

Navigating Admission as Non-Citizens/Non-US Permanent Residents

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Our Mission

- ▶ The mission of the North Suburban Legal Aid Clinic is to provide accessible, quality pro bono legal services in the areas of immigration, domestic violence, and housing to give those in need of access to justice the opportunity to live productive and secure lives.

Our Practices

Immigration

Domestic Violence

Housing



Immigration Basics

□ What is a Visa:

- Consider it a Key to Enter the United States- it is determined and issued by the U.S. Department of State at a U.S. Consulate abroad.
- It allows a foreign national to travel to the United States at a port-of-entry (generally an airport) and request permission to enter the United States.
- A visa does not guarantee entry into the United States- Customs and Border Protection has the discretion to deny entry if they believe the foreign national will act in violation of their visa status. For example: working, going to school or dropping out of school .

Immigration Basics

□ What is Status:

- Status allows you to stay in the United States.
- It is determined by U.S. Citizenship and Immigration Services and sometimes, Executive Office of Immigration Review, Customs and Border Protection and Immigration and Customs Enforcement.
- You can be one status that is different from your visa in your passport if you file an application to change your status while in the United States
- If you overstay your allowed period of stay in the United States, you are accruing unlawful presence.
 - 180+ days but less than 365 days = 3 year bar to re-entry
 - 356+ days = 10 year bar to re-entry

Restrictions for Certain Most Common Non-Immigrants

- B-1 Visitor for Business
 - Cannot Attend School - other than K-12
- B-2 Visitor for Tourism
 - Cannot Attend School - other than K-12
- E-1 Treaty Trader
 - Principal can study with authorization from company through which obtained status, incident to the employment
 - Dependents may engage in part or full-time study
- E-2 Treaty Investor
 - Principal can study with authorization from company through which obtained status, incident to the employment
 - Dependents may engage in part or full-time study

Study Restrictions for Certain Most Common Non-Immigrants

- H-1B Temporary Worker in a Specialty Occupation
 - May engage part-time study while maintaining H-1B visa status if incidental to the H-1B status
- H-4 Dependent to a Principal H-1B Visa Holder
 - May engage in full-time or part-time study. However, before turning 21 years old, must change status to a F-1 Student Visa in order to attend school
- L-1 Intracompany Transferee
 - May engage in part-time study as incident to employment. Dependent may engage in part or full-time study
- O-1 Person of Extraordinary Ability:
 - May engage in incidental study while maintain O status. Dependents may engage in part or full-time study

F-1 Student Visa

□ F-1 Student Visa:

- Must maintain full-time enrollment for a full course of study each full and spring semester.
- Undergraduates need to take 12 credits and Graduate School students need to take 9 credits.
- Prior to COVID, you could only take 1 online course or 3 credits max online. Now, online courses are allowed.

□ F-2 Dependent

- Spouse: may only engage in part-time study and must be recreational in nature.
- The F-2 child may engage in full-time study from K-12 only.
- Must change to F-1 status in order to attend college full-time to pursue a degree.

Form I-539, Application to Extend/Change Nonimmigrant Status

- Must file the I-539:
 - At least 45 days before your nonimmigrant status expires- but be aware of 90 Day Rule
 - Before you turn 21 years old
 - Before attending college full-time to pursue a degree
 - Cannot attend college until the I-539 Change of Status is granted

Change of Status to F-1

- File with I-539 and I-539A Supplemental Information for Application to Extend/Change Nonimmigrant Status for each family member (spouse and children under the age of 21)
 - Filing Fee \$455.00 (add \$85 biometric fee for each co-applicant)
- Copy of your passport, visa and I-94 to show evidence of lawful entry and current lawful status
- Copy of I-20, Certificate of Eligibility for Nonimmigrant Student
- Evidence of ability to pay for your studies and support yourself and dependents
 - Bank statements from the last year, assets, Affidavit of Support Sponsor
- You must maintain your current or other nonimmigrant status up to 30 days before the report date or start date of the course of study on the form I-20

Undocumented Students

- Estimated 65,000 undocumented students graduate from U.S. high schools each year.
- There is no federal or state law that prohibits the admission of undocumented immigrants to U.S. colleges.
 - However, some universities may require applicants to submit proof of citizenship or legal residency to attend.
- Undocumented students cannot legally receive any federally funded student financial aid, including loans, grants, scholarships or work-study money.
- Some public schools in states disqualify undocumented students from paying in-state tuition
- IL RISE Act
 - Signed into law on June 21, 2019
 - Allows qualifying undocumented and transgender students to apply for state financial aid programs, including the State of IL Monetary Award Program

Get Screened to Know Your Legal Options

- If you are a victim of a crime, you may be eligible for a visa and lawful residency.
- People who fled persecution from their home country and/or are afraid of future persecution if they return to their home country may seek asylum in the United States
- Minors (under 18) who have been abused, abandoned or neglected by at least one parent
- Victims of Domestic Violence or Trafficking (Sex/Labor)
- Persons with an immediate family member (parent, spouse, sibling) who is a U.S. Citizen or Lawful Permanent Resident (LPR)
- DACA Renewals and DACA Initial Screenings

THANK YOU!

Questions?

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