



LIVING IN LIMBO

**A Guide to Understanding Your Rights,
Benefits, and Obligations When
You Have No Immigration Status**



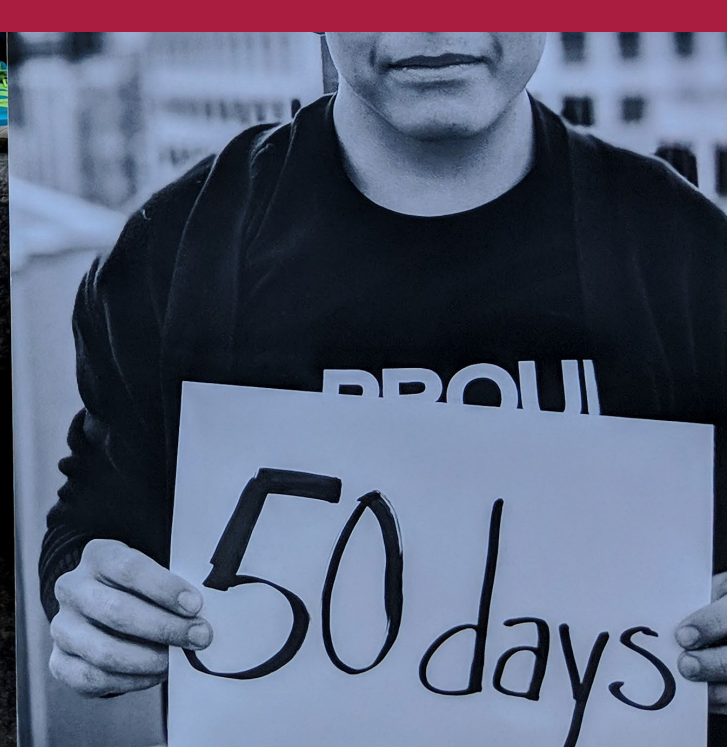
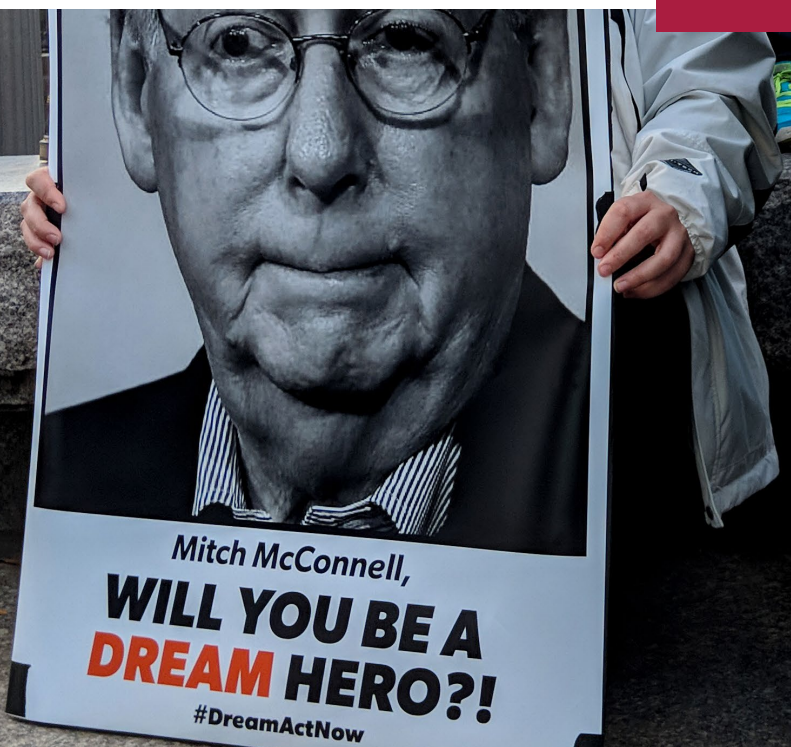
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Introduction

Every year, millions of people wait for Congress to advance a solution that would provide stability for undocumented persons and their families. The numbers left waiting and worrying without a pathway to citizenship, protection from deportation, or the ability to work under the Trump Administration has only increased with the limitations on the **Deferred Action for Childhood Arrivals (DACA)** program and the termination of **Temporary Protected Status (TPS)** for certain countries. Without a solution, many are left with questions about how they can survive indefinitely as an undocumented person in the United States. If you are undocumented, this guide will help you

answer some of those questions by informing you of your continuing rights, benefits, and obligations while you wait for federal legislation. Specifically, this guide will provide you with an overview of existing immigration options; ways to earn a living; federal and state benefits and obligations; and ways to protect yourself from deportation. Beyond that, this guide serves as reminder that you are not alone, that society relies on your participation and contributions to our communities, and that together we can fight against anti-immigrant policies and towards a permanent federal legislation that provides a meaningful and humane solution for all of our immigrant communities.



About the Author

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Having immigrated to the United States with his parents when he was only four months old, Krsna grew up as an undocumented immigrant. Motivated by that experience, he has spent his education and career focusing on ways to educate, serve, and empower immigrants.

In addition to working at the United Nations High Commissioner for Refugees, the American Civil Liberties Union of Northern California, and the Asylum and Convention Against Torture Appellate Clinic at Cornell, Krsna established a legal services program at Immigrants Rising (formerly known as Educators for Fair Consideration) to provide legal support to undocumented youth throughout the country.

In 2017, Krsna became the Andy Grove Immigrants' Rights Legal Fellow at the **Immigrant Legal Resource Center** (ILRC) based in San Francisco, California. Krsna's work focuses on immigration enforcement issues, including state and local law enforcement's cooperation with federal immigration agencies in unlawfully deporting immigrants, and Deferred Action for Childhood Arrivals (DACA) advocacy. Krsna earned his undergraduate degree from the University of California, Davis, and his law degree from Cornell Law School where he received the 2017 Freeman Award for Civil-Human Rights for his commitment to civil rights and public service.

