government's paramount role in shaping and enforcing immigration policies that reflect the nation's economic needs, security concerns, and humanitarian commitments.

# The Executive Branch


**USCIS:** A sub-agency within the Department of Homeland Security, United States Citizenship and Immigration Services (USCIS) is the "benefits" arm of the immigration apparatus. This is a non-adversarial agency responsible for naturalization, lawful permanent residency, work permits, travel authorization, as well as administering certain humanitarian programs, among more.

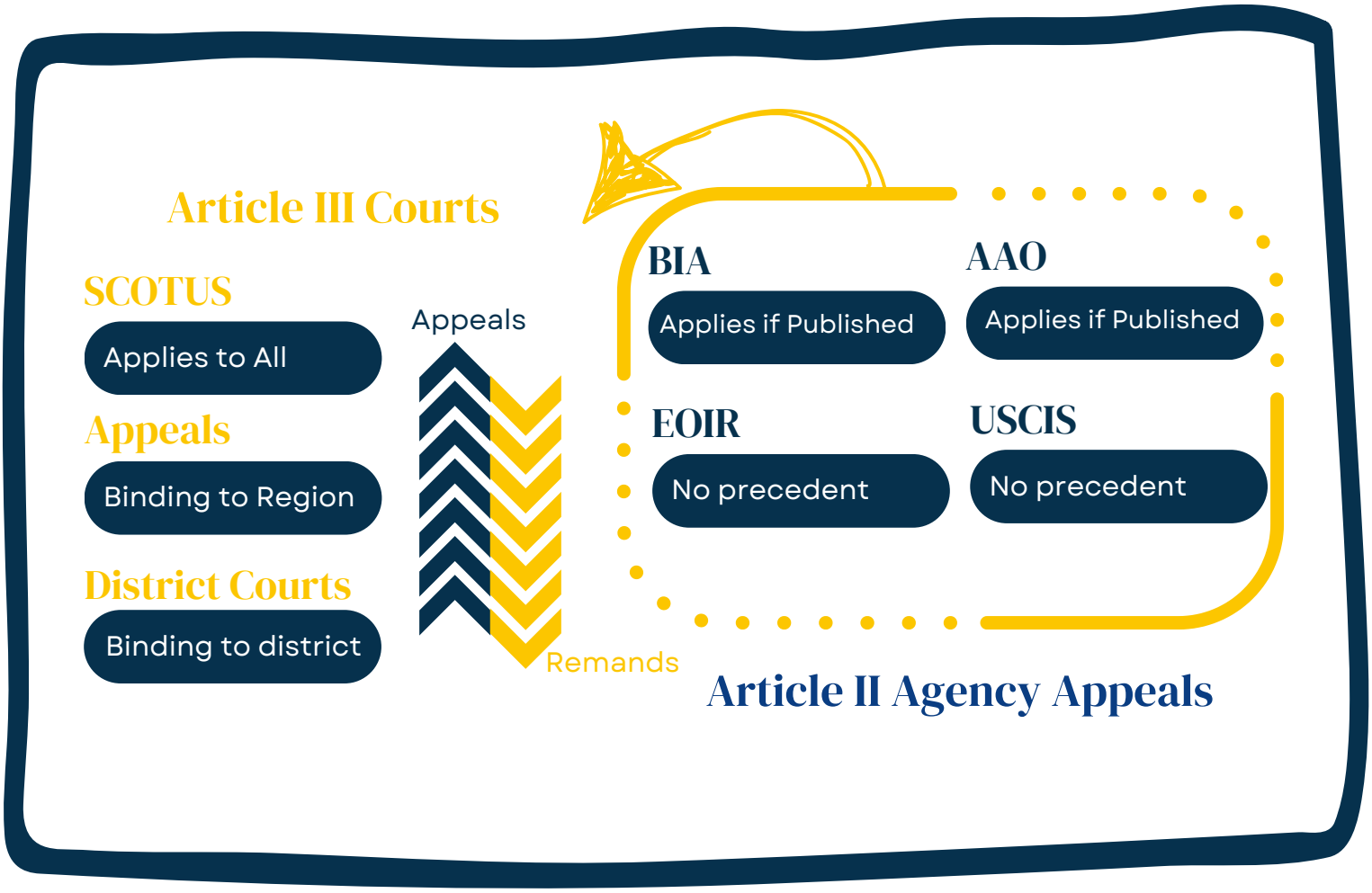
**ICE:** Immigration and Customs Enforcement ("ICE") is the sub-agency within DHS responsible for immigration policing within the "interior" of the United States (meaning not at the borders). ICE's stated mission is, "Protect America through criminal investigations and enforcing immigration laws to preserve national security and public safety." They are the agency responsible for deporting people, and they are represented by attorneys in the Immigration Courts called the Office of the Principal Legal Advisor" (OPLA). ICE is the agency responsible for detained immigrants, too.

**CBP:** Customs and Border Protection (CBP) is the enforcement agency located at the borders, airports, and other ports-of-entry for the United States. Although part of their job is inspecting imports to make sure they conform to certain trade laws, they are also responsible for processing every entry into the United States to ensure that the entry is lawful. They apprehend people at the border, they administer many applications for parole at the border, and they are many non-citizen's first point-of-contact with the U.S. government.

**DOJ:** The Department of Justice (DOJ) administers the Executive Office for Immigration Review (EOIR) [the immigration courts] as well as the Board of Immigration Appeals (BIA) [the appeal body for the immigration courts]. One should notice that this Article II "court" system is judging the behavior of another Article II agency, DHS. This means, in an immigration court setting, there will be three parties – the Respondent noncitizen, the attorney for ICE, and the Immigration Judge – two of whom both work for the executive branch.

**DOS:** The Department of State (DOS) plays a crucial role in the U.S. immigration system by managing all international aspects of immigration and overseeing the issuance of visas to foreign nationals. Operating through U.S. embassies and consulates worldwide, the DOS handles visa applications, conducts interviews, and assesses eligibility for various visa categories, including tourist, student, work, and immigrant visas. Additionally, the Department of State administers the Diversity Visa Lottery, which provides opportunities for individuals from countries with low immigration rates to obtain permanent residency in the United States.

**HHS:** The Department of Health and Human Services (HHS) plays a significant role in immigration, primarily through its Office of Refugee Resettlement (ORR), which oversees the care and placement of unaccompanied children (UCs) apprehended at the U.S. border. HHS provides temporary shelter, healthcare, and other essential services for these children while working to place them with sponsors, often family members, within the United States. Additionally, HHS administers programs for refugees and other eligible immigrant populations, offering resources such as healthcare, housing assistance, and integration support to help them rebuild their lives in the U.S.




# Article II Tribunals & Article III Courts

In the U.S. government structure, Article II federal agencies and Article II tribunals (such as immigration courts and the Board of Immigration Appeals) play distinct yet interrelated roles in the immigration system. Article II agencies, including U.S. Citizenship and Immigration Services (USCIS), Immigration and Customs Enforcement (ICE), and Customs and Border Protection (CBP), are part of the executive branch responsible for enforcing immigration laws, processing applications, and managing the country's borders. These agencies implement and administer the laws passed by Congress, handling tasks like issuing visas, conducting background checks, and apprehending individuals who violate immigration regulations. Their actions and decisions often serve as the foundation for cases that may require adjudication in the tribunals.

Article II tribunals, which include immigration courts and the Board of Immigration Appeals (BIA), operate within the executive branch and are tasked with interpreting and applying immigration laws in individual cases. When an Article II agency takes enforcement actions, such as initiating deportation proceedings through ICE, the affected individual has the right to contest these actions in an Article II tribunal. These tribunals provide a forum where evidence is reviewed, legal arguments are heard, and decisions are made based on the merits of each case. While immigration courts and the BIA are part of the executive branch, their decisions can be reviewed by Article III federal courts to ensure that agency actions comply with the Constitution and established laws. This system of checks and balances ensures that while Article II agencies enforce immigration laws, there is judicial oversight to protect individuals' legal rights and maintain the rule of law within the immigration process.

# Sources of Law

## STATUTORY LAW

### IMMIGRATION & NATIONALITY ACT

The Immigration and Nationality Act (INA) is the cornerstone of U.S. immigration law, establishing the framework for regulating the entry, residence, and citizenship of individuals in the United States. Enacted in 1952 and subsequently amended, the INA grants the federal government broad authority to control immigration, including setting quotas, determining admissibility, and enforcing immigration policies.


## REGULATIONS

### 8 CODE OF FEDERAL REGULATIONS

To effectively implement and enforce the provisions of the INA, the federal government promulgates detailed rules and procedures through the Code of Federal Regulations (CFR), specifically Title 8, which is dedicated to Aliens and Nationality. The 8 C.F.R. translates the statutory language of the INA into actionable regulations, providing clarity and specificity on various aspects such as eligibility criteria, application processes, and enforcement mechanisms.

## EXECUTIVE BRANCH

### MEMORANDA & EXECUTIVE ORDERS

Executive orders are directives issued by the President that provide instructions to federal agencies on how to execute existing laws and can set new policy priorities, such as altering visa issuance procedures or changing enforcement practices. Agency memoranda, on the other hand, are internal documents issued by immigration-related agencies that interpret and provide detailed guidance on how to apply laws and executive orders in practical terms.

## BINDING PRECEDENT

### FROM ARTICLE II TRIBUNALS OR ARTICLE III COURTS

Agency tribunal precedents, such as those established by the Board of Immigration Appeals (BIA) and the Administrative Appeals Office (AAO), serve as important sources of immigration law by providing authoritative interpretations and applications of existing statutes and regulations. Precedents set by Article III courts, which include federal district courts, circuit courts of appeals, and the Supreme Court, also shape immigration law. When Article III courts issue rulings on immigration cases, they establish legal principles and interpretations that lower courts and immigration agencies must follow.

# SECTION TWO

Understanding various forms of immigration status & applications for relief from removal or for benefits.

# Status & Relief

# Status Spectrum

**Out of Status / No Status**

Unlawful entry, visa overstay, violating the terms of one's status, or the revocation or loss of former status,

**Non-Immigrant Visa Holder**

Time-or-condition-bound; subject to certain rules and limitations; often in need of renewal.

**Lawful Permanent Resident**

By affirmative or defensive adjustment of status or through consular processing. Permanent status, unless lost.

**U.S. Citizen**

By birth, by automatic acquisition, or by naturalization. Highest form of protection.

Your legal status is your legal standing in the United States which determines your corresponding privileges and eligibilities. Legal status is distinct from merely having permission to be present.

If you are undocumented, it means that you are not currently possessing any legal status at all. Perhaps you entered the United States unlawfully, you overstayed your lawful status that has since expired, or your former status was revoked. Whatever the reason is, undocumented people are the most vulnerable among us. Undocumented people include those people who only have deferred action – including DACA recipients and DALE recipients, as "deferred action" is *not* a status, so much as it is a promise from the government to not deport you and an indication that the "clock" on your accrual of unlawful presence has stopped.

Non-immigrant visa holders are those people who have been issued a visa but who are not yet lawful permanent residents. These are people who visas that are (generally, though not always) time-bound and subject to certain rules and exclusions. These can include people present with a tourist visa (B1/2), foreign students (F1, M1), temporary workers (H1B, H1A, H2B), fiancé (K-1), as well as humanitarian visa holders (U-1, T-1), among others.

Immigrant visas belong only to lawful permanent residents of the United States, "LPRs". LPrs, or "green card holders," are permanent residents of the United States, meaning that even if their green card expires, their status does not expire. These permanent residents have more protection from removal, they are allowed to petition for other family members to come to the United States, and they can only be stripped of their status and removed from the United States by an immigration judge for committing certain removable offenses. Lawful permanent residents are eligible to naturalize into citizens after a certain number of years depending on their situation.

The most protected group are United States citizens who enjoy the full rights and privileges in the United States. Citizens are totally protected from deportation, they are eligible to petition for other family members in a faster way than LPRs, and their status passes down through their progeny under certain circumstances. Citizenship can be automatic by birth in the United States, it can be acquired automatically from parents under certain circumstances, or it can be earned through naturalization.

