

# GLOSSARY OF KEY IMMIGRATION TERMS\*



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\* Excerpted from National Immigration Law Center, *Guide to Immigrant Eligibility for Federal Programs* (4th ed., 2002).  
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# Glossary

This Glossary gives definitions for immigration statuses and immigration-related terms.

Words that appear in SMALL CAPS are defined elsewhere in the Glossary.

## A

**ADMINISTRATIVE LAW JUDGE (ALJ).** In general, ALJs are judges employed by agencies of the executive (rather than the judicial) branch of government. They hear cases involving civil (as opposed to criminal) laws and regulations that an administrative agency is charged with implementing or enforcing.

**ADMISSIBILITY.** Refers to an individual's eligibility for **ADMISSION TO THE UNITED STATES**. The statutes governing immigration law specify numerous categories of persons who are barred from being admitted into the U.S. because of prior misconduct or other characteristics that Congress considers undesirable. The reasons for barring admission to **IMMIGRANTS** are called "grounds of inadmissibility." A person to whom no grounds of inadmissibility apply is admissible. Some, but not all, grounds of inadmissibility can be overcome if an individual obtains a **WAIVER**.

**ADMISSION NUMBER.** *See* "A" NUMBER.

**ADMISSION TO THE UNITED STATES.** The decision by the **DEPARTMENT OF HOMELAND SECURITY** to allow an individual into the United States, after determining his or her **ADMISSIBILITY**. The determination that a person will be admitted is made at the border, an airport, or other point of entry to the country, by a process known as **INSPECTION**.

**ADMITTED TO THE UNITED STATES.** *See* **ADMISSION TO THE UNITED STATES**.

**ALIEN.** A term used in immigration law referring to a person who is not a **U.S. CITIZEN** or a **U.S. NATIONAL**.

**ALIEN NUMBER.** *See* "A" NUMBER.

**ALIEN REGISTRATION RECEIPT CARD.** *See* **PERMANENT RESIDENT CARD**.

**AMNESTY.** The common term for programs created by the **IMMIGRATION REFORM AND CONTROL ACT OF 1986 (IRCA)** that granted lawful immigration status to certain **UNDOCUMENTED IMMIGRANTS**. The IRCA made it possible for two groups of undocumented persons to apply for lawful status. One group—**GENERAL AMNESTY** immigrants—consisted of persons who had lived in the United States without lawful status since before January 1, 1982. The other group was composed of farm workers who had performed agricultural work in the United States for at least 90 days between May 1, 1985, and May 1, 1986. Farm workers who applied for amnesty under IRCA are known as **SPECIAL AGRICULTURAL WORKERS**. The IRCA amnesty program established a two-step process by which eligible immigrants could obtain first **LAWFUL TEMPORARY RESIDENT** status and then **LAWFUL PERMANENT RESIDENT** status.

**AMNESTY, GENERAL.** *See* **GENERAL AMNESTY IMMIGRANT**.

**"A" NUMBER.** The unique file number assigned by the **DEPARTMENT OF HOMELAND SECURITY** to every **ALIEN** who is **ADMITTED TO THE UNITED STATES** or who otherwise comes into contact with the agency. This number begins with the letter "A," followed by eight digits.

**ASYLEE.** A person who has applied for and been granted **ASYLUM**. In the United States, asylees may apply for **LAWFUL PERMANENT RESIDENT (LPR)** status one year after they were granted asylum. With respect to eligibility for public benefits, asylees are included within the **REFUGEE EXEMPTION** even after they adjust to LPR status.

**ASYLUM.** A lawful status permitting individuals to remain in a country other than their own because they either have been persecuted or have a wellfounded fear that they would be persecuted (on account of race, nationality, religion, political opinion, or membership in a particular social group) in their home country. Technically, an applicant for

asylum in the United States must meet the same legal standard as a REFUGEE. The difference is that an asylum applicant applies for this status while in the U.S., whereas a refugee is granted refugee status before arriving in the country. A person who has been granted asylum is an ASYLEE.