Acknowledgements

The Immigrant Legal Resource Center wishes to thank and acknowledge the following people for their invaluable contributions to this resource:

Tanya Broder, Senior Staff Attorney at the *National Immigration Law Center* (NILC); **Dan Berger**, Partner at *Curran & Berger LLP*; **Stephen Yale-Loehr**, Professor at *Cornell Law School*; **Iliana Perez**, Entrepreneurship Ambassador at *Immigrants Rising* (formerly known as *Educators for Fair Consideration*); **Sanaa Abrar**, Policy and Advocacy Manager at *United We Dream*; **Justino Mora**, Co-Founder of *UndocuMedia*; and **Carolina Valdivia**, Doctoral Candidate at *Harvard University*.

Report designed by Manny Guisa, ILRC Development Coordinator. Manny is an undocumented American from Guanajuato, MX and a fierce supporter of immigrant youth empowerment.

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COMMON IMMIGRATION LEGAL OPTIONS THAT LEAD TO LAWFUL STATUS

This section provides an overview of some of the ways that you may be able to obtain lawful immigration status in the United States. **According to some studies, up to 20% of the undocumented population may already be eligible for lawful status.** Though there are certainly more immigration options that are not included in the following list, we carefully selected those options that are common and specific to most undocumented people. It is important to know that you may be eligible for more than one immigration option and that it is possible to file different immigration petitions at the same time.

Because immigration law is complex, it is also crucial to note that the following summaries should

only serve as general information rather than legal advice. We encourage you to contact an experienced immigration attorney or accredited representative who can provide you with an individualized screening of your options. Even if you have talked to an immigration attorney or an accredited representative before, it can be helpful to speak to one again because immigration laws are always changing and your work, family, or other life circumstances may have also changed.

For a list of local immigration attorneys in your area, visit www.immigrationlawhelp.org or www.aialawyer.org.



General Process for an Immigration Petition

Before going over the specific requirements for each immigration petition, you should understand the general process to obtain lawful immigration status. Although the process will be slightly different depending on the immigration petition that you

are submitting, there are some requirements that are the same for most family-based and employment-based immigration petitions.

Here is a breakdown of the general process:

1. FILING YOUR IMMIGRATION PETITION

The first step in obtaining lawful immigration status is to submit an immigration petition, such as a marriage petition or an employment-based petition (explained in the next section). Generally, you will submit the petition with the **U.S. Citizenship & Immigration Services (USCIS)** along with evidence to show that you are eligible for the specific immigration petition.

2. RECEIPT OF YOUR IMMIGRATION PETITION

Once you submit your immigration petition, USCIS will send you a receipt notice to confirm that they received your petition. If you did not properly submit your petition, USCIS may reject your petition or ask you for more evidence to show that you are eligible. Receiving these notices can take at least a few weeks and often a few months.

3. REVIEWING AND APPROVING YOUR IMMIGRATION PETITION

The time that it takes USCIS to review your immigration petition depends on a number of factors, including the type of immigration petition you are submitting and the number of petitions that USCIS is currently reviewing. Depending on the type of immigration petition, it can take a few months or years before your petition is approved.

4. APPLYING FOR A GREEN CARD AND INTERVIEW PROCESS

Once your immigration petition is reviewed and approved, you can submit an application for **lawful permanent residency** (also known as a “green card”). As part of the green card application process, you will be asked to attend an interview with an immigration officer to verify the information on your application and answer follow-up questions regarding your eligibility.

5. GETTING YOUR GREEN CARD & APPLYING FOR U.S. CITIZENSHIP.

After your interview, you can expect to receive your green card within a few months if your application is approved. Once you have a green card, you can generally apply for U.S. citizenship after **three or five years**, depending on the immigration petition you filed to get your green card.





I. MARRIAGE PETITIONS

Overview

Getting immigration status through a marriage petition filed by a U.S. citizen or lawful permanent resident spouse is one of the most common immigration options for undocumented persons. If you are married to a U.S. citizen or lawful permanent resident, your spouse can petition for you and, if the petition is successful, you may receive lawful permanent residency.

There are **two steps** in the process to get a green card through a marriage petition.

For the **first step**, your U.S. citizen or lawful permanent resident spouse must *file an immigration petition for you* with an agency known as U.S. Citizenship & Immigration Services (USCIS)

to show that you have a real and legal marriage and prove that your spouse has U.S. citizenship or lawful permanent residency. The wait time to review your immigration petition depends on whether your spouse is a U.S. citizen or a lawful permanent resident. If your spouse is a U.S. citizen, you will wait at least a few months. If your spouse is a lawful permanent resident, you will wait at least two years.

If this immigration petition is approved, you can move to the second step.

For the **second step**, you will submit a green card application through *Adjustment of Status* or *Consular Processing*.

Some people are eligible to complete the green card process in the United States through a process called Adjustment of Status.

Here is a rundown of some of the ways that you can be eligible for Adjustment of Status:



ENTERING WITH INSPECTION

#1

If you entered the United States by flying into an airport or showing documents at a border, you might be eligible for Adjustment of Status. For example, if you entered with a tourist visa or flew or re-entered the country through Advance Parole as a DACA recipient, you might be eligible for Adjustment of Status.

245(i)
ELIGIBILITY

#2

You might also be eligible for Adjustment of Status if a family member or employer filed an immigration petition for you or your parents **on or before April 30, 2001**.