# Status Spectrum


**Out-of-Status / No Status**

Unlawful entry, visa overstay, violating the terms of one's status, or the revocation or loss of former status,

**Non-Immigrant Visa Holder**

Time-or-condition-bound; subject to certain rules and limitations; often in need of renewal.

**Lawful Permanent Resident**

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**U.S. Citizen**

By birth, by automatic acquisition, or by naturalization. Highest form of protection.

Your legal status is your legal standing in the United States which determines your corresponding privileges and eligibilities. Legal status is distinct from merely having permission to be present.

People who are out of status or who have never had status are not work authorized. Status or authorization is the basis for legal permission to work - regardless of what the work permit may say. For instance, if you have a work permit that is category (C)(8) for a pending asylum case, but then you lose that asylum case and did not file your appeal, your work permit loses its validity, even if the card itself remains unexpired. Work permits are proof of eligibility for work authorization, not the source of the work authorization itself.

The majority of workers we are concerns about are those who have temporary status or authorization in the United States. People with parole, TPS, deferred action, non-immigrant visas, etc. These people must carefully monitor their underlying status validity and also the expiration date of their work permits. If your work permit is expiring soon, you must work on renewing it in a timely manner.

Lawful permanent residents are automatically authorized to work in the United States and they do not need a work permit; their valid Green Card will work here. By that same token, United States citizens are automatically authorized to work, too, incident to their citizenship status.

# DACA


Deferred Action for Childhood Arrivals

- Started in 2012 under President Barack Obama by Executive Order
- Provides temporary relief from deportation & work authorization to undocumented individuals brought to the United States as children.
- The policy derives from the Executive Branch's authority to use prosecutorial discretion, allowing DHS to "defer" enforcement action on certain cases for compelling reasons.
- Applications for DACA are completed on Form **I-821D.**

**Eligibility:**

- Were under the age of 31 as of June 15, 2012 (that is, you were born on or after June 16, 1981);
- Came to the United States before reaching your 16th birthday;
- Have continuously resided in the United States since June 15, 2007, up to the time of filing your request for DACA;
- Were physically present in the United States on June 15, 2012, and at the time of filing your request for DACA with USCIS;
- Had no lawful immigration status on June 15, 2012, and at the time of filing your request for DACA, meaning that:
  - You never had a lawful immigration status on or before June 15, 2012, or
  - Any lawful immigration status or parole that you obtained had expired as of June 15, 2012, and
  - Any lawful status that you had after June 15, 2012, expired or otherwise terminated before you submitted your request for DACA;
- Are currently enrolled in school, have graduated or obtained a certificate of completion from high school, have obtained a General Education Development (GED) certificate, or are an honorably discharged veteran of the United States Coast Guard or armed forces of the United States; and
- Have not been convicted of a felony, significant misdemeanor (that is, a misdemeanor as described in 8 CFR 236.22(b)(6)), or 3 or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

More information about DACA is available online: https://www.uscis.gov/DACA


# DALE

Labor Dispute Deferred Action aka Deferred Action Labor Enforcement

Labor Dispute deferred action is designed to protect undocumented workers who report labor law violations or engage in labor disputes from deportation. Its purpose is to encourage the enforcement of labor and employment laws by providing temporary relief from removal for individuals who assist in investigations or prosecutions related to unfair labor practices. By offering this protection, the Department of Homeland Security supports fair treatment of workers and ensures that employers adhere to labor regulations without fear of retaliation against their employees.

Started by the Biden Administration as a way to incentivize workers to come forward about labor rights violations without fear of retribution from the bad-actor employer. To date, this program has not been utilized much, with government data only showing 8,000 applications so far. We estimate that 1/8th of those have been from the UFCW, as we completed nearly 1,000 in 2024 alone.

Eligibility

- Be a worker, or a former worker, at a company covered by a “Statement of Interest” during the time period covered by that statement
- Show proof of employment at the relevant time period through pay stubs or taxes
- Make a written request for deferred action
- Prove your identity and nationality as well as explain if you were working under another alias
- Submit form G-325A and the I-765 & I-765WS if you want a work permit.

Forms: G-325A | I-765 | I-765 WS – Use category (c)(14)

**Frequently Asked Questions - post-election: (advice updated as of 04/15/2025)**

1. **My application for DALE is still pending. Should I be worried?**
   a. No, we do not believe that you have any reason to be worried at this point. If your application was reviewed by a Novo attorney prior to mailing, we believe you are eligible for the program and will be granted the benefit.
2. **I already have an approved DALE application and work permit. Will Trump end it before the expiration date?**
   a. We do not believe that anyone’s benefits for deferred action will be terminated early.
3. **Will this program likely continue under the new Administration?**
   a. No, it is highly likely that this program will be ended quickly by the Trump Administration.
4. **Will they use the information on the application to come and find me?**
   a. Historically, information from DACA applications was not used for a large-scale immigration enforcement campaign, and we think that is a good test case here. That said, the President has wide discretion as to how to conduct immigration enforcement.

# Parole

## CHNV, Humanitarian, CBP One


On inauguration day 2025, the Trump Administration began targeting categorical parole programs like CBP-One and CHNV Parole. Although humanitarian parole and other parole programs have yet to be under attack, parole is an area ripe for targeting by the Administration.

CHNV Parole is ending April 24, 2025 after a Notice was published in the Federal Register on March 25, 2025. This means that ANYONE who used CHNV Parole for their entry into the United States who has not yet applied for an alternative form of protection will be required to leave the United States after this date or be subject to detention and removal.

CBP One was also ended by the Trump Administration upon taking office.


The eligibility criteria for each type of parole differs. In general, however, all parole authority for the U.S. government to allow people to enter into the United States derives from INA 212(d)(5)(A). That statute says, in part, "The Attorney General may, … in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States…"

This requirement for humanitarian or significant public benefit reasons applies across all paroles into the United States.

More information on parole is available online:
https://www.uscis.gov/humanitarian/humanitarian_parole
Use forms I-131 or I-134A depending on your parole path.

**What do I do if I had a kind of categorical parole like CHNV Parole or CBP One and that program is now ended?**

The answer will depend on your circumstances. Consult with an immigration attorney or call Novo Legal.

If you maintained lawful status through your parole since your time of entry into the United States, you may be eligible for an exception to the one-year filing deadline to asylum under the regulations at 8 CFR 208.4(a)(5)(iv). Because Cuba, Haiti, Nicaragua, and Venezuela are all still dangerous for their nationals, asylum may be a wise choice for these individuals to consider.

# TPS


TPS stands for Temporary Protected Status. Its statutory authority derives from INA 244.

The Secretary of Homeland Security may designate a foreign country for Temporary Protected Status (TPS) due to conditions in the country that temporarily prevent the country's nationals from returning safely, or in certain circumstances, where the country is unable to handle the return of its nationals adequately. USCIS may grant TPS to eligible nationals of certain countries (or parts of countries), who are already in the United States. Eligible individuals without nationality who last resided in the designated country may also be granted TPS. During a designated period, individuals who are TPS beneficiaries are not removable from the United States, they may obtain work authorization, and they may be granted travel authorization. TPS is a temporary benefit that does not lead to lawful permanent resident status or give any other immigration status.

You will NOT be eligible for TPS if you have been convicted of any felony or two or more misdemeanors committed in the United States; are found inadmissible as an immigrant under applicable grounds in INA section 212(a), including non-waivable criminal and security-related grounds; are subject to any of the mandatory bars to asylum; fail to meet the continuous physical presence and continuous residence in the United States requirements.

The Trump Administration has prioritized ending TPS for multiple countries already, and this trend will likely continue, either by the Secretary prematurely ending the program or letting it expire without renewal.

| | | | |
|---|---|---|---|
| **Afghanistan** | 05/20/2025 | **Burma (Myanmar)** | 11/25/2025 |
| **Cameroon** | 06/07/2025 | **El Salvador** | 09/09/2029 |
| **Ethiopia** | 12/12/2025 | **Haiti** | 08/03/2025* |
| **Honduras** | 07/05/2025 | **Lebanon** | 05/27/2026 |
| **Nepal** | 06/24/2025 | **Nicaragua** | 07/2/2025 |
| **Somalia** | 03/17/2026 | **South Sudan** | 05/03/2025 |
| **Sudan** | 10/19/2025 | **Syria** | 09/30/2025 |
| **Ukraine** | 10/19/2026 | **Venezuela** | 09/10/2025 |
| **Yemen** | 03/03/2026 | | 04/02/2025* |

*Court action is underway to litigate whether these TPS programs may be ended the way they have been ended.

# Asylum

## Withholding of Removal & CAT


The statutory parameters for asylum are found primarily at INA 101(a)(42) and INA 208. Applications for asylum are filed on Form I-589 to the immigration court if you have a pending case, or to USCIS if you do not have a pending immigration case before the court OR if you are an unaccompanied minor.

**Definition**

**The term "refugee" means (A) any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion...**

Applicants must apply for asylum **within one year** of their last arrival to the United States unless they have experienced changes personal circumstances that make them newly eligible for asylum, conditions in their home country have recently changed that impact their eligibility, or they suffered extraordinary circumstances that prevented them from filing in the first year.

**Eligibility: You MUST prove:**

1. **Past persecution or well-founded fear of future persecution**
2. **Nexus (at least one central reason for your persecution)**
3. **Protected ground (race, religion, nationality, political opinion, membership in a protected social group)**
4. **Your home country will not or cannot protect you.**

# WH & CAT

Included in the Form I-589 are two additional forms of relief from removal: withholding of removal and protection under the Convention Against Torture.

Withholding of removal is a form of protection that prevents the U.S. government from deporting an individual to a country where their life or freedom would be threatened due to race, religion, nationality, membership in a particular social group, or political opinion. It requires a higher burden of proof than asylum, as applicants must show it is **more likely than not** that they would face persecution if returned. Unlike asylum, withholding of removal does not provide a pathway to lawful permanent residency but allows individuals to remain in the United States and obtain work authorization.

Convention Against Torture (CAT) relief protects individuals from being removed to a country where they are likely to face torture by or with the consent of a public official or other person acting in an official capacity. To qualify, applicants must prove that it is **more likely than not** that they would be subjected to torture if returned to their home country. CAT relief does not provide a pathway to permanent residency but allows individuals to remain in the U.S. with protection from deportation and, in some cases, work authorization.

UNDER UTILIZED

# SIJS
# Special Immigrant Juvenile Status

The statutory definition for a Special Immigrant Juvenile is found at INA 101(a)(27)(J).

**Definition:**
**an immigrant who is present in the United States-**
**(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;**
**(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and**
**(iii) in whose case the Secretary of Homeland Security consents to the grant of special immigrant juvenile status**

**This process originates in state court. This means that an attorney must bring the case in state juvenile court, and that attorney must be licensed to practice in that state.**

The state juvenile court determines eligibility by looking for evidence of:
Abuse, Abandonment, or Neglect
by ONE or BOTH parents of the minor child.
The child must be under 21 and unmarried to be eligible.
**HINT: Look for children living with only one parent in the U.S., as they may meet the "abandonment" standard in your state.**

## Process

The process begins in the state juvenile court, the only court with jurisdiction to determine if the minor meets the eligibility criteria laid out in INA 101(a)(27)(J). Before a state juvenile judge, the minor and his or her attorney must make a demonstration that the minor suffered abuse, abandonment, or neglect under state law, and that it is not in the best interest of the minor to return to his or her country of nationality. Once the judge makes those findings, the judge must award custody of the minor to a guardian petitioner.

Next, using those judicial findings, the minor may then apply for Special Immigrant Juvenile status with USCIS using Form I-360. USCIS is looking to see if they consent to the determination by the judge. If they consent, SIJS will be awarded to the juvenile in the form of deferred action. Using the visa bulletin, the juvenile will then adjust status to that of a lawful permanent resident when the visa bulletin filing date becomes current for category EB-4.

A note on "aging out": the juvenile can still apply for SIJS with USCIS on Form I-360 – assuming they already have state predicate orders from the judge – up until the day (the very hour, in fact) they turn 21 years old. Don't count someone out just because time is running short; rush to meet the deadline if possible!

