IMMIGRATION 101

BASIC OVERVIEW
TODAY’S TOPICS

• Terms/Concepts
• Agencies Involved
• Why/How do people come to the U.S.?
  o Temporary
  o Permanent
    • Why is it so hard to come to the U.S. permanently?
• What if things go wrong?
• Citizenship/Naturalization
• DACA – Deferred Action for Childhood Arrivals
TERMS / CONCEPTS

• Immigrant vs. nonimmigrant

• Lawful permanent residence (LPR) vs. citizenship

• “Legal” vs. “illegal”

• Foreign National = FN = “alien”
TERMS / CONCEPTS

What is a “visa”? 

• Legal definition: physical document in passport issued at consulate outside the U.S. 
  o Permission to present self at border/port of entry 

• Common definition: a nonimmigrant classification (e.g., J-1, H-1B, TN, E-3, O-1, etc.)
AGENCIES

• Many federal agencies are involved with immigration matters

  o Department of Homeland Security (DHS)
  o Department of State
  o Department of Labor
  o Department of Justice
  o FBI
Department of Homeland Security (DHS)

Former INS no longer exists. Now, 3 new agencies within DHS:

USCIS

ICE

CBP
Department of Homeland Security (DHS)

- **US Citizenship & Immigration Services (USCIS)**
  - Filing applications & petitions
  - Affirmative interviews

- **Immigration & Customs Enforcement (ICE)**
  - Fraud investigations
  - Represents govt in Immigration Court
  - Administers SEVIS for F & J categories

- **Customs & Border Protection (CBP)**
  - Border issues
Department of State

- Consulates
  - Issue visas
- Exchange Visitor Program
- Refugee Issues
Department of Labor

- Prevailing wage
- Labor certification (PERM)
Other Agencies

- Executive Office for Immigration Review (EOIR)
- Immigration Courts
- Board of Immigration Appeals
- FBI: Criminal background checks
Why/How do foreign nationals come to the U.S.?

- Family
- Tourists (B, VWP)
- Employment (H, J, L, TN, O, green card)
- Study (F, J, M)
- Escape persecution (Asylum / Refugee)
- Enter Without Inspection (EWI)
- Fraudulently (false documents, relationship)
Nonimmigrant Visa Categories

- A - Diplomats
- B - Visitors (B-1 business, B-2 pleasure)
- C – Aliens in transit (inc. crewmen, diplomats)
- D – Crewmembers
- E – Treaty Traders/Investors (E-3 for Australians [like H-1B])
- F – Students
- G – International organizations
- H – Certain types of temporary workers (inc. H-1B specialty occupation)
- I – Media representatives
- J – Exchange Visitor
- K – Fiancé(e) of US citizen, spouse of US citizen or LPR
- L – Intracompany transferee
- M – Vocational Students
Nonimmigrant Visa Categories cont’d

- N – Family members of G/NATO special immigrants
- O – Extraordinary ability
- P – Athletes, artists, entertainers
- Q – Cultural exchange for businesses with public exposure
- R – Religious workers
- S – Witnesses in criminal cases (aka “Snitch” visa)
- T – Trafficking Victims
- TN - Treaty/NAFTA – Workers from Canada/Mexico, specified occupations
- U – Crime Victims
- V – Spouse/Child of LPR with immigrant visa pending
- Visa Waiver – No visa needed from designated countries – 90 days max.
Types of visas we see at UW

- UW-sponsored (through ISO)
  - J-1 "Exchange Visitor" Scholar (UW academic appointment title) or Student Intern (sponsored through UWEO VISIT program)
  - H-1B Temporary Worker in a Specialty Occupation
  - E-3 Treaty Professional Visas for Australian Citizens
  - TN NAFTA Status for Canadian or Mexican Citizens
  - O-1 Individual of Extraordinary Ability
  - Employment-based green cards
Types of visas we see at UW – cont’d

• Non UW-sponsored employment
  o F-1 Optional Practical Training/J-1 Academic Training
  o B-1/WB Visitor for Business
  o Employment Authorization Document ("EAD" or "EAD card")

• Students
  o F-1 Students
  o J-1 students
  o DACA – Deferred Action for Childhood Arrivals
  o Derivatives of other categories (H-4 = child of H-1B)
Lawful Permanent Residence
= LPR
= “Green Card”
Methods of obtaining LPR status

- Employment
- Family
  - Immediate Relatives, other relatives, Fiancé(e)
- Self petition (VAWA, U visa, asylum)
- Refugee
- Diversity lottery
What does the government look for in considering an application for LPR status?
For all applicants

• How did the FN arrive in the US (if here)?

• Is there an immigrant visa available in their category – is the priority date current (Visa Bulletin)?

• Bad acts – waiver(s) available and/or needed?
Employment-based

- Labor certification (PERM)
  - Type of job
  - Minimum job requirements
    - FN must meet requirements before start w/employer
  - Prevailing wage
  - Recruitment
Family-based

- Does relationship still exist?
  - Still married?
  - Petitioner still alive?
  - Child under 21?
WHY IS IT SO HARD TO IMMIGRATE TO THE UNITED STATES?

• Employment-based quotas – long lines
  
  o Complicated, expensive process
  
  o Categories depending on:
    • Education/Experience
    • Country of origin
  
  o Wait lists can vary, for example:
    • Master’s degree from Canada – no wait
    • Bachelor’s degree from India – 12 years
    • Unskilled workers – no line to get into
WHY IS IT SO HARD? cont’d.

• Family based quotas – long lines

• Categories depending on:
  o Status of the petitioning family member (LPR or USC)
  o Relationship to the petitioner
  o Country of origin
  o Age of child (under/over 21)
  o Marital status
Examples of wait times for family

• Spouse/Minor child of US citizen:
  o No wait list

• Spouse/Minor child of LPR:
  o Just under 2 years

• Married adult son/daughter of USC from Mexico:
  o Almost 12 years

• Sibling of USC from Philippines:
  o 23 years
WHY IS IT SO HARD?

Cont’d

• For someone already inside the United States:

  o With few exceptions, must enter legally and maintain valid nonimmigrant status from the time of entry until they get the green card.
WHY IS IT SO HARD?
Cont’d

• 3- and 10-year bars
• “Permanent” 10-year bar
“Bad Acts” that may have consequences

• Violation of status – inc. overstay
• Commission of crime
• Enter without inspection
• Commit fraud to get visa or enter
• False claim to US citizenship

• Waivers available for some, but not all
Immigration Court
“Removal Proceedings”

• Removal – f/k/a deportation

• Immigration judge can grant relief
  o Asylum
  o Cancellation of removal
  o Voluntary Departure
  o Green card if eligible, etc.
CITIZENSHIP / NATURALIZATION
How to attain U.S. Citizenship

• Citizen at birth:
  - Birth in USA
  - Derivative – Born abroad to USA parent(s)

• Naturalization:
  - Apply after 5 years of LPR status, except:
    - After 3 years if living with USC spouse

• Children:
  - Acquire citizenship automatically under certain circumstances
  - Adoption
CITIZEN vs. LPR

• Both can live & work in US
• Both can sponsor family members for permanent residence, but USC’s can sponsor more relationships
• Only US citizens can vote
• LPR’s can lose status, citizens cannot
What’s next in immigration?
• Immigration Reform?

• DAPA? = Deferred Action for Parents of Americans and Lawful Permanent Residents. Similar to DACA.

• Depends on presidential politics, congressional politics
QUESTIONS?