TEMPORARY PROTECTED STATUS

#3

If you have TPS, you may be eligible for Adjustment of Status if: **1)** you have a U.S. citizen spouse, U.S. citizen son or daughter over the age of 21, or U.S. citizen parent; and **2)** You live in Alaska, Arizona, California, Guam, Hawaii, Idaho, Kentucky, Michigan, Montana, Nevada, Ohio, Oregon, Tennessee, or Washington.

Consular Processing

If you are not eligible for Adjustment of Status, you might have to go through a process known as **Consular Processing** by leaving the United States to complete the green card process from a U.S. consulate in your country of origin. This can be risky for you because most undocumented persons who leave the United States are barred from returning for up to ten years. Luckily, you may be eligible for something known as a **Provisional Unlawful Presence Waiver**. If you are approved


for this waiver, you can re-enter the United States immediately instead of being barred for ten years.

You may be eligible for a Provisional Unlawful Presence waiver if you can prove that your spouse will face extreme hardship if you are forced to stay outside of the country for up to 10 years.

Marriage Interview

Part of the green card application process involves getting interviewed by a USCIS officer so that they can determine that your marriage is real.

USCIS is especially suspicious of spouses who do not live together, are of very different ages, of different races, or of certain targeted nationalities. For this reason, it is important to have as much proof as possible to show that your marriage is real. Evidence that shows that you



live together, such as driver's licenses or identification cards with the same address, joint tax returns, joint leases, and other similar evidence can be helpful. Other evidence, such as photos or letters from friends and families showing that you have had a committed relationship, can also be used.

II. EMPLOYMENT-BASED PETITIONS

Overview

Although not as common as other immigration petitions, if you are employed or seeking employment, your employer could apply for immigration status for you through the U.S. Citizenship and Immigration Services (USCIS) based on your accomplishments, profession, educational background, and other skills. Understanding these employment-based options is especially important if you have attended college, graduate

school, or a professional school. We provide a summary of the employment-based application process below, along with some of the types of employment-based applications that are available. Because employment-based petitions are often complicated and harder to get than other immigration petitions, you should consult with an immigration attorney who specializes in these kinds of petitions.

Outstanding Professors and Researchers

One type of employment-based immigration petition is reserved for outstanding professors and researchers. This petition is available if you have a tenured (or tenure-track) position at an institution of higher learning, a similar position to perform research in a university, or a research position at a private company. This petition is harder to get approved because it requires that you show that you have received international recognition in your field and that you have a minimum of three years of experience in teaching or research. As of the time of this publication, reviewing and approving

this immigration petition **can take a few months** from the time USCIS sends you a notice confirming that they received your petition.

The first part of the application process requires USCIS to review and accept a complete application from your employer. After that, the wait time depends on a number of factors, including the country where you are born, the type of employment petition you are applying for, and how many visas are available during a given year.

Professionals with Advanced Degrees

To qualify for an immigration petition as a professional with an advanced degree, you must have a master's degree or higher level degree, such as a doctorate. This degree can be from a U.S. university or an equivalent degree from a foreign university. If you have a bachelor's degree, you can only qualify under this category if you can show that you have at least five years of

experience in your profession. As of the time of this publication, people applying under this petition who are from China have to wait four years to apply for a green card from the moment USCIS confirms that their petition was received. People from India have to wait 11 years. People from countries other than China and India do not have any wait times.

Professionals with Bachelor's Degrees

To qualify under this immigration petition, you must possess a U.S. bachelor's degree or its foreign degree equivalent. As of the time of this publication, people applying from the Philippines have to wait a year before applying for a green card from the moment USCIS confirms that their

petition was received. Persons from China have to wait three years, and those from India have to wait 13 years. Persons from countries other than the Philippines, China, and India do not have any additional wait times.

Skilled and Unskilled Workers

This petition is available if your job does not require a school degree, but it does require at least two years of experience as a **skilled** worker, or if you have less than two years of experience and you are capable of performing **unskilled** labor. At the time of publication, people applying under this category who are from the Philippines have to

wait an additional year from the moment USCIS accepts their petition. People from China have to wait an additional three years, and those from India have to wait an additional 13 years. People from all other countries do not have any additional wait times.



Some examples of **skilled workers** are: construction supervisors, reporters and journalists, graphic designers, fashion designers, chefs, and some computer and technical workers.



Some examples of **unskilled workers** are: housekeepers, nannies, janitors, garden workers, nursing aides, and farm workers.

Labor Certification

Most employment-based petitions (except for Outstanding Professors and Researchers or those seeking employment as nurses or physical therapists), also require your employer to file a **Labor Certification**, which “certifies” that your employer has not found a U.S. citizen worker who is able and willing to do the job that you have or are seeking.

Labor Certifications
are filed with the
U.S. Secretary of Labor.

Adjustment of Status v. Consular Processing

Like with marriage petitions, if you are eligible for **Adjustment of Status**, you can complete the employment-based process in the United States. If you are not eligible for Adjustment of Status, you might have to go through a process known as

Consular Processing by returning to your country to complete the application.

Here are two ways you can be eligible for Adjustment of Status under employment-based petitions:

245(i) ELIGIBILITY

You might be eligible for Adjustment of Status if a family member or employer filed an immigration petition for you or your parents **on or before April 30, 2001**.

245(k) ELIGIBILITY FOR TEMPORARY PROTECTED STATUS (TPS)

If you have TPS, you may be eligible for Adjustment of Status **within 180 days after your TPS expires**.



Consular Processing

If you are not eligible for Adjustment of Status, you might have to complete the process from a U.S. consulate in your country. This can be risky for you because most undocumented persons cannot

return to the United States **for up to ten years**. Make sure to consult with an immigration expert before taking any trips outside of the United States.