# U Visa

## (VICTIMS OF QUALIFYING CRIMES)

The U nonimmigrant status (U visa) is set aside for victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity. Congress created the U nonimmigrant visa with the passage of the Victims of Trafficking and Violence Protection Act (including the Battered Immigrant Women's Protection Act) in October 2000. The legislation was intended to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of noncitizens and other crimes, while also protecting victims of crimes who have suffered substantial mental or physical abuse due to the crime and are willing to help law enforcement authorities in the investigation or prosecution of the criminal activity. The legislation also helps law enforcement agencies to better serve victims of crimes.
See INA 101(a)(15)(U).

**Eligibility Criteria**

- You are the victim of a qualifying crime;
- You have suffered **substantial physical or mental abuse** as a result of having been a victim of criminal activity;
- You have information about the criminal activity.
- You were helpful, are helpful, or are likely to be helpful to law enforcement in the investigation of prosecution of the crime.
- The crime occurred in the U.S. or violated U.S. law.
- You are admissible to the United States, or you are eligible for a I-192 waiver.

**Process**

Start by requesting signatures on Form I-918A from the law enforcement agency where the crime was reported. What you are asking them to certify is that (1) you were the victim of the qualifying crime, and (2) that you were, are, or will be helpful to them in their investigation of the crime. Once you have that signed copy of the I-918A (which must be a hard copy - no digital certifications are allowed), then you MUST file that signed copy with your application for the U visa and the waiver (if applicable) to USCIS within six months of the certification. Included in that packet must be evidence showing your substantial mental or physical abuse, too.

**Qualifying Crimes**

- Abduction
- Abusive Sexual Contact
- Blackmail
- Domestic Violence
- Extortion
- False Imprisonment
- Female Genital Mutilation
- Felonious Assault
- Fraud in Foreign Labor Contracting
- Hostage
- Incest
- Involuntary Servitude
- Kidnapping
- Manslaughter
- Murder
- Obstruction of Justice
- Peonage
- Perjury
- Prostitution
- Rape
- Sexual Assault
- Sexual Exploitation
- Slave Trade
- Stalking
- Torture
- Trafficking
- Witness Tampering
- Unlawful Criminal Restraint
- Other Related Crimes*†

ONLY THESE "COUNT"

The U Visa is capped at only 10,000 approvals per year. If your application is approved but the cap has been reached for that year, yo will be placed on a waitlist. It is important to remember that the processing time for the U visa is YEARS long. Be prepared for this!

(VICTIMS OF SEVERE TRAFFICKING)

# T Visa

**Sex Trafficking**
When someone recruits, harbors, transports, provides, solicits, patronizes, or obtains a person for the purpose of a commercial sex act, where the commercial sex act is induced by force, fraud, or coercion, or the person being induced to perform such act is under 18 years of age;

To qualify for a T Visa, you must have been a victim of a severe form of trafficking falling within one of the two definitions listed in these buckets.
It is not enough to simply have suffered this trafficking either: crucially, you must be present in the United States because you were trafficked.

**Labor trafficking**: When someone recruits, harbors, transports, provides, or obtains a person for labor or services using force, fraud, or coercion for the purpose of involuntary servitude, peonage, debt bondage, or slavery.

The eligibility criteria for the T visa, as laid out by INA 101(a)(27)(T) are these:

- You were a victim of a severe form of trafficking in persons
- You are physically present in the U.S. *because you were trafficked*;
- You complied with a reasonable request from law enforcement for assistance in the investigation
- You can show that you would suffer extreme hardship if you were removed from the U.S.
- You are admissible to the United States.

The T Visa is capped at 5,000 grants per year, but you can be wait listed for this visa, too.

Applications for the T visa are filed using Form I-914 and I-914B.

# Derivatives

The U visa allows certain family members of victims of qualifying crimes to receive derivative U visas. Applicants under 21 can include their spouse, children, parents, and unmarried siblings under 18, while those 21 or older can include only their spouse and children. Derivative family members do not need to be crime victims but must meet admissibility requirements. If approved, they gain benefits like temporary legal status, work authorization, and a pathway to lawful permanent residency.

The T visa also extends protection to certain family members of trafficking victims. Applicants under 21 can include their spouse, children, parents, and unmarried siblings under 18, while those 21 or older can include only their spouse and children. In some cases, family members at risk of retaliation due to the applicant's cooperation in a trafficking investigation may also qualify. Derivative T visa holders receive work authorization, access to benefits, and a potential pathway to permanent residency.

# VAWA

## (FOR VICTIMS OF FAMILIAL / SPOUSAL ABUSE)

The Violence Against Women Act of 1994 (VAWA) amended the nation's immigration laws and included a broad range of criminal, civil, and health-related provisions. VAWA addressed the unique issues faced by victims of domestic violence and abuse and provided certain noncitizen family members of abusive U.S. citizens and lawful permanent residents (LPRs) the ability to self-petition for immigrant classification without the abuser's knowledge, consent, or participation in the immigration process. This allowed victims to seek both safety and independence from their abuser.

Spouses, children, and parents of U.S. citizens and spouses and children of LPRs may file a self-petition for immigrant classification with USCIS. A noncitizen filing the self-petition is generally known as a VAWA self-petitioner. If USCIS approves the self-petition, VAWA self-petitioners may then seek an immigrant visa from outside the United States or apply for adjustment of status inside the United States.

**Eligibility:**

- Petitioning noncitizen must have a qualifying relationship to an abusive US Citizen or Lawful Permanent Resident: spouse, child, or parent (if you are younger than 21).
- If you have an abusive spouse, you must have been married in good faith.
- You were subjected to battery (an intentional offensive touching) or "extreme cruelty" during the qualifying relationship
- You currently reside with, or used to reside with, the abusive qualifying relative
- You have good moral character"

There is no "cap" on the number of VAWA approvals, but adjustment of status based on the VAWA may still be based on the Visa Bulletin if you are subject to a family-based preference category and you are not an "immediate relative" in immigration law.

**Defining Battery & Extreme Cruelty**

Battery generally includes any offensive touching or use of force on a person without the person's consent. Some examples include, but are not limited to, punching, slapping, spitting, biting, kicking, choking, kidnapping, rape, molestation, forced prostitution, sexual abuse, and sexual exploitation. Other abusive actions may also be physical acts of violence and, under certain circumstances, include acts that in and of themselves may not initially appear violent but that are part of an overall pattern of violence.

Extreme cruelty is a non-physical act of violence or threat of violence demonstrating a pattern or intent on the part of the U.S. citizen or LPR to attain compliance from or control over the self-petitioner. USCIS determines whether a self-petitioner has demonstrated extreme cruelty occurred on a case-by-case basis, and no single factor is conclusive.

Some examples of extreme cruelty may include: Isolation; Humiliation; Degradation, use of guilt, minimizing, or blaming; Economic control; Coercion; Threatening to commit a violent act toward the self-petitioner (or the self-petitioner's children); Acts intended to create fear, compliance, or submission by the self-petitioner; Controlling what self-petitioners do and who they see and talk to; Denying access to food, family, or medical treatment; Threats of deportation; and Threats to remove a child from the self-petitioner's custody.

# Cancellation of Removal

Cancellation of Removal exists in statute at INA 240A(a) for cancellation of removal for certain lawful permanent residents of the United States, and at 240A(b) for certain non-permanent residents of the United States. Although the eligibility criteria for each is similar, they differ in some important ways. Between both, however, there is a statutory cap of only 4,000 grants per year -- but you can be waitlisted here, too, if you have been granted cancellation by the immigration judge, the only person with the authority to grant this relief.

**LPR Cancellation**

- You have been an LPR for at least 5 years;
- You have been continuously physically present for at least 7 years preceding your application;
- You have not been convicted of an aggravated felony;
- You merit a positive exercise of discretion in granting your application.

KEY DIFFERENCE:
THE HARDSHIP REQUIREMENT

**Non-LPR Cancellation**

- You have been physically present in the U.S. for the 10 years preceding your application
- You have been a person of good moral character during that same ten years
- You have not been convicted of certain disqualifying crimes;
- Your U.S. citizen or LPR spouse, child, or parent would suffer "exceptional and extremely unusual hardship" if you were removed from the U.S.;
- You merit a positive exercise of discretion in granting your application.

**What does "Exceptional and extremely unusual hardship" even mean?**

This standard is not defined in the statutes or regulations, but it is explored in further detail in BIA precedent include *Matter of Monreal*, 23 I&N Dec. 56 (BIA 2001); *Matter of Andazola-Rivas*, 23 I&N Dec. 319 (BIA 2002); and *Matter of Recinas*, 23 I&N Dec. 467 (BIA 2002).
Across these three precedential cases, the BIA clarified that the hardship must be substantially beyond the ordinary consequences of deportation, such as family separation or economic struggles. The decision emphasized that while all deportations involve some level of hardship, the qualifying relative's circumstances must present a degree of hardship that is "truly exceptional."

Good moral character is defined in the INA at 101(f). Certain actions, such as serious criminal convictions, fraudulent activity, or repeated violations of immigration laws, can disqualify someone from being found to have good moral character under INA § 101(f). Consult that section of the law specifically to make sure you are not going to be disqualified for this requirement -- but note that that time period relevant is defined in the cancellation eligibility list.

# Lawful Permanent Residency

Lawful permanent residents (LPRs), also known as “green card” holders, are non-citizens who are lawfully authorized to live permanently within the United States. LPRs may accept an offer of employment without special restrictions, own property, receive financial assistance at public colleges and universities, and join the Armed Forces. They also may apply to become U.S. citizens if they meet certain eligibility requirements.

The Immigration and Nationality Act provides several broad classes of admission for foreign nationals to gain LPR status, the largest of which focuses on admitting immigrants for the purpose of family reunification. Other major categories include economic and humanitarian immigrants, as well as immigrants from countries with relatively low levels of immigration to the United States.

There are two general paths to LPR status. Noncitizens who are outside of the United States and who are beneficiaries of approved immigrant petitions can apply for an immigrant visa at an overseas consular office of the U.S. Department of State. Once issued an immigrant visa, if a noncitizen is found admissible, he or she may be admitted into the United States as an LPR.

USCIS ADJUSTMENT

DEPT. OF STATE CONSULAR PROCESSING

**Adjustment of status** is the process through which eligible individuals already present in the United States can apply to become lawful permanent residents (green card holders) without needing to leave the country. Administered by **U.S. Citizenship and Immigration Services (USCIS)**, adjustment of status is available to those who meet specific eligibility criteria, such as having entered the U.S. lawfully and meeting the requirements of a particular immigrant category (e.g., family-based, employment-based, or humanitarian). Applicants must file **Form I-485, Application to Register Permanent Residence or Adjust Status**, along with supporting documentation, and may also need to attend a biometrics appointment and an in-person interview. The process often includes a thorough background check and review of admissibility factors, such as criminal history or prior immigration violations. Adjustment of status is a discretionary benefit, meaning USCIS has the authority to approve or deny the application based on compliance with legal requirements and the applicant’s overall case.

**Consular processing** is the process for individuals outside the U.S. to apply for an immigrant visa through a U.S. embassy or consulate. Applicants submit documents (**Form DS-260**), attend an interview, and are evaluated for eligibility and admissibility. If approved, they receive an immigrant visa to enter the U.S. as a permanent resident. This process is completed through the **Department of State** through the National Visa Center and the U.S. Consulate in your home country.

Conditional residents are individuals who obtain a Green Card through marriage to a U.S. citizen within the first two years of their marriage. This Green Card is valid for two years. To remove the conditions on your permanent resident status, you must file a petition [I-751] during the 90-day period before your conditional Green Card expires.

LAST STOP:

# United States Citizenship

U.S. citizenship is a unique bond that unites people around civic ideals and a belief in the rights and freedoms guaranteed by the U.S. Constitution. The promise of citizenship is grounded in the fundamental value that all persons are created equal and serves as a unifying identity to allow persons of all backgrounds, whether native or foreign-born, to have an equal stake in the future of the United States.

There are three ways someone can gain U.S. citizenship:

**By Birth**
Under section 1 of the 14th Amendment, all people born in U.S. territory are citizens by birth.

**By Acquisition**
If your parent(s) were a citizen, you may become too in certain circumstances.

**By Naturalization**
If you have been an LPR long enough and meet other criteria, you can earn your citizenship.

## LET'S TALK NATURALIZATION:

If you adjusted your status to that of a lawful permanent resident through your U.S. citizen spouse and you two are still married, then you may be eligible for naturalization after only being a resident for three years.