ATTORNEY GENERAL. The head of the U.S. Department of Justice (DOJ) and a member of the president's cabinet. After the re-structuring of the IMMIGRATION AND NATURALIZATION SERVICE (INS), which led to the creation of the DEPARTMENT OF HOMELAND SECURITY, the Attorney General no longer has authority over immigration matters concerning benefits and enforcement. The Attorney General, however, retains authority over the EXECUTIVE OFFICE FOR IMMIGRATION REVIEW.

## B

BATTERED. *See* BATTERED OR SUBJECTED TO EXTREME CRUELTY.

BATTERED IMMIGRANT. *See* ABUSED IMMIGRANT.

BATTERED OR SUBJECTED TO EXTREME CRUELTY. The standard of abuse that an ABUSED IMMIGRANT must meet to be considered a QUALIFIED IMMIGRANT. It includes, for example, being the victim of any act or threatened act of violence, such as any forceful detentions, which results in physical or mental injury. Psychological or sexual abuse or exploitation, including intimidation, threats, rape, or forced prostitution are considered acts of violence. Other abusive actions may also be acts of violence. Acts, or threatened acts that, in and of themselves, may not initially appear violent may be part of an overall pattern of violence

BENEFICIARY. A term commonly used in immigration law to refer to a person on whose behalf a relative or employer has filed a PETITION for the individual to be granted LAWFUL PERMANENT RESIDENT status. In cases where a beneficiary's spouse and/or minor children can also immigrate through the petition, the immigrant whose relation to the petitioning relative or employer is the basis of the petition is

known as the principal beneficiary and any spouse and/or minor child is known as a derivative beneficiary.

BIA. *See* BOARD OF IMMIGRATION APPEALS.

BOARD OF IMMIGRATION APPEALS (BIA). The appellate body within the EXECUTIVE OFFICE FOR IMMIGRATION REVIEW that reviews appeals of decisions made by IMMIGRATION JUDGES and of certain decisions made by officials of the DEPARTMENT OF HOMELAND SECURITY.

## C

CANCELLATION OF REMOVAL. A defense to REMOVAL available to certain NONCITIZENS. There are three basic and separate provisions under which relief is available: (1) cancellation for LAWFUL PERMANENT RESIDENTS (LPRs) who have resided for at least seven years in the U.S. following a lawful ADMISSION TO THE UNITED STATES, and who have had LPR status for at least five years; (2) cancellation for non-LPRs who have resided in the U.S. continuously for at least ten years and whose removal would cause EXCEPTIONAL AND EXTREMELY UNUSUAL HARDSHIP to a U.S. CITIZEN or LPR parent, spouse, or child; and (3) cancellation for spouses and/or children (or the child or parent of such an individual) who have been BATTERED OR SUBJECTED TO EXTREME CRUELTY by a U.S. citizen or LPR family member, if they have resided in the U.S. for at least three years and their deportation would cause EXTREME HARDSHIP. In addition, individuals in removal proceedings who are eligible for relief under the NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT OF 1997 must meet a less stringent standard for cancellation for non-LPRs, known as special rule cancellation. CFR. *See* CODE OF FEDERAL REGULATIONS.

CHILD CITIZENSHIP ACT. A statute enacted by Congress in 2000 that allows foreign-born children of U.S. CITIZENS under 18 years of age, including adopted children and children of a parent who naturalizes, to automatically acquire U.S.

citizenship on the date they are admitted to the U.S. as **LAWFUL PERMANENT RESIDENTS**.

**CITIZEN**. *See* U.S. **CITIZEN**.

**CITIZENSHIP, DERIVATIVE**. *See* **DERIVATIVE NATURALIZATION**.

**CITIZENSHIP AND IMMIGRATION SERVICES (CIS)**. An agency with the **DEPARTMENT OF HOMELAND SECURITY, CITIZENSHIP AND IMMIGRATION SERVICES** is responsible for the administration of immigration and naturalization adjudication functions. CIS is headed by the Director, who is appointed by the president.

**CODE OF FEDERAL REGULATIONS (CFR)**. Contains the regulations written by the federal departments and agencies that are charged with interpreting and implementing statutes passed by Congress and signed by the president. A new edition of the Code of Federal Regulations is issued yearly, published by the U.S. Government Printing Office.