III. VICTIMS OF SERIOUS CRIMES (U VISA)

Overview

The U Visa is a common way that some undocumented immigrants qualify for lawful status. This visa is available if you have been a **victim of a serious crime** that results in physical or mental abuse. In order to qualify for a U Visa, you must be, have been, or will likely be helpful in the criminal

investigation of the crime. To prove this, you will need a police department, Child Protective Services agency, District Attorney’s office, or another law enforcement agency to certify that you have been helpful or are likely to be helpful.

Process

The U visa is a temporary lawful status that would allow you to **apply for lawful permanent residency (“green card”) after three years**. During these three years, you are able to receive many benefits, including the ability to work in the country. However, because there is a limit on the number

of U Visas the government can issue in a year, as of the date of this publication, there is a backlog, and you may have to **wait more than two years** before the government can even begin reviewing your U Visa application.

Definition of Victim and Serious Crimes

Though the U visa is available if you are a **direct victim** of a crime, it is also available in very limited circumstances if you are an **indirect victim**, such as a bystander or family member of a direct victim.

Some of the common qualifying crimes include rape, domestic violence, felonious assault, and kidnapping. Because it can get quite complicated to understand whether a crime qualifies for a U Visa, we won’t list all of the qualifying crimes, but we encourage you to consult with an immigration

attorney or an accredited representative if you have been the victim of a crime.

Examples of **indirect victims** are persons who witness a crime and suffer some physical or mental harm or a family member of a person who was killed and unable to help in the investigation of the crime.



IV. ASYLUM

Overview

Asylum is available if you have faced **persecution** in your home country or have a **well-founded fear** of persecution if you return to your country. The form of persecution must be on account of one of five reasons: **your race, your religion, your nationality, your membership in a particular group, or your political opinion.**

Persecution refers to hostility, discrimination, harassment, or ill-treatment towards you because of your identity.



Process

Once an asylum application is submitted, you will be called for an interview to verify your identity and discuss reasons why you're applying for asylum and other relevant information about your application. After the interview, you will wait for a decision. There is a possibility that if your

asylum is denied, you will be **placed in deportation proceedings** where you will have to fight your case in court and seek asylum in front of a judge. For this reason, it is important for you to talk with an immigration attorney before applying.

One-Year Deadline

Generally, you must apply for asylum within **one year of arriving to the United States**. There is an exception to this rule if there have been **changed circumstances** since you originally entered.

One of the most common examples of a **changed circumstance** is a change in your country's conditions that was not present when you originally arrived to the United States, such as a war or social disturbance.

V. OLD PETITIONS

Overview

This section deals with past immigration petitions that were already filed for **you, your spouse, or parent**. As we have already mentioned, if a petition was filed **on or prior to April 30, 2001**, the persons listed on that petition might be able to complete a different immigration application inside of the United States without having to

Conversions into a New Category

In various family-based immigration petitions, your original petition might automatically convert to a different **category** and can affect how long you have to wait before you can apply for lawful status. This can happen when you turn 21, if you marry or divorce, or when the original person filing a petition for you changes immigration status. In some instances, even when there is a change in category, you may **retain your original priority date** and avoid having to file a new application.

leave the country (See *Marriage Petitions* and *Employment-Based Petitions* for more information). Below are other reasons why old petitions matter and how you can find out if an old petition was filed for you or if you were listed on someone else's petition.

Family-based immigration petitions are split into different **categories**, based on a number of factors, including: your age, whether you are single or married, your relationship to the family member filing a petition for you, and whether the person filing the petition is a U.S. citizen or a lawful permanent resident.

FOR EXAMPLE

If you were over 21 when your lawful permanent resident mother filed a petition for you, and your mother later became a U.S. citizen, you may keep your original priority date of your original petition, and you do not need to file a new one. Additionally, your wait time to apply for a green card will generally be shorter.

Freedom of Information Act

The Freedom of Information Act (FOIA) is a law that entitles you to obtain certain information from the federal government or any of its agencies. This can be helpful if you are unsure whether you were

listed in a previous petition or application, or if you want to receive a copy of your immigration file. To obtain this information, you may file a Freedom of Information Act (FOIA) request from USCIS.

For step-by-step instructions on how to file a FOIA request, visit bit.ly/makingfoiarequests





EARNING A LIVING IN THE UNITED STATES

Overview

This section provides a very brief overview of some of the ways that you can earn a living in the United States. Whether you are working for yourself or joining a worker cooperative, there are several

ways that you can lawfully make money.

For a more thorough analysis of these options, visit www.immigrantsrising.org.

Independent Contractors

In the United States, there are generally two different categories of persons who are hired to provide services: **employees** and **independent contractors**. While an employee usually has a **continuing relationship** with an employer, independent contractors are **self-employed** and often **contracted for a limited time and purpose**. Although the difference between someone who is an employee and someone who is an independent contractor can be complicated, often the general rule is that an individual is an independent contractor if the person or entity

paying (“payer”) has the right to **control or direct only the result of the work and not what work will be done or how it will be done**.

Examples of **independent contractors** can include: private tutors, graphic designers, adjunct professors, accountants, consultants, event planners, or promoters who are contracted for a specific job rather than for an ongoing purpose.

Forms Used

The distinction between an employee and an independent contractor is important because employers are required to have employees complete **IRS Form I-9**, the employment eligibility verification form. Employees must provide **documentation** that they are authorized to work in the United States when completing this form. When dealing with **independent contractors**, **the payer is not required to fill out an IRS Form I-9 or to verify the independent contractor's employment authorization.** Instead, independent

contractors can fill out **Form W-9** and provide their Social Security Number or Individual Taxpayer Identification Number (see below for more information).

Examples of I-9 documents include an Employment Authorization Document, a U.S./state-issued driver's license, or ID and a Social Security card.

Sole Proprietors

Independent contractors also have the option of starting a sole proprietorship, which is a **business structure that is owned and run by the independent contractor.** As a sole proprietor, the independent

contractor has the option of using a business or trade name instead of using her personal name when contracting.