If, however, you became a lawful permanent resident another way, **the general rule** is that you become eligible for naturalization **after five years**. Let's talk about the general rules for naturalization:

1. Were you lawfully admitted for permanent residence;
2. Have you continuously resided in the United States for all five years preceding your application for naturalization;
3. Were you physically present in the United States for at least half of the days of those last five years preceding the application;
4. Have you lived in the state where you applied from for at least three months;
5. Do you have an attachment to the Constitution of the United States;
6. Do you meet the educational requirements;
7. Do you have good moral character.

**Educational Requirements**
To be naturalized, you must be able to speak, read, and write in English UNLESS (1) you are older than 50 and have been a resident for 20 years, or (2) you are older than 55 and have been a resident for 15 years. You must also be able to answer the civics questions that they ask of you.

**Good Moral Character (GMC)**
In evaluating your GMC, USCIS looks at the conduct in the last 5 years, but they may consider conduct before then if it is repeated behavior. Common issues are unpaid taxes, missing child support, and criminal history. You cannot be naturalized while on probation.

# SECTION THREE

Everything you need to know about Employment Authorization Documents.

# Work permits

# Categories of EADs

If you are not a citizen or a lawful permanent resident, you may need to prove that you can work in the United States by presenting an Employment Authorization Document (Form I-765). You may apply for an EAD if you are eligible. Below are categories of EADs.

| EAD Category | Description |
|---|---|
| (a)(2) | Lawful temporary resident |
| (a)(3) | Refugee |
| (a)(4) | Paroled refugee |
| (a)(5) | Asylee |
| (a)(6) | Fiancé(e) (K-1 or K-2 nonimmigrant) |
| (a)(7) | N-8 or N-9 |
| (a)(8) | Citizen of Micronesia, Marshall Islands, or Palau |
| (a)(9) | K-3 or K-4 |
| (a)(10) | Withholding of deportation or removal granted |
| (a)(11) | Deferred Enforced Departure |
| (a)(12) | Temporary Protected Status granted |
| (a)(13) | Family Unity Program (Section 301 of the Immigration Act of 1990) |
| (a)(14) | LIFE Legalization (Section 1504 of the Legal Immigrant Family Equity (LIFE) Act Amendments) |
| (a)(15) | V visa nonimmigrant |
| (a)(16) | T-1 nonimmigrant |
| (a)(17) | Spouse of an E nonimmigrant |
| (a)(18) | Spouse of an L nonimmigrant |
| (a)(19) | U-1 nonimmigrant |
| (a)(20) | U-2, U-3, U-4, or U-5 nonimmigrant |
| (c)(1) | Spouse/dependent of A-1 or A-2 visa nonimmigrant |
| (c)(2) | Spouse/dependent of Coordination Council for North American Affairs (E-1)/ Taipei Economic and Cultural Representative Office (TECRO) |
| (c)(3)(A) | F-1 student, pre-completion Optional Practical Training |
| (c)(3)(B) | F-1 student, post-completion Optional Practical Training |

| EAD Category | Description |
|---|---|
| (c)(3)(C) | F-1 student, 24-month extension for STEM students |
| (c)(3)(ii) | F-1 student, off-campus employment sponsored by a qualifying international organization |
| (c)(3)(iii) | F-1 student, off-campus employment due to severe economic hardship |
| (c)(4) | Spouse/dependent of G-1, G-3, or G-4 |
| (c)(5) | J-2 spouse or child of J-1 exchange visitor |
| (c)(6) | M-1 student, Practical Training |
| (c)(7) | Dependent of NATO-1 through NATO-6 |
| (c)(8) | Asylum application pending filed on/after Jan. 4, 1995 |
| (c)(8) | Asylum application pending filed before Jan. 4, 1995 and applicant is not in exclusion/deportation proceedings |
| (c)(8) | Asylum application pending filed before Jan. 4, 1995 and applicant is in exclusion/deportation proceedings |
| (c)(8) | Asylum application under ABC Agreement |
| (c)(9) | Pending adjustment of status under Section 245 of the Act |
| (c)(10) | Suspension of deportation applicants (filed before April 1, 1997) Cancellation of Removal applicants Cancellation applicants under NACARA |
| (c)(11) | Public Interest parolee |
| (c)(12) | Spouse of an E-2 CNMI investor |
| (c)(14) | Deferred action |
| (c)(15) | Not in use |

# Continued

Knowing your Employment Authorization Document (EAD) [work permit] category will help you understand your permissions associated with this card.

| | |
|---|---|
| (c)(16) | Creation of record (adjustment based on continuous residence since Jan. 1, 1972) |
| (c)(17)(i) | B-1 domestic servant of certain nonimmigrants |
| (c)(17)(ii) | B-1 domestic servant of certain U.S. citizens who are in the United States on a temporary basis. |
| (c)(17)(iii) | Certain B-1 nonimmigrant employees of a foreign airline |
| (c)(18) | Order of supervision |
| (c)(19) | Certain pending TPS applicants whom USCIS has determined are prima facie eligible for TPS and who may then receive an EAD as a "temporary treatment benefit" under 8 C.F.R. 244.10(a). |
| (c)(20) | Section 210 legalization (pending I-700) |
| (c)(21) | S visa nonimmigrant |
| (c)(22) | Section 245A legalization (pending I-687) |
| (c)(23) | Irish peace process (Q-2) |
| (c)(24) | LIFE legalization |
| (c)(25) | T-2, T-3, T-4, T-5, or T-6 nonimmigrant |
| (c)(26) | Spouse of an H-1B nonimmigrant |
| (c)(31) | VAWA self-petitioners with an approved Form I-360 |
| (c)(33) | Consideration of Deferred Action for Childhood Arrivals (DACA) |
| (c)(35) | Principal beneficiary of an approved employment-based immigrant petition facing compelling circumstances |
| (c)(36) | Spouse or unmarried child of a principal beneficiary of an approved employment-based immigrant petition facing compelling circumstances |

USCIS issues the following types of EADs:

- Initial EAD: This document proves you are allowed to work in the United States.
- Renewal EAD: This document renews your initial EAD. Generally, you should not file for a renewal EAD more than 180 days before your original EAD expires.
- Replacement EAD: This document replaces a lost, stolen, or mutilated EAD. A replacement EAD also replaces an EAD that was issued with incorrect information, such as a misspelled name.

# EAD Literacy


- Name – this is what the U.S. government thinks your true legal name is. If there are errors, you need to fix this immediately.
- USCIS Number – this is the same as your A Number. Your A Number is a unique identifier for immigration agencies to specifically identify you. You can use this number to see if you have a case before the immigration court, to request a copy of your files, and to apply for other benefits.
- Category: This outlines the basis for your work authorization and informs you as to the rules for this work permit.
- Biographical details will also include your birth date, your country of birth, and your sex. If any of these is wrong (i.e. your birth month and day are backwards), then get your card fixed.
- Validity period: your work permit expires on the date shown, but your work authorization can also end *prior* to that date if the basis for you having work authorization in the first place is revoked or denied. For example, if you have a work permit because you are applying for asylum, but then your asylum case is denied, your work permit will end when your case is no longer active, even if the expiration date is longer.
- Travel authorization can sometimes be authorized on the EAD itself; if it is, your card will say "Valid for re-entry to the U.S."

# Errors

There are different processes for requesting a correction depending on whether the error is the fault of USCIS or of the applicant. Here is what you can do in a few scenarios:

1. If the error is USCIS' fault (for example, they spelled your name wrong but you spelled it correctly on the application), go to this website: https://www.uscis.gov/tools/uscis-tools-and-resources/immigration-documents-and-how-to-correct-update-or-replace-them

2. If the error was your error and not USCIS error, you will need to submit a new form, mail in the original card, and pay a new fee. Please refer to the Special Instructions section of the Form: https://www.uscis.gov/i-765 page for more information.

3. If you want to correct your name or gender on a Form I-765 that is still pending with USCIS, use the same website from question 1.

4. If you followed USCIS' instructions for submitting a request but it's taken longer than 60 days for a response, submit a case assistance request at: https://www.dhs.gov/case-assistance

# Extensions

New rule: On Dec. 10, 2024, the Department of Homeland Security announced a final rule that permanently increases the automatic extension period for employment authorization and Employment Authorization Documents available to certain EAD renewal applicants from up to 180 days to up to 540 days. The final rule will become effective on Jan. 13, 2025, and will apply to certain timely filed renewal EAD applications pending or filed on or after May 4, 2022.

**Website to check**
**https://www.uscis.gov/eadautoextend**

Eligibility:

- The Form I-797C, Notice of Action, receipt notice you received for your pending Form I-765 renewal application has a “Received Date” that is before the “Card Expires” date shown on the face of your EAD;
- The Form I-797C, Notice of Action, receipt notice has a “Received Date” on or after May 4, 2022, and on or before Sept. 30, 2025;
- Your renewal application is under a category that is eligible for an automatic extension (see the list of categories below); and
- The category on your current EAD matches the “Eligibility Category” or “Class Requested” listed on your Form I-797C, Notice of Action, receipt notice. (The table below lists exceptions for certain categories.)

## WHAT KIND OF PROOF DO I NEED?

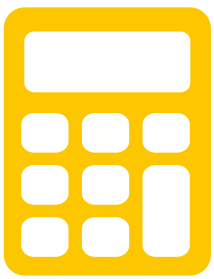
An employer or government agency may require proof that an EAD has been automatically extended. Renewal applicants eligible for an EAD automatic extension are responsible for presenting documentation to show they continue to have employment authorization.

A facially expired EAD is still valid when presented with a Form I-797C, Notice of Action, Receipt Notice extending its validity period. To show that the “Card Expires” date shown on your EAD has been automatically extended, you must present:

1. Your current EAD (expired or unexpired) with an eligible category for automatic extension
    - Note: If the code on your EAD is A17, A18, or C26, you must also show your unexpired Form I-94.

AND

1. Form I-797C, Notice of Action, receipt notice showing that you timely filed to renew your EAD in the same category eligible for automatic extension. The receipt notice must:
    a. Be dated with a “Received Date” that is on or after May 4, 2022 through Sept. 30, 2025; and
    b. Refers to the 180-day or 540-day extension.



**An online calculator exists to help you see if you qualify for the automatic extension. Use this website to check, but have your EAD and I-797C handy!**

**https://www.uscis.gov/eadautoextend**

# Table of Extensions

| Category | Description | Length |
|---|---|---|
| A03 | Refugee | Up to 540 days |
| A05 | Asylee | Up to 540 days |
| A07 | N-8 or N-9 | Up to 540 days |
| A08 | Citizen of Micronesia, Marshall Islands, or Palau | Up to 540 days |
| A10 | Withholding of Deportation or Removal Granted | Up to 540 days |
| A12 | Temporary Protected Status (TPS) Granted | Up to 540 days (See TPS section below for more information) |
| A17 | Spouse of principal E nonimmigrant with an unexpired I-94 showing E (including E-1S, E-2S and E-3S) nonimmigrant status | Up to 540 days, or expiration date on I-94, whichever is sooner |
| A18 | Spouse of principal L-1 Nonimmigrant with an unexpired I-94 showing L-2 (including L-2S) nonimmigrant status | Up to 540 days, or expiration date on I-94, whichever is sooner |
| C08 | Asylum Application Pending | Up to 540 days |
| C09 | Pending Adjustment of Status under Section 245 of the Act | Up to 540 days |
| C10 | Suspension of Deportation Applicants (filed before April 1, 1997), Cancellation of Removal Applicants, Special Rule Cancellation of Removal Applicants Under NACARA | Up to 540 days |
| C16 | Creation of Record (Adjustment Based on Continuous Residence since Jan. 1, 1972) | Up to 540 days |
| C19 | USCIS determined applicant is prima facie eligible for TPS and can receive an EAD as a “temporary treatment benefit” | Up to 540 days (See TPS section below for more information) |
| C20 | Section 210 Legalization (pending I-700) | Up to 540 days |
| C22 | Section 245A Legalization (pending I-687) | Up to 540 days |
| C24 | LIFE Legalization | Up to 540 days |
| C26 | Spouses of certain H-1B principal nonimmigrants with an unexpired I-94 showing H-4 nonimmigrant status | Up to 540 days, or expiration date on I-94, whichever is sooner |
| C31 | VAWA Self-Petitioners | Up to 540 days |

# SECTION FOUR

Know how to protect yourself when interacting with ICE and the police.

