

Frequently Asked Questions About Immigration

This Q&A is for the purpose of providing you with a general overview of the U.S. immigration process. The information on this page should not be interpreted as legal advice. Legal advice can only be given in the context of a consultation with a licensed attorney. Always consult with an immigration attorney before you act on your case.

I'm a Canadian citizen. How many days am I allowed to stay in the United States as a tourist?

Canadian citizens are normally granted six months when they enter the U.S. as tourists. This does not mean that they can only stay in the U.S. six months out of the year. Every time you enter the U.S., you are being admitted for another period of time, irrespective of the last admission. This means that if you stay in the U.S. six months, return home and then re-enter, you should be given another six-month period of stay, unless the officer at the border specifically gives you less time.

Remember that a tourist status is not meant to be used to reside in the U.S. permanently. Doing so will eventually cause the officer to suspect that you have immigrant intent and to deny you entry.

How does the process work to be sponsored by an employer for a visa and/or green card?

The first thing you should know is that the employment-based immigration process is largely controlled by the employer. For most employment-based petitions, the employer must file the paperwork and in most green card cases, the employer is required to recruit U.S. workers before you can get your green card.

If you are a Canadian or Mexican national and your position requires a degree or experience, you may be able to get a visa (TN) to work in the U.S. with only a job offer from your employer. Some employment-based cases also do not even require an employer or a job offer, and in these cases, the foreign national will control the process.

In short, how the process will go will depend on your education, your training, your experience and your desired position in the U.S.

My fiancé(e) is currently outside the US and we want to live together in the US. What is the quickest way to do this?

If you are a U.S. citizen, you may petition for your fiancé to come to the U.S. Once the petition is approved, your fiancé(e) will have an interview with the U.S. consulate in his or her home country. Assuming your fiancé(e) is admissible to the United States, he or she will be granted a visa to travel to the United States.

Once your fiancé(e) arrives in the U.S., you two must get married within 90 days of entry. Following the marriage, your fiancé(e) will then file an application for permanent residence, which will be the last step in the immigration process.

If you are a permanent resident, you cannot petition for a fiancé(e). However, you will be able to file a petition for your husband or wife once the marriage takes place.

I was denied admission to the U.S. because I have been caught with a fake green card ten years ago at another border checkpoint. But I was able to travel to the U.S. without problems for all this time! Why is this happening now?

Because the officer who denied you admission happened to be more diligent than the ones you encountered before. In your case, the officer was right to deny you admission, as U.S. law provides that you are inadmissible for life as a result of the document fraud. Traveling to the U.S. without problems for many years gave you a false sense of security, when in fact you were not supposed to be admitted.

Luckily, there is a waiver available for this, which will allow you to visit the U.S. temporarily in spite of your inadmissibility. The process is relatively simple for a temporary visitor, but is more complex if you are applying for a green card. Your case is a complicated one and you should retain an immigration attorney to present your waiver application and to guide you through the process.

I want to obtain a visa based on my U.S. business. How much money do I have to invest to qualify? How many employees should I hire?

Unfortunately, immigration is rarely this black or white. For E-2 investor visas, consulates do not require a minimum amount of money or a minimum amount of employees. The regulations provide that the investment must be "substantial." Consulates will look at the type of business to determine how much money constitutes a substantial investment. For example, a consulting business will not require a lot of money to start but a hotel would require millions of dollars.

If the investor has partners in the business, he or she should make sure to contribute the largest percentage of capital in order to satisfy the consulate that the substantial requirement is met.

But how can I start a business if I don't have the visa?

You do not need a work or investor visa to start a business in the United States. Searching for investment opportunities, negotiating contracts, finding commercial space, opening bank accounts, buying supplies, hiring employees and other business activities do not constitute employment in the eyes of immigration officials. You may not, however, actively work for the company until you receive your visa.

Until that happens, you need to be careful not to cross the line into unauthorized employment. It may be best to hire a manager who can manage your business until you get your visa.

I was convicted of a criminal offense a long time ago and I have a pardon. Am I going to be able to get my visa/green card?

It depends on the criminal offense for which you were convicted. Not all criminal convictions make someone inadmissible to United States, although many of them do. You need an attorney to review your criminal record and determine the impact the conviction will have on your immigration case.

Because foreign pardons are not recognized by the US government, having one does not mean you will be able to enter the US or get your green card.

If you were convicted of a crime and an immigration officer finds you inadmissible, you may be able to have the conviction "waived" by US immigration in some circumstances. Whether you are eligible for a waiver will depend on several factors, such as whether you can show rehabilitation for the crime, whether you have a US citizen or permanent resident relative who would suffer "extreme hardship" if you were not allowed to enter the US and other factors.