Offering Services as an Independent Contractor

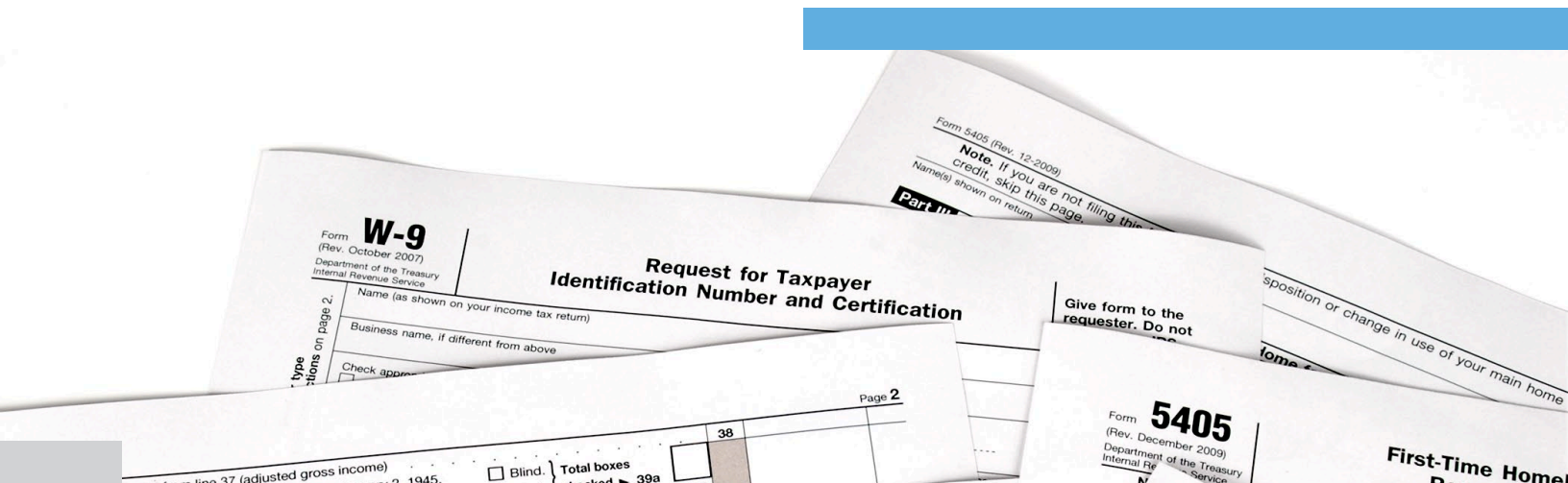
When an independent contractor is seeking to provide services, the independent contractor can show the payer either a **Social Security Number (SSN)** or an **Individual Taxpayer Identification Number (ITIN).** The Internal Revenue Service (IRS)

issues ITINs to individuals who do not have, and are not eligible to obtain, a SSN. If you ever received a valid SSN, you can continue to use this number for tax purposes. This is true even if your work authorization has expired.

Duties Required by Payers

When a payer hires an independent contractor and is paying the contractor \$600 or more in one year, the payer fills out **IRS Form 1099** and sends

it to the independent contractor at the end of the year. Independent contractors will use the information in this form to file their own taxes.



Limited Liability Company (LLC)

Groups of people can run a business together (as workers who are also owners) through a partnership or worker cooperative. A **Limited Liability Company (LLC)** is one type of business entity that lends itself to being structured as a worker cooperative. An LLC can have only one member (although it depends on state law). LLCs are flexible entities that can be structured to suit the needs of their members.

As a business entity, **the LLC is hired as a company using the company's tax identification number.** This means that when an LLC is hired, the LLC is

not generally required to provide any personal information about its worker-members. Moreover, members are not personally liable for any losses tied to the LLC beyond what they have invested in the company. In other words, if the LLC owes debts, others may only sue and recover from the LLC and not from individual members.

An LLC can be created for almost any legal purpose meant to raise profits.



Possible Consequences for Employees and Independent Contractors Working Without Authorization

Employees and independent contractors who apply for lawful status and have worked without authorization might be barred from **Adjustment of Status** even if they entered with a visa or were paroled into the United States (See *Marriage Petitions* section for more information). However,

there is an exception if you are applying for lawful status through your U.S. citizen spouse. In other words, you may still be able to adjust your status through a U.S. citizen spouse if you entered with a visa or were paroled into the United States, even if you have worked without authorization.



STATE, FEDERAL, AND PRIVATE BENEFITS & OBLIGATIONS

I. HIGHER EDUCATION AND GRADUATE SCHOOLS

Overview

Going to college, graduate school, or professional school can be a great route while you wait for a pending immigration application for lawful status or until a federal immigration law is enacted. You can continue developing your skills while pursuing an education, and **obtaining a higher education degree can open more immigration options** that could lead to U.S. citizenship (See *Employment-Based Petitions* section for more information).

Moreover, **going to school can be used as a safe haven**, since many schools are prohibited from releasing your information to federal authorities. Below, we summarize some key information and resources that you should be aware of when attending college or beyond.

For more information on how to attend and fund higher education, visit www.immigrantsrising.org and www.mydocumentedlife.org.

Eligibility for In-State Tuition and Financial Aid

One of the biggest challenges to attending college, graduate school, or professional school is that without lawful status, you are not eligible for federal financial aid. Not only that, but some states

might charge you more tuition because they might treat you as an out-of-state resident or ban you from attending altogether.