# Know Your Rights

# Know Your Rights

## Intro

Understanding your rights in the context of immigration enforcement is critical to protecting yourself and ensuring fair treatment under the law. Immigration enforcement actions, such as raids, detentions, and deportation proceedings, can be intimidating and overwhelming, particularly for individuals who are unfamiliar with their legal protections. Knowing your rights -- such as the right to remain silent, the right to refuse consent to a search without a warrant, and the right to an attorney -- empowers individuals to make informed decisions during interactions with immigration officials. These rights are fundamental, regardless of immigration status, and can help prevent individuals from inadvertently incriminating themselves or agreeing to actions that may jeopardize their case.

Moreover, knowledge of your rights plays a crucial role in ensuring accountability in the immigration enforcement process. When individuals are aware of the legal limitations on immigration officials, they are better equipped to recognize and report instances of abuse, discrimination, or overreach. This awareness not only protects the individual but also strengthens the broader immigrant community by promoting fair enforcement practices and ensuring that officials adhere to constitutional and statutory safeguards. In an environment where immigration laws and policies are complex and frequently changing, knowing your rights is a powerful tool for navigating challenges and seeking justice in an often-intimidating legal landscape.

# The Fourth Amendment

## Text

The right of the **people** to be **secure in their persons, houses, papers, and effects,** against **unreasonable searches and seizures**, shall not be violated, and **no Warrants shall issue, but upon probable cause**, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

## Meaning

- The Fourth Amendment has deep, practical importance to citizens and noncitizens facing questioning, detention, and search by police or immigration officers. Pursuant to the Fourth Amendment, any *person* (regardless of immigration status) is protected against (1) unreasonable searches and seizures by the government; (2) arbitrary arrest by an officer, as they must have "probable cause" to conducts the arrest; (3) use of excessive force by officers in their interactions with you; (4) and certain places being searched without a judicial warrant.
- The places protected by the Fourth Amendment from unreasonable search are those places where you have a "reasonable expectation of privacy." Supreme Court precedent has defined these places to include your home, certain parts of your car, medically invasive parts of your body, a hotel where you are staying overnight; and the non-public parts of your business. When it comes to a business, the reception areas and other public spaces are always available to officers and ICE agents to enter; spaces marked "Private - Employees Only" however, require a warrant signed by a judge.

### IMPORTANT EXCEPTIONS FOR IMMIGRANTS?

- There are certain important loopholes for this Fourth Amendment protection, though, when it comes to noncitizens. For example, at the Border, immigration officials conducting searches are not required to have a warrant to search the effects of a person who has just entered the United States. This exception, however, does not permit them to look through your phone or to perform medically invasive searches without probable cause. Additionally, the general exceptions around "plain sight" still exist, which is to say that an officer may conduct an arrest or search when a violation occurs in their plain sight.

### KEY PHRASE:
### REASONABLE EXPECTATION OF PRIVACY

# The Fifth Amendment

## Text

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; **nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law**; nor shall private property be taken for public use, without just compensation.

## Meaning

- The practical meaning of the Firth Amendment means, for all people regardless of citizenship status, that you are entitled to (1) due process in your encounters with the government when they try to deprive you of your property or liberty; (2) that you have the right to remain silent when you are interacting with the government during an arrest; (3) and that you have the right to not be compelled to hand over evidence about yourself that would demonstrate your guilt, unless a court orders you to do so.

### IMPORTANT EXCEPTIONS FOR IMMIGRANTS?
### BEWARE THE BORDER ZONE


This Amendment has several critical exceptions to it, though, when it comes to noncitizens. Crucially, the Supreme Court has ruled on multiple occasions that one's entrance or admission to the United States is not a protected "liberty interest," meaning that immigration officials can exercise their discretion to deny you entry or deny a visa without a trial.

Further, expedited removal – the process by which you are removed from the country without a full hearing before an immigration judge, which applies (currently) to people who have been in the country less than 14 days or who are within 100 miles of the border – is understood to be lawful.

**The Sixth Amendment**

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

**Meaning**

The practical meaning of the Sixth Amendment – for citizens and noncitizens alike – is that you always have the right to an attorney, paid for by the government, in all criminal hearings. This does not apply to immigration hearings, however, which are civil hearings; there, you have the right to find an attorney, but the government will not pay for you to have one. Some organizations offer free or low-cost representation to individuals in removal proceedings; otherwise, the noncitizen will need to pay for private counsel.
Under the Sixth Amendment, you also have the right to know the charges being brought against you by the state, and you have a right to know the immigration consequences of your guilty plea or your punishments.

**The Tenth Amendment**

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

**Meaning**

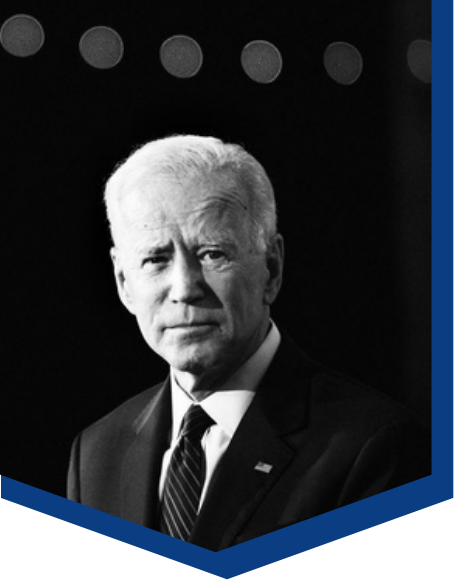
The practical meaning of the 10th Amendment is that the powers of the federal government are *limited* to only the powers specifically given to it by the states. Remember, however, that immigration *is one of those enumerated* powers. Immigration law is an expression of federal plenary power exercised by Congress and effectuated by the Executive Branch. States are *not* permitted to make their own immigration laws that conflict with federal laws

**The Fourteenth Amendment - § 1**

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. 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.

**Meaning**

The practical meaning of the 14th Amendment – for noncitizens and citizens alike – is that (1) everyone born on American soil is, by law, a citizen of the United States automatically. This provision comes out of the Civil War when the drafters wanted to ensure that formerly-enslaved people were due what was rightfully theirs all along for legal protection. The whims of a president cannot change this. This provision can only be changed by an amendment to the Constitution. (2) This amendment guarantees that everyone is to be treated equally under the law and that they cannot be discriminated against due to certain protected classes.



# Enforcement Priorities

IT'S DECISIONS ABOUT
HOW TO USE
FINITE RESOURCES
FOR A BIG PHENOMENON

"Enforcement priorities" in immigration refer to the guidelines and policies established by the federal government to determine how immigration laws are enforced, and which individuals are targeted for removal or other enforcement actions. These priorities help immigration agencies, such as Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), allocate resources effectively and focus on specific categories of individuals deemed to pose the greatest risk to public safety, national security, or border integrity. Enforcement priorities can vary significantly depending on the administration in power, reflecting broader policy goals and values.

Under the Biden Administration, Enforcement Priorities were enumerated within the *Mayorkas Memorandum* and the subsequent *Doyle Memorandum*. These enforcement priority guidelines stated that there were three categories for enforcement priorities:

- Threats to national security – meaning terrorists or spies.
- Threats to public safety – meaning people with certain serious criminal activity.
- Threats to border security – meaning recent arrivals after November 1, 2020.

The Biden Administration ended workplace raids in favor of protecting workers exploited by their employer, starting the Labor Dispute Deferred Action program to protect those vulnerable workers.

Under the Trump Administration 1.0, all undocumented people were enforcement priorities Trump 2.0 has already proven to be the same. Now, EVERY undocumented person is considered an enforcement priority. In fact, even many people who HAVE lawful status that is not permanent have been made into priorities, too.

# ICE Authority For Raids & Audits

**INA § 236** **INA § 274**

ICE has the authority to conduct raids, both at your home and in the workplace, due to two sections of law outlined by Congress: INA § 236(a) and INA § 274.

Under INA § 236(a), ICE may arrest and detain a noncitizen of the United States pending a decision by an immigration judge as to that noncitizen's removability from United States. In effect, this means that they can detain any noncitizen whom they believe to be either "inadmissible" to the United States under INA § 212, or removable from the United States pursuant to INA § 237. In both INA §§ 212 and 237, offenses are listed that make someone either inadmissible or removable. Some examples of these offenses include: (1) being unlawfully present in the United States; (2) committing certain "crimes involving moral turpitude"; committing aggravated felonies; (3) committing fraud to gain entry to the United States or to gain an immigration benefit; (4) violating controlled substance laws of the United States; (5) practicing polygamy; and many, many more (sometimes bizarre) offenses. It should be noted that certain "crimes" that would not be legal to prosecute citizens for – such as being affiliated with a communist party anywhere in the world – are permitted under the INA. This is a product of the nation's history: immigration laws have often been the first place where lawmakers throughout history have codified their prejudices, never to be undone.

Under INA § 274, ICE derives their authority to verify any worker's lawful permission to work in the United States. Pursuant to INA § 274, it is unlawful for any company to hire or recruit any person who is not lawfully authorized to work, or to keep that person employed after it is discovered that they are not lawfully allowed to work.

Remember the protections of the Fourth Amendment, here, though. Just because ICE has the authority to detain someone, it does not mean they are given full permission to arrest or detain that person by any means necessary. During an arrest, an ICE agent may only search that detainee's body "as thoroughly as circumstances permit." Further, without a judicial warrant, ICE may not enter spaces where you have a "reasonable expectation of privacy." In public spaces, unless someone is being arrested due to probable cause, encounters with immigration must be brief and they must notify you if you are free to leave.

# ASSERT YOUR RIGHTS

# “Magic Phrases”

By “magic phrases” we mean phrases that are critical for everyone to learn to declare to the world that you are trying to protect your constitutional rights. Although simply saying these phrases may not stop illegal activity by a police officer or ICE agent in the heat of the moment, saying these out loud and clearly is essential to mitigate the unlawful action and to establish a record in the event that the activity creates either a defense or a private right of action to pursue. These phrases include the following:

**“I have the right to remain silent”**

Although certain states require people to identify themselves to police when they are being arrested, ICE agents are not afforded that same right. When it comes to ICE, the most important phrase for you to know – and say repeatedly if you must – is this one. ICE cannot compel you to speak, though they will certainly try.

**“Am I free to leave?”**

If you are being arrested, the answer will be no. Under the Fourth Amendment, you are entitled to be free from unreasonable search and seizure. Do not let a police officer or ICE agent simply ask you anything they want and keep you in place if you are not being arrested by them. If they are arresting you, though, invoke your right to remain silent by declaring it out loud.

**“I do not consent to any searches”**

ICE agents are allowed to search your person for weapons, contraband, and identification. This search incident to arrest is not permission for them to search just anything and everything, though. Things on your person and within your immediate vicinity are fair game, but closed compartments, rooms, and other places where you have a reasonable expectation of privacy are still not subject to a search without a judicial warrant.

**“I would like to call my lawyer”**

If you are detained, you have the right to speak to a lawyer about your case. Unlike criminal trials, however, a lawyer will not be appointed to you at government expense in immigration matters. Therefore, you must find a lawyer yourself and pay for that service. This is why having a lawyer ahead of time is vitally important.

ALWAYS ASK TO SEE
THEIR WARRANT

# Reading & Understanding Warrants: 101

**Administrative** **Judicial**

A warrant is a document issued by a legal or government official authorizing the police or some other body to make an arrest, search premises, or carry out some other action relating to the administration of justice. Although it can be somewhat confusing, there are two types of warrants you may encounter as a noncitizen: an ICE administrative warrant, or a judicial warrant. These two documents, although both called warrants, are distinct in important ways.