However, about **twenty states offer the same tuition rates to undocumented students, and numerous states also offer state financial aid.** Although these requirements vary from state to state, students are generally required to attend and graduate from a

Private v. Public Institutions

Another factor to consider is whether the school is private or public. In general, public schools are funded by the state, whereas private schools are funded by donations, endowments, and tuition. In some cases, this means that **private schools have more flexibility** on who they admit and how they can financially support you. For example, **some**

General Scholarships

Regardless of what school you choose, it is always a good idea to apply for scholarships. Over the years, **more and more scholarships have become available to undocumented students.** Because the exact requirements and deadlines are different depending on the scholarship provider, you should

high school or its equivalent in the state where the college, graduate school, or professional school is located.

For more information on state tuition and financial aid policies, visit www.immigrantsrising.org.

private schools may not make any distinctions based on your immigration status and can pay for your tuition and educational expenses. Because these differences differ by school, you are encouraged to contact the school that you are interested in attending to learn about their specific policies.

constantly be checking for new scholarships.

For more information on scholarships, visit:

www.immigrantsrising.org,

www.mydocumentedlife.org and

www.dreamersroadmap.com.



Private Loans

Because undocumented students might not be eligible for government-funded loans, **some seek private loans to fund their education as a last resort**. Private loans usually carry higher interest rates and fees and are offered through banks or

other private institutions. For these reasons, you might face particular barriers to obtain private loans, but there are some solutions (See *House, Business, School, and Other Private Loans* for more information).

Privacy Protections

You may fear that schools will release your personal information, including your immigration status, to outside agencies like Immigration and Customs Enforcement (ICE). However, the **Family Educational Rights and Privacy Act**

(FERPA) generally prohibits schools from releasing information in your educational record without your consent.



II. EMPLOYMENT-RELATED BENEFITS

Workers' Compensation

Workers' compensation assistance (or benefits) can be available if you are injured while working, even if you are undocumented. That being

said, the benefits may be restricted to **medical treatment and wage replacement**.

State-Based Disability Insurance

State programs and rules vary. In some states, state disability insurance is available if you have suffered a non-work related injury or illness, **even if you are**

undocumented. In order to be eligible, you and your employer must generally **contribute to your State Disability Insurance program**.

Unemployment Benefits

If your work authorization expires, **you are generally not eligible for unemployment benefits**. This is because unemployment programs require workers

to be "**able and available to work**," and individuals without current work authorization do not meet this requirement.

Private-Based Retirement Benefits

Although you may not qualify for federally-funded retirement benefits (See *Social Security Number and Retirement Benefits* section), **you may still be eligible for other tax-advantaged retirement accounts, such as a 401(k) or a 403(b) plan** if

you have already made contributions to that account and meet all other requirements. These tax-advantaged accounts are optional and you usually elect how much you want to contribute to them.

III. SOCIAL SECURITY NUMBER AND RETIREMENT BENEFITS

Social Security Number

Whatever social security number was assigned to you when you applied is **yours to keep**. Because everyone who earns income over a certain amount is required to file taxes, you can use your social security number to file taxes even if your

work authorization or status expires. This means that you should not apply for an Individual Taxpayer Identification Number if you ever had a social security number (See *Earning a Living* section for more information).

Social Security Retirement Benefits

Although many undocumented persons pay social security taxes, **in order to be eligible for federal retirement benefits, you must be a U.S. citizen or lawfully present in the United States.**





IV. HEALTH INSURANCE

Obamacare: Patient Protection and Affordable Care Act (ACA)

You do not have to worry about the “penalty” required by the ACA (also known as “Obamacare”). The ACA provides health insurance options for many people living in the United States and imposes a tax penalty (sometimes referred to as a fine or individual

mandate) for persons who can afford health insurance but choose not to buy it. However, **because undocumented persons are not eligible to buy insurance through the ACA, you are not required to pay the penalty.**

Other Federal Health Coverage Options

Generally, you are **not eligible for federally funded health programs**. This includes **Medicare**, which provides health insurance to persons over the age of 65; **Medicaid**, a program that provides health coverage to certain low-income residents, and the **Children’s Health Insurance Program (CHIP)**, which provides health coverage for children in moderate

income families. However, you may be eligible for emergency medical care, and U.S. citizen or lawfully present children may also be eligible even if their parents are undocumented.

For more information on health insurance benefits, visit www.nilc.org.

State, Local, and School Health Care Options

Although you are generally not eligible for federally funded public health insurance programs, you may be eligible for state, local, and school-based health options. For example, six states – **California, Illinois, Massachusetts, New York, Oregon, and**

Washington—and the District of Columbia offer health coverage or services to undocumented children, and across the United States, community clinics offer free or low-cost services to children and adults, regardless of their immigration status.

Private Health Insurance

Another option for you is to purchase health insurance from private insurance companies.

These options are outside of the government-tied programs, so they are usually more expensive.

V. OTHER BENEFITS AND OBLIGATIONS

Medical and Legalized Marijuana

Some states have now legalized the possession and use of marijuana for medicinal and recreational use. However, **because it is still a federal offense to possess marijuana, and federal law controls immigration, even marijuana use in states where it is legal can make it easy for you to get into trouble.** This is especially true if you admit to an immigration official that you have ever used marijuana—even if you were never convicted or used it in a state where it is legal.

For these reasons, you: should not use marijuana until you are a U.S. citizen; should not work in the marijuana industry; should not carry any marijuana or paraphernalia; should not post any photos or text about yourself and marijuana; and you should most definitely never discuss any conduct relating to marijuana with an immigration official without seeking legal advice.

Department of Homeland Security (DHS) Social Media and Internet Monitoring

DHS (which includes ICE) has now expanded its ability to **monitor and collect information about immigrants’ “social media handles, aliases, associated identifiable information, and search results.”** This means that information shared over the internet will now be up for grabs and can be

used against you when you are seeking lawful status or to potentially remove you from the country. Therefore, it is important that you be cautious about what you share over the internet, even if it is not shared using your actual name.