**ICE Warrants**

Federal regulations authorize immigration warrants to be generated at any time following the issuance of a Notice to Appear for removal proceedings. The Notice to Appear itself does not authorize arrest, and is not reviewed by a judge until much later in removal proceedings. The sufficiency or validity of the warrant or the arrest action is never reviewed by a judge at all. The implementing regulations for ICE warrants focus on which agents have authority to issue or execute a warrant, and what training is required for them before receiving that authority. All of the officers authorized to issue and execute administrative arrest warrants are federal agents, not local law enforcement officers or agencies.

ICE warrants are administrative warrants that **do not grant the same authority as a criminal search or an arrest warrant**. Unlike criminal warrants, an ICE warrant is not reviewed or issued by a neutral magistrate. Further, **it does not confer authority to enter private spaces to execute an arrest or search**. An ICE warrant does not compel any local law enforcement officer to take action of any kind; it is exclusively directed to ICE agents.

**Judicial Warrants**

A judicial warrant, by contrast, is issued by an Article III judge or magistrate who acts as a neutral third party for the enforcement agency at hand. Under guiding Supreme Court precedent, a judicial warrant is only valid IF: (1) it was signed by a neutral third-party judge or magistrate; (2) it is based on probable cause; (3) it is specific in its scope; (4) it identifies its authority; and (5) it is signed and dated. These warrants *do* grant government officials to search the places outlined in the warrant.

CHECK OUT THE APPENDIX
FOR EXAMPLES OF EACH

# Summary
# Do's & Don'ts
# During a Raid

## Do's

Exercise your rights

**Carry** U.S.-based ID (if you have one)

Witnesses: record & transcribe the event.

Say clearly, "I have the right to remain silent"
Anything you tell law enforcement can AND WILL be used against you in a court of law. Do not say anything about where you were born or how you entered into the United States.

Say your true legal name and date of birth if you are being arrested.

Ask to see the warrant
Ask them through the door if they have a warrant and have them slide it under the door. Make a copy or take a picture of it.

## Dont's

Do NOT Carry false documentation with you
Do NOT give false information to an officer or lie.
Do NOT carry papers about your foreign nationality
Do NOT flee or run -- this may cause them to pursue and risks an escalation of violence
**Do NOT cooperate with ICE against your co-workers**
Do NOT identify your co-workers for ICE.
Do NOT tell ICE about anyone's legal status or lack of status.
Do NOT tell them your co-worker's schedule.
Do NOT sign anything unless you know what it is; even still, consult an attorney first. Unlike criminal trials, a lawyer will not be appointed to you at government expense in immigration matters. Therefore, you must find a lawyer yourself and pay for that service, having a lawyer ahead of time is vitally important.

# [ RECORDING] A Raid

<<SAFELY>>

It is your right to document and record your interactions with law enforcement, as long as your recording does not interfere with their procedures. This right, however, does not apply within courts or jails. If you do not have access to a recording device, it is important to document the interaction in writing by noting names, badge numbers, the sequence of events, and any exact wording used. While recording is permitted, avoid making sudden movements or waving your phone around aggressively, as police officers may misinterpret your actions as a threat. Instead, calmly inform the officer that you are reaching for your phone to record the interaction.

If you are concerned that law enforcement may erase your recordings, consider using the ACLU Mobile Justice app, such as Mobile Justice CO, to protect your documentation. This app records interactions and automatically sends the footage directly to the ACLU for safekeeping. Using tools like this ensures that your evidence is preserved and provides an added layer of accountability during your interactions with law enforcement.

DOWNLOAD THE ACLU MOBILE JUSTICE APPLICATION ON YOUR SMARTPHONE

## Notes

Things to write down as a witness:

1. Date, time, and location of when the interaction began and ended.
2. Description of ICE agents Involved (badge numbers or names used)
3. A description of events that transpired
4. Interactions with individuals: who did ICE come for in the first place? Who did they talk to? How did they get access to the building? Did they use force? What kind of force?

# SECTION FIVE

Understanding the process by which the government tries to remove a non-citizen, and how to get out of immigrant detention if needed.


# Removal Proceedings

# Types of Removal Proceedings

When the government is trying to remove someone from the United States, they do so through one of three categories of "removal proceedings." These are expedited removal proceedings under INA § 235; standard removal proceedings under INA § 240; or reinstatement of removal proceedings under INA § 241. It is somewhat disingenuous to call expedited removal or reinstatement a "proceeding," however, as the defining feature of each is their lack of a formal hearing. Nonetheless, let's explore what happens in each and who each applies to:

## SECTION 240

Section 240 removal proceedings refer to the formal process used by the U.S. government to determine whether an individual should be removed (deported) from the United States. Authorized under Section 240 of the Immigration and Nationality Act (INA), these proceedings are conducted by an immigration judge within the Department of Justice's Executive Office for Immigration Review (EOIR). During these proceedings, individuals are given the opportunity to contest the charges of removability, present evidence, apply for relief (such as asylum, cancellation of removal, or adjustment of status), and receive a legal determination regarding their case.

Section 240 removal proceedings ensure due process, allowing the individual to be represented by an attorney (at their own expense), submit evidence, and appeal decisions to the Board of Immigration Appeals (BIA). These proceedings are initiated when the Department of Homeland Security (DHS) issues a Notice to Appear (NTA), outlining the alleged immigration violations. Unlike expedited removal or other summary processes, Section 240 removal proceedings are full hearings designed to provide a fair assessment of the individual's immigration status and eligibility for relief under U.S. law.

## EXPEDITED REMOVAL & REINSTATEMENT

Expedited removal is a streamlined deportation process authorized under the Immigration and Nationality Act (INA) § 235(b) that allows immigration officers to remove certain individuals from the United States without a hearing before an immigration judge. It applies primarily to individuals who are apprehended at or near the border and are found to have entered the U.S. without valid documentation or by using fraudulent documents. Initially, expedited removal was limited to individuals apprehended within 100 miles of the border and within 14 days of entry, but its scope has expanded over time.

Reinstatement of removal is a legal process under the Immigration and Nationality Act (INA) § 241(a)(5) that allows the Department of Homeland Security (DHS) to swiftly enforce a prior removal order against an individual who has unlawfully reentered the United States after being previously removed or voluntarily departing under a removal order. It applies to individuals who have been deported or removed and subsequently reenter the country without proper authorization. Under this process, the prior removal order is reinstated without the individual having the right to a hearing before an immigration judge.

# Timeline of Removal Proceedings (240)

### NOTICE TO APPEAR - INITATION OF REMOVAL PROCEEDINGS

Removal proceedings are initiated when the Department of Homeland Security (DHS) serves a Notice to Appear (NTA) on a noncitizen, outlining the government's allegations and charges of removability. The NTA specifies the immigration violations, provides information about the individual's scheduled appearance before an immigration judge, and includes the time, date, and location of the hearing (or a statement that it will be provided later). This document marks the formal start of the removal process, requiring the noncitizen to respond to the allegations and present any defenses or applications for relief from removal in immigration court.

### Master Calendar Hearings - Getting the Case Established with the Court

A Master Calendar Hearing is the initial procedural hearing in 240 removal proceedings, where the immigration judge reviews the charges against the noncitizen and ensures both parties are prepared to proceed. During this hearing, the judge confirms receipt of the Notice to Appear (NTA), addresses procedural matters, and allows the noncitizen to plead to the charges and indicate any defenses or applications for relief they plan to file. Master Calendar Hearings are typically brief and focus on scheduling and preparation for the substantive Merits Hearing, where the case will be fully adjudicated.

### Individual Calendar Hearings - the Full Merits Hearing

An Individual Calendar Hearing, also known as a Merits Hearing, is the substantive hearing in 240 removal proceedings where the immigration judge reviews the evidence and hears arguments regarding the noncitizen's case. During this hearing, both the government and the noncitizen (or their attorney) present evidence, call witnesses, and make legal arguments to support their positions on removability and any applications for relief, such as asylum or cancellation of removal. The judge evaluates all presented evidence and testimony, rendering a decision on whether the noncitizen is removable and whether they qualify for any relief from removal.

### Appellate Procedure

Decisions by an immigration judge can be appealed to the Board of Immigration Appeals (BIA) by filing a Notice of Appeal (Form EOIR-26) within 30 days of the judge's decision. The BIA reviews the case on legal and factual grounds, and its decision is binding unless further appealed. If the BIA denies the appeal, the noncitizen may petition the appropriate federal circuit court of appeals within 30 days of the BIA decision, but circuit courts only review legal and constitutional issues, not factual findings.

# Getting out of Detention

**Bond** **Parole**

After ICE arrests someone, they are permitted to release that person on their own recognizance (RoR) or detain that person. Their authority to detain someone derives from INA § 236, and § 236(a) outline conditional detention while § 236(c) outlines mandatory detention. Mandatory detention applies to individuals who have been convicted of specific crimes or engaged in certain conduct that makes them a priority for removal. These criminal issues and conduct include firearm offenses, CIMTs, aggravated felonies, controlled substance offenses, terrorism issues, or failure to comply with court orders. Anyone not subject to mandatory detention is subject to discretionary detention.

As the name implies, *mandatory detention* means that someone is **not** bond or parole eligible. If you are bond or parole eligible, however, you should ask for it to not remain detained.

If you are detained pursuant to INA § 236(a), you can ask the immigration judge for bond – meaning release from detention after paying a refundable fine once your case is closed. The lowest possible amount of bond is $1,500 by law, but the bond can be set much, much higher than this in the judge's discretion. To win bond, you must prove that you are not a danger to people or property, and that you are not a flight risk. Legal precedent from the Board of Immigration Appeals (BIA) has outlined nine factors that you can argue against for showing that you are not such a danger. These nine factors include: If you have a fixed address in the U.S.; Length of time in the U.S.; family ties; employment history; record of appearance in court; criminal history; immigration history; flight risk; manner of entry. ***See Matter of Guerra***, 24 I&N Dec. 37 (BIA 2006). You request bond through a motion to the court.

If you are detained under INA § 236(a), you can ask ICE for parole by proving that you are not: (1) a danger to other people or property, and (2) that you are not a flight risk. Although an analysis of the Guerra factors is not explicitly needed in your letter to the ICE office detaining you, it is helpful to argue why you should be released on parole according to a similar framework.

CHECK OUT THE APPENDIX
FOR EXAMPLES OF EACH

# SECTION SIX

What steps do we need to take to respond to a workplace raid once it has happened, and what do we need to know ahead of time to be best prepared?

# Raid Response

# Stay Focused

## Key:

After a raid, people will be desperate, distracted, and determined to get tangible support. Raid responses are not the time for selling products or services: they are times for real action. These responses need to have tangible material goods to give out to people, qualified staff who have access to resources, and support staff to guide participants through the cumbersome process.

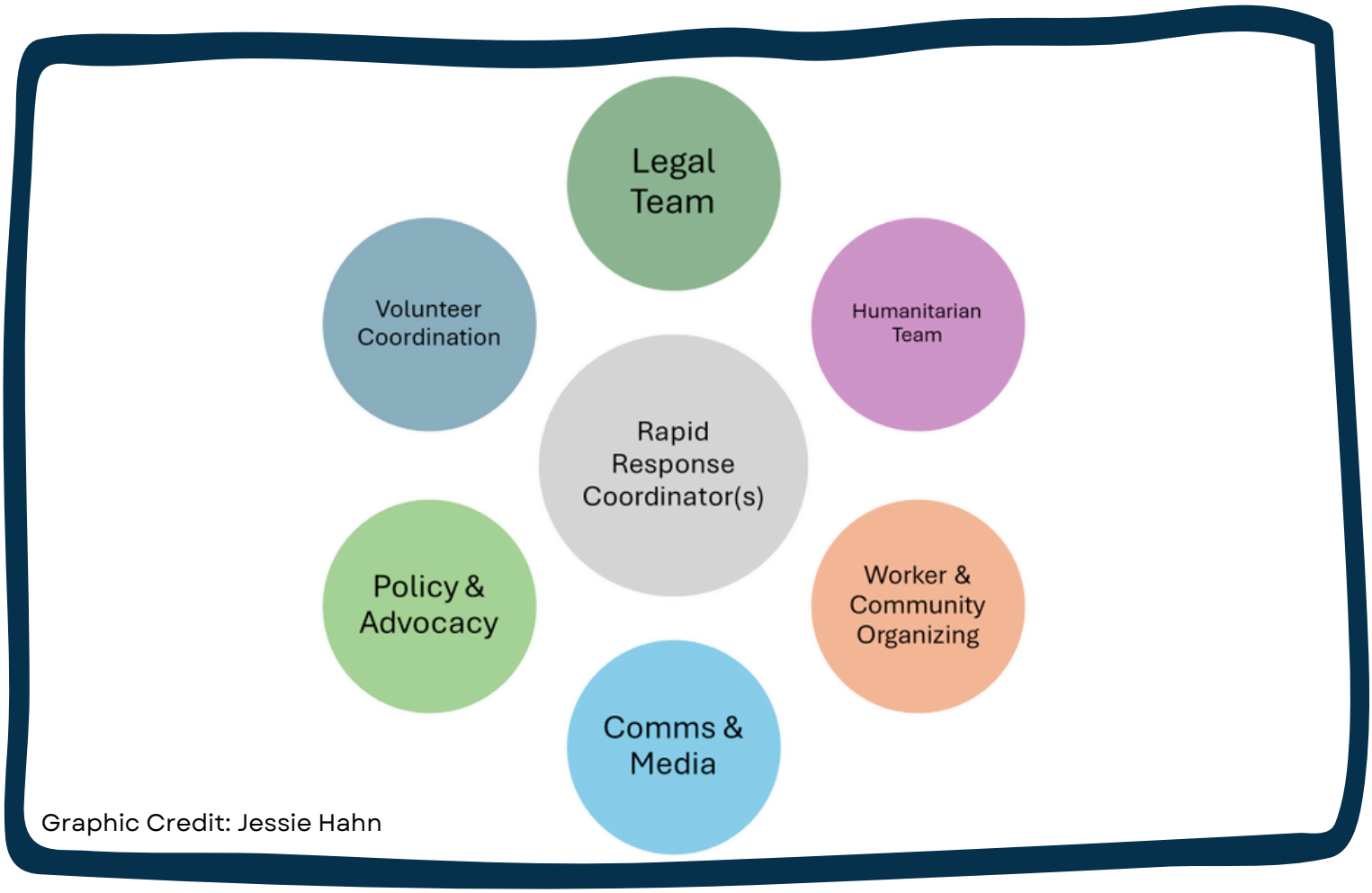
## Basic Goods

### LEGAL SERVICES ARE NOT THE ONLY PRIORITY FOR PEOPLE

Legal services, while important, are not the only resource that should be prioritized after a raid takes place. We need to prepare to offer wraparound services to people in need. This means food, diapers, medicine, toiletries, cash assistance, etc. When a family member has been picked up by ICE, it could be that the person picked up was the only family member with access to the family finances. This means that others in the family need to be cared for and provided for while that other family member remains in detention.

Providing a holistic raid response is something that the UFCW has previously thrived in during the first Trump Administration. Back then, everyone was learning this for the first time. This time around, though, we have no excuse to not be prepared.

Build relationships **now** with food banks, community care clinics, local government, nonprofits, and others so that when the raid happens you already have phone numbers and contacts made who can respond on a moment's notice.




Graphic Credit: Jessie Hahn

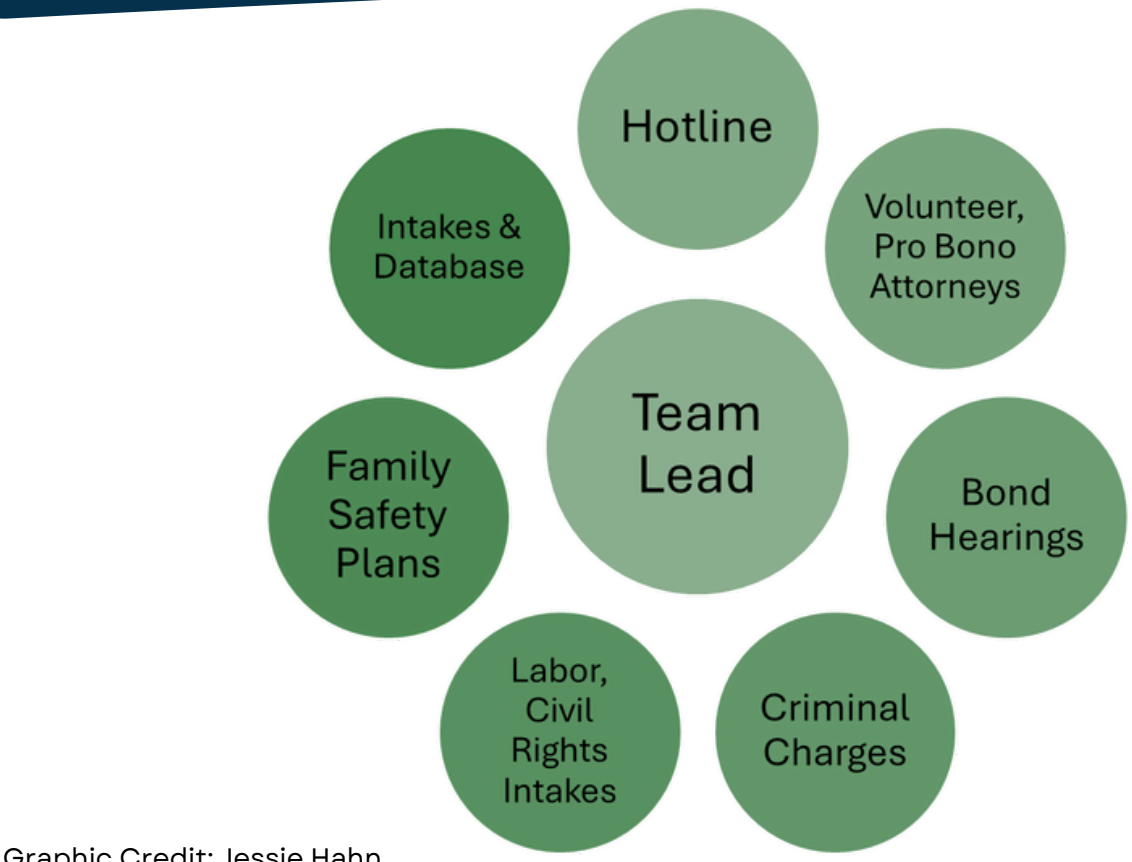
## What is a Holisitc Raid Response?

A holistic raid response looks like a solar system: one central hub with (at least) six planets in orbit around it. These planets represent the different teams that need to be fully in charge of their own agendas and fully in charge of service delivery. Jessie Hahn, from the National Immigration Law Center (NILC) has created the above helpful graphic and suggests six separate teams that should exist:

1. Legal Team
2. Humanitarian Team
3. Worker & Community Organizing
4. Communications & Media
5. Policy & Advocacy
6. Volunteer Coordination.

Each of these six teams has its own teams set up within it, too. The reason why these six separate teams exist, however, is to each be in charge of a different aspect of the raid response so that no one is getting in another group's way. Who talks to local media? Communications & Media will figure it out. Do we have any more toiletries kits? Humanitarian team will know the answer. How do we get someone out of immigration detention? Let the legal team respond to that.

Through delegation, we can achieve efficiency and specialization. This is our goal to remain as robustly effective as possible to families coming in for help, while also achieving lasting political change to prevent raids like this happening again.




Graphic Credit: Jessie Hahn

## What does the Legal Team Do?

The legal team is responsible for one spoke of the wheel - one planet in the solar system. The legal team is made up of seven discrete teams *within* itself, too. Jessie Hahn suggests those teams represent the following issues:

1. Hotline
2. Volunteer, Pro Bono Attorneys
3. Bond Hearings
4. Criminal Charges
5. Labor, Civil Rights Intakes
6. Family Safety Plans
7. Intakes & Database

This demonstrates that no one attorney is responsible for providing all of these services to any one participant. If someone needs help getting their loved one bonded out of immigration detention, there will be at least one person (but hopefully a team) working on bond. Meanwhile, if someone needs help with criminal charges, a civil rights case, or family safety plans, other groups will handle those issues with greater expertise.

Through all of it, there will need to be a team answering the phones and providing updates to participants as new information arises. The hotline team will manage this task, in coordination with the intake & database team.

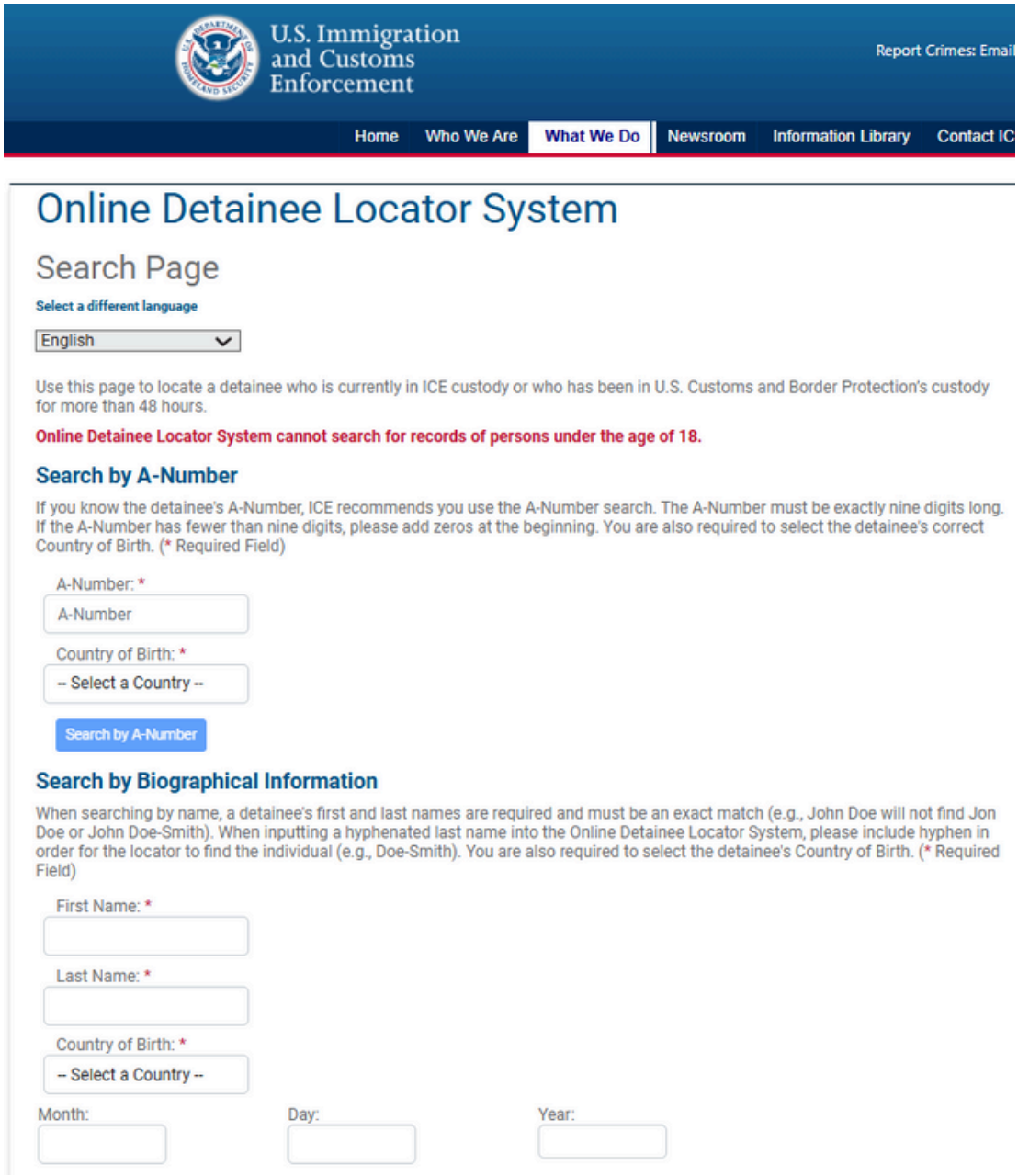
# What data do we want?