House, Business, School and Other Private Loans

Immigration law does not generally prohibit you from owning a home, business, or any other property. However, you might have a hard time paying for such property. This is because **many purchasers rely on private loans to pay for the property, and these loans often require established employment and credit history.** For undocumented persons who recently arrived and have no records of their employment or little to no credit history, this can be especially difficult. **One way to remedy this is to have a cosigner who can offer assistance.** By having a cosigner, the person is legally bound to the debt, which means that if you do not pay, the cosigner will have to.



Driver's Licenses and Identification Cards

Persons who lose their lawful status and protections might wonder whether they will also lose their state driver's licenses and identification cards.

There are currently **12 states** (California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maryland, Nevada, New Mexico, Utah, Vermont, and Washington) and the District of Columbia that offer driver's licenses and identification cards to undocumented people. If undocumented people do not reside in any of these states, their

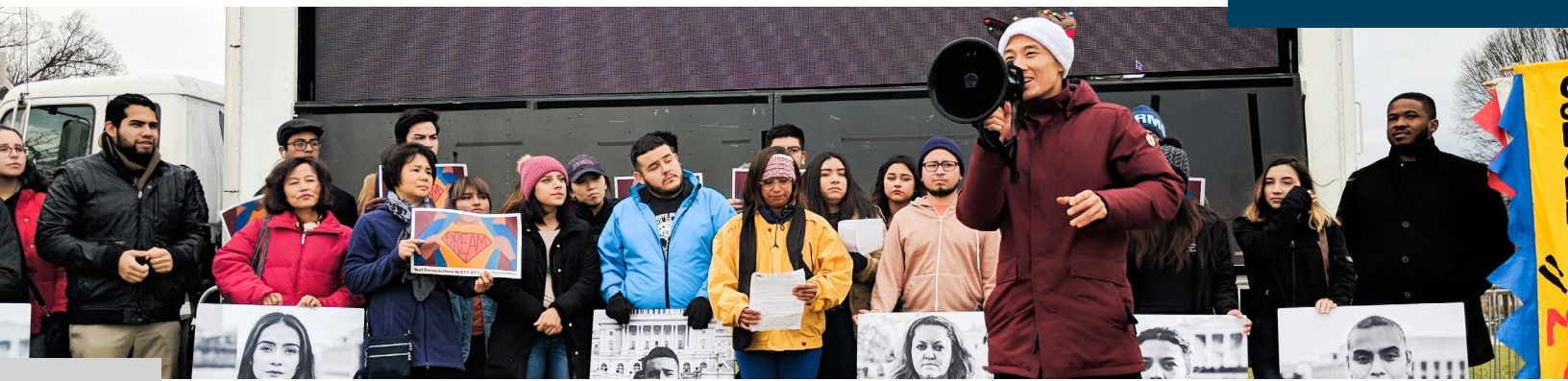
cards expire when their lawful protection or status ends. If they reside in any of the listed states, they may be eligible for a new (and in some cases a different type of) license or card when their current card expires, provided that they meet all other requirements.

Visit www.nilc.org for up-to-date information on driver's licenses and identification cards.

Professional Licenses

Depending on the state in which you reside, you may apply for a professional license to be able to practice various roles despite being undocumented. In California, for example, you are able to apply to receive a license to become an

attorney, real estate agent, dentist, accountant, barber, security guard, professional athlete, and engineer, even if you are undocumented.



Paying Taxes

Depending on how much you earn a year, whether you're married, and other relevant factors, the law might require you to pay taxes. This is true even if you are undocumented. In fact, there are many reasons why you should pay taxes. First, in order to obtain a permanent lawful status, you will be required to show proof that you have paid your taxes and/or will not become a **public charge**. Second, paying taxes is one way to document how long you have been living

in the country. Finally, paying taxes is always a positive factor in someone's case if they are facing deportation.

Immigration law can bar you for an immigration application for lawful status if you are considered a public charge, which is someone who the government has determined is likely to become dependent on the government for financial assistance or long-term care.

Emergency Assistance Due to Major Disasters

Federal and state governments offer various types of assistance programs during major disasters.

These programs provide grants and loans to help rebuild homes and businesses and other cash-based grants for food and other necessary items.

These programs are generally available to families with one member who is a U.S. citizen or a qualified immigrant (persons with lawful permanent resident

or other immigrant statuses). Although you are not eligible for these cash-based assistance programs while you have no immigration status, you might be eligible for temporary assistance like search and rescue, shelter, emergency medical care, and other short-term benefits.

Registering for the Selective Service

If you are a male between the ages of 18 through 25, you are required to register with the Selective Service System. Although you cannot actually serve in the military, you must still register. **People who knowingly and willfully fail to register by the**

age of 26 could face obstacles receiving U.S. citizenship, student loans, placement in certain government positions, and driver's licenses in some states.

Flying Domestically and Internationally

You should not travel internationally if you are undocumented. When flying domestically, you should be aware that there is a possibility of being inspected by the Department of Homeland Security (DHS). Although generally speaking, when you travel domestically, a valid government-issued identification document from other countries is enough, and Transportation Security Administration (TSA) only inspects whether the document belongs to you and not whether you have immigration status, there are some risks for undocumented persons without any form of legal protection.

For example, if TSA suspects that your identification document is not genuine, or if you are selected for secondary screening, or if the airport has a policy by which TSA works with DHS, then your identification document could be checked against DHS' databases. These databases will contain information that could lead to suspicion that you do not have a valid immigration status.

Although undocumented people generally travel domestically without problems, you should talk to a legal representative and have their information in hand prior to flying.



Preparing for Legalization

Whether it is through existing laws (See *Immigration Legal Options that Lead to Lawful Status* for more information) or through a future federal law that provides a pathway to citizenship, it is never too early to prepare for legalization. For example, you should keep records that document your entry and presence in the United States (i.e. medical records, school records, bank, and credit

card records). You should also make sure not to commit any criminal offenses. If you are arrested, charged, or convicted, you should obtain a copy of your criminal records. Lastly, you should also be cautious about what you share on the internet (See *Department of Homeland Security (DHS) Social Media and Internet Monitoring* for more information).





RIGHTS AGAINST ARRESTS AND DEPORTATION AND FAMILY PREPAREDNESS PLANS

Encounters with Police or Immigration Agents in Public and in Your Home

When you encounter police or immigration agents, you have the **right to remain silent, not to answer any questions, or sign any document.** Additionally, you can refuse to grant officers permission to enter your home without a proper warrant signed by a

judge or magistrate. If you are arrested, you have the **right to an attorney and should ask for one immediately.** You should not lie or provide false documents.

Rights Inside of a Local Jail

When you are charged for a criminal offense, you have the **right to an attorney** paid for by the government. Attorneys are required to tell you

how a criminal case might affect your immigration case. **You have the right to not answer any questions or sign any documents.**

Rights Inside an Immigration and Customs Enforcement (ICE) Detention Facility

The same rights described above apply when you are **picked up by ICE.** If you are detained and taken away by ICE, you will likely be transferred to an immigration detention facility.

If so, family members can locate you by checking locator.ice.gov.

Although you do not have a right to an attorney that is paid by the government when you are picked up by ICE, you still have the right to remain silent and to obtain your own attorney.

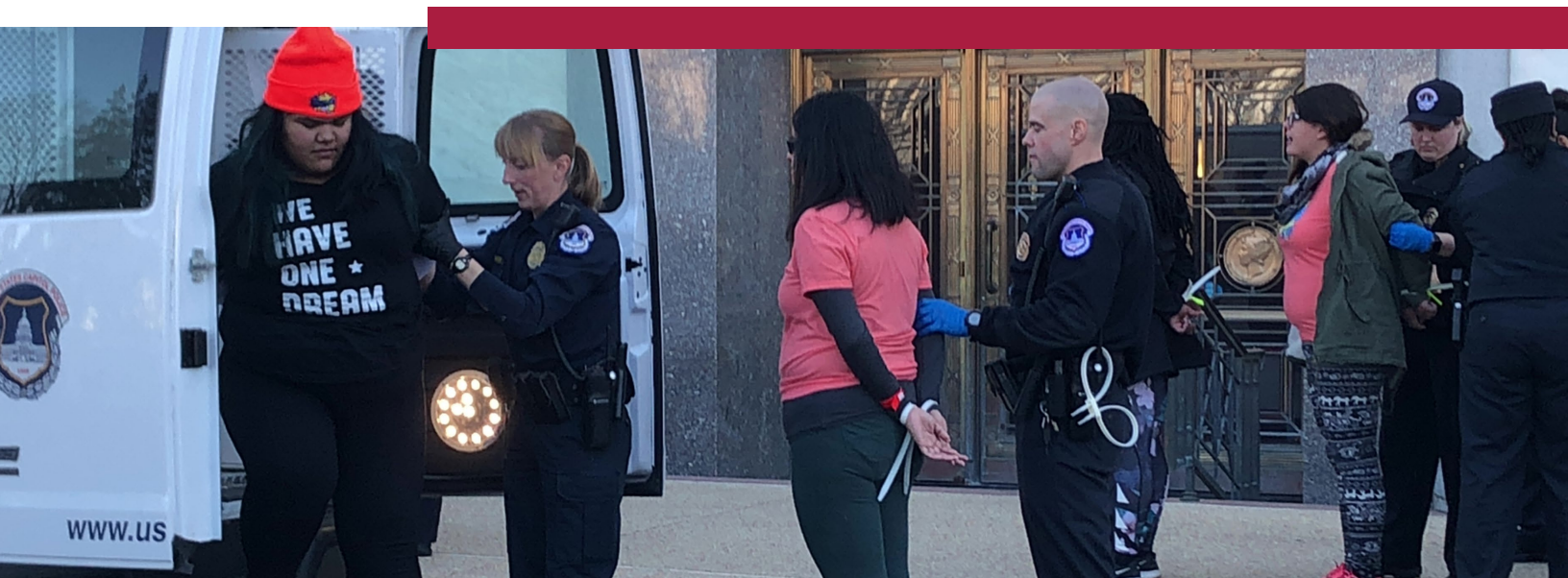
Even if ICE detains you, you might be able to be released by paying an **immigration bond**. Importantly, you might also have the **right to go to court** to fight your immigration case. Because of the huge backlogs in immigration courts, it may take years before your case is over. In the meantime, you can seek legal advice.

Family Preparedness Plan

It is important for you and your family to have a plan in place in case you are ever arrested or detained. This includes a child care plan so that there is a trusted person who can take care of your children if you have any; having the contact information of an attorney at all times; having a

file with important documents in hand; knowing your rights; and having a family discussion so that everyone is on the same page.

For a more thorough list and sample documents, you can visit www.ilrc.org and download the comprehensive Family Preparedness Plan.



Conclusion

If you are undocumented, hopefully this guide serves you in answering essential questions while you wait for Congress to advance a solution that would provide stability for you and your family. Specifically, this guide was intended to provide you with an overview of existing immigration options, ways to earn a living, federal and state benefits and obligations, and ways to protect

yourself from deportation. Beyond that, the hope is that this guide serves as reminder that **you are not alone**, that society relies on your participation and contributions to our communities, and that together we can fight against anti-immigrant policies and work toward a permanent federal legislation that provides a meaningful and humane solution for all of our immigrant communities.



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