The data we want depends on the team we have been assigned to and the task we are seeking to accomplish. Data is collected in the pursuit of a certain goal, after all – it is the goal that gives the data context.
That said, there is certain data that we are going to want for the raid response as a whole that has global utility. That is, there is certain information we are going to want to collect right after the raid takes place that all of the teams in the holistic raid response are going to want to use to inform their decision making. Below, we have listed out suggest data to be collecting that is relevant at three separate stages: during the planning phase before a raid, during the raid itself, and during the intake period in the post-raid aftermath.

| Phase | Data collected |
|---|---|
| Pre-Raid Planning | What venue can we use that will be large enough to handle the volume we need to handle? |
| | What languages are primarily spoken by workers who might be impacted by a raid? And which local groups work in those languages? |
| | What connections have we made already or do we need to make with local government, food banks, nonprofits, legal service providers, and health care clinics? |
| | What should our fundraising platform be for when we start raising money for families in need after the response? Do we have a trusted partner who can be the face of that operation? |
| During the raid | When did the raid take place? (Date / time start / time end) |
| | Where specifically did the raid take place? (Parking lot, private property, public area, a mix of the above) |
| | Workers impacted: number detained, names of the detained, status (if known) of the workers detained, nationalities, languages spoken, their phone numbers |
| | Did ICE have a warrant? Who read the warrant? Do we have a copy? |
| | Witnesses: who saw what happened, is willing to give a detailed statement, and did they take any video? |
| | Which of the detained people have family members or children who are in need of immediate support? |
| Post-Raid Intake | Information needed about the detained person (from family members or friends who know):<br>1.Full legal name<br>2.A Number<br>3.Date of birth<br>4.Country of citizenship<br>5.Known aliases<br>6.Marital status<br>7.Children under 18<br>8.Prior immigration history<br>9.Current legal status<br>Prior applications for relief from removal |

# ICE Locator

When someone is detained by ICE, the most reliable way to find out where they are being detained is with the ICE Online locator system. However, this system is only useful if the person has been detained for at least 48 hours. Up until that time, calling around may be our best bet.

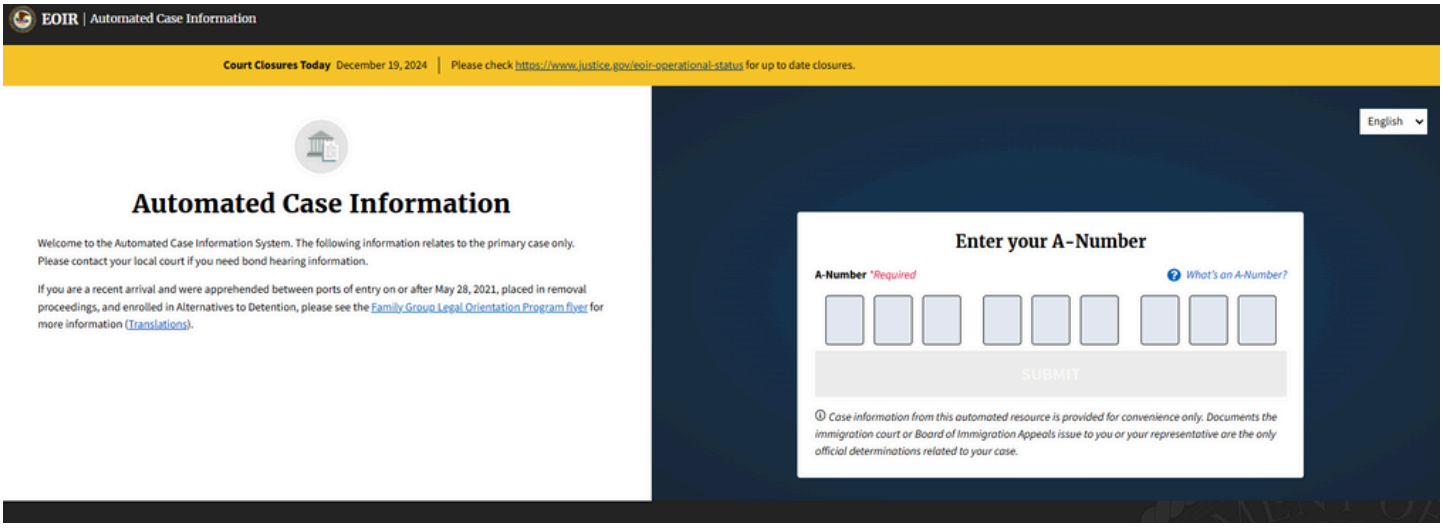



This page is designed to allow you to search for a detained person using the information that you know about them. The most accurate way to search for them will be by using their A Number, if you know it, and their country of nationality. If, however, this person has never been detained before and you do not know their A Number, you can use their biographical information to look for them in the section below. You will need to know their legal name, date of birth, and country of birth.

**Website to check**
https://locator.ice.gov/odls/#/search

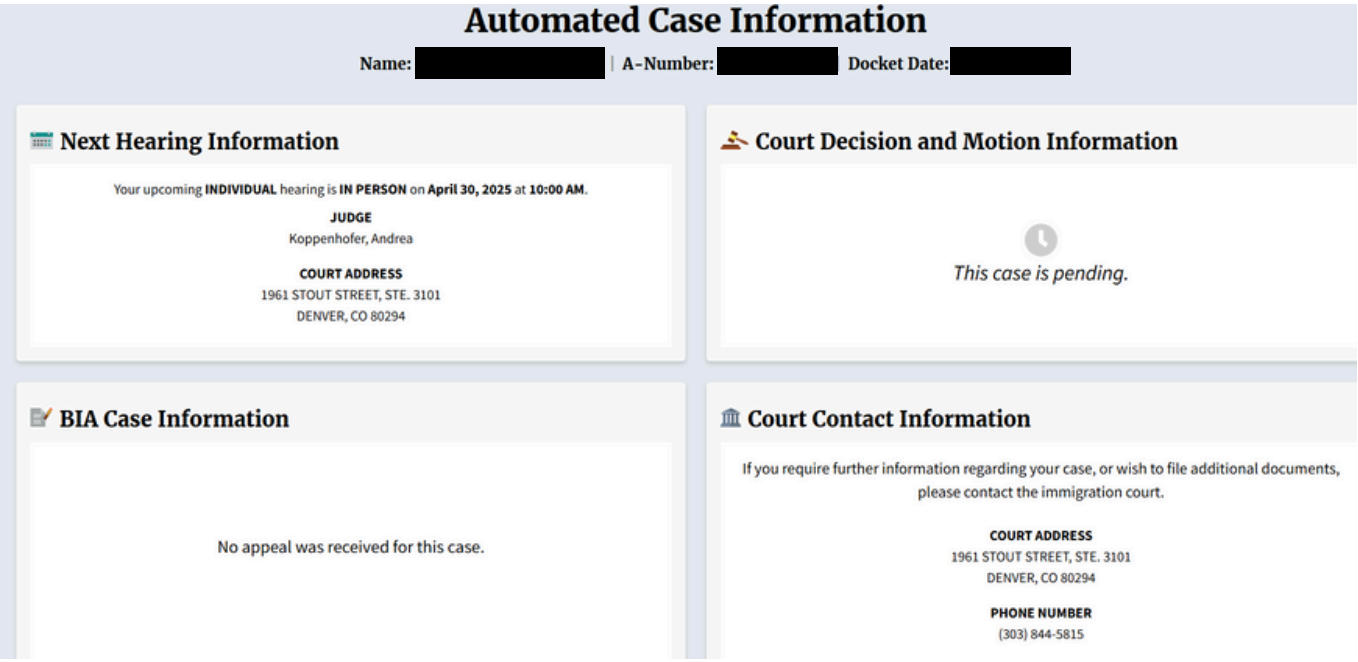
# EOIR Portal

If you are in removal proceedings, the information that you will need to know about your upcoming immigration hearings will be placed online through the EOIR Automated Case Information Portal. The home screen for this portal will look like this:




**Website to check**
https://acis.eoir.justice.gov/en/

Once you have a case in the system and once you enter your A Number into the nine boxes provided on the home screen, you will be able to see the following screen that may look like this:




The four boxes share information related to: your upcoming hearing, whether or not you have a court decision issued in your case in the past, whether you have an appeal with the BIA, and which court has jurisdiction on your case.

# General FAQ's - USCIS

## Post-Filing

- What should I do if I move while my USCIS application is pending?
  - If you have filed an application for immigration benefits with USCIS, you should notify USCIS of any address change as soon as possible to ensure that you receive all correspondence and benefits without delay.
  - Fill out the AR-11 form with your information and follow the instructions on how to mail it in. Completed form must be signed and dated, and send it to:

U.S. Department of Homeland Security
Citizenship and Immigration Services
Attn: Change of Address
1344 Pleasants Drive
Harrisonburg, VA 22801

- How can I check the status of my application?
  - To follow up on a pending case with USCIS, consider these steps, including the links you provided:
  - 1. Online Status Check: Visit the USCIS Case Status Online page at https://egov.uscis.gov/ and enter your receipt number to get updates on your case.
  - 2. USCIS Contact Center: For more detailed inquiries or if you're unable to get the information you need online, call the USCIS Contact Center at 1-800-375-5283.
  - 3. USCIS Tools and Resources: Explore a wide range of tools and resources available at https://www.uscis.gov/tools and https://www.uscis.gov/tools/uscis-tools-and-resources to help manage your case, including the "Ask Emma" virtual assistant for automated assistance.

- What should I do if I make a mistake on my application?
  - If you realize you have made a mistake on your application after submission, contact USCIS immediately or speak to an attorney to determine the best course of action, which may involve submitting corrected forms or additional documentation.

- Is there a way to expedite my application?
  - USCIS offers expedited processing for certain applications under specific circumstances such as severe financial loss, emergency situations, or for reasons related to national interest. You must provide supporting documentation to justify the expedited request.

# Continued

- What happens if my application is denied?
  - If your application is denied, you will receive a letter explaining the reason for the denial. You may have the option to appeal the decision, file a motion to reopen or reconsider the case, or reapply depending on the circumstances and the type of application. Some applications denial will result in the file being referred to ICE for the initiation of removal proceedings.
- What are the USCIS fees?
  - To understand and calculate your USCIS application fees, use the USCIS Fee Calculator available at https://www.uscis.gov/feecalculator. This online tool helps you determine the exact filing and biometric fees for any form processed by USCIS, ensuring you pay the correct amount when submitting your application.
- What is the USCIS filing address?
  - The filing address associated with your specific application will be listed on the USCIS website for that specific application. It is critical that you read the filing instructions carefully, as the correct mailing address may vary depending upon the state you live in, the method you are applying with, as well as the category you are eligible through. For additional information, refer to the resources provided by USCIS.
- How do I see how long it usually takes to process my application?
  - To know how long the government usually takes to process a request for a certain benefit, use this resource: https://egov.uscis.gov/processing-times/
- What if it is taking longer than they say it should?
  - If your application has been processing for longer than the posted processing times, you can file a case inquiry on your case to politely nudge the government to issue you a decision. To do this, you will need the receipt number associated with your specific application. Once you have that receipt number, use this online case inquiry tool from USCIS.
- I did not receive something by mail I should have, or I need to correct a typographical error on something I did receive. What do I do now?
  - If you believe that something should have come to you in the mail that has not, and your search of the online case inquiry says that something was mailed to you, use this link to submit an inquiry: https://egov.uscis.gov/e-request/Intro.do

VIEW MORE FAQ'S ABOUT
SPECIFIC CASE TYPES ON OUR
WEBSITE
WWW.NOVO-LEGAL.COM/UFCW-FAQ

NOVO LEGAL

# Contact Us


+1 (303) 335-0250

ucan@novo-legal.com

www.novo-legal.com/ufcw


If you have questions about immigration processes, rights, or specific situations, reaching out to us can provide clarity and guidance tailored to your needs. Immigration laws and procedures are complex and constantly evolving, and it's essential to have accurate information to make informed decisions. Our team is here to help answer your questions, provide resources, and connect you with the support you need to navigate your circumstances confidently and effectively. Don't hesitate to contact us–we're here to help!

IF A RAID HAS OCCURRED AND YOU NEED IMMEDIATE HELP, CONTACT COLLIN & JESSICA DIRECTLY:

COLLIN@NOVO-LEGAL.COM
JESSICA@NOVO-LEGAL.COM

# Appendices

# Notes