**CONDITIONAL ENTRANT**. An individual who was admitted to the United States under a provision of pre-1980 immigration law, because the individual was persecuted or feared persecution in his or her home country. Replaced by **REFUGEE** status upon the passage of the Refugee Act of 1980, conditional entrant status was available only to nationals of communist or Middle Eastern countries.

**CONDITIONAL RESIDENT**. A **LAWFUL PERMANENT RESIDENT (LPR)** whose status was granted subject to a condition. After two years in this status, conditional residents must apply to the **DEPARTMENT OF HOMELAND SECURITY** to remove the condition. The agency is thereby given the opportunity to confirm that the basis for the grant of residence was genuine. There are two circumstances in which applicants for LPR status obtain conditional, rather than unrestricted, LPR status. First, where an **IMMIGRANT** obtains LPR status based upon a marriage that occurred less than two years before his or her admission as a resident, the residence is conditional. The second

situation in which residence is conditional pertains to immigrants admitted as resident entrepreneurs, for the purpose of establishing a business in the United States. In both cases, immigrants who are unable to meet the requirements for petitioning to remove the condition may in some circumstances obtain a **WAIVER** of the requirement.

**CONSUL**. An official within the U.S. State Department who is stationed at a consulate in a foreign country and whose responsibility it is, among other things, to process applications for **VISAS**. **IMMIGRANT VISA** applicants already living in the United States who are not eligible for **ADJUSTMENT OF STATUS** must leave the U.S. to have an interview and receive their visa at a consulate.

**CONSULAR OFFICER**. *See* **CONSUL**.

**CONVENTION AGAINST TORTURE (CAT)**. An international treaty that the United States has ratified that prohibits the involuntary return of any individual to a country where there are substantial grounds for believing that the person would be in danger of being subjected to torture. The **DEPARTMENT OF HOMELAND SECURITY** and **EXECUTIVE OFFICE FOR IMMIGRATION REVIEW** implement the CAT by granting eligible individuals either **WITHHOLDING OF DEPORTATION** or **REMOVAL**, or, if the individual is not eligible for that status because of criminal convictions or other disqualifying circumstances, deferral of removal.

**CUBAN ADJUSTMENT ACT**. A law enacted in 1966 that allows nationals of Cuba to apply for **ADJUSTMENT OF STATUS** to **LAWFUL PERMANENT RESIDENT** status if they were **ADMITTED TO THE UNITED STATES** or **PAROLED INTO THE U.S.** after January 1, 1959, and have been physically present in the U.S. for at least one year.

**CUBAN/HAITIAN ENTRANT**. A national of Cuba or Haiti who (1) was **PAROLED INTO THE U.S.**, whether the parole document expressly states "Cuban/Haitian entrant" or not (except those paroled solely for criminal prosecution or to give testimony), or was granted any other special status established by immigration law for nationals of

Cuba or Haiti, or (2) was paroled for criminal prosecution or to give testimony, or has a pending EXCLUSION or DEPORTATION case, or applied for ASYLUM, provided that he or she is not subject to a final order of deportation or exclusion. The term is used in connection with eligibility for public benefits. Cuban/Haitian entrants are included within the REFUGEE EXEMPTION for benefits.

CUSTOMS AND BORDER PROTECTION (CBP). An agency with the DEPARTMENT OF HOMELAND SECURITY, CUSTOMS AND BORDER PROTECTION is responsible for immigration enforcement at the port-of-entries into the U.S. CBP is headed by the Commissioner, who is appointed by the president.

## D

DEFERRED ACTION STATUS. An immigration status afforded to NONCITIZENS in cases where the DEPARTMENT OF HOMELAND SECURITY has decided, for humanitarian reasons in the exercise of prosecutorial discretion, not to seek their REMOVAL from the United States. Persons granted deferred action may obtain EMPLOYMENT AUTHORIZATION and are considered for SOCIAL SECURITY purposes to be LAWFULLY PRESENT.

DEPARTMENT OF HOMELAND SECURITY (DHS). The agency created by the Homeland Security Act of 2002, the DEPARTMENT OF HOMELAND SECURITY replaced the IMMIGRATION AND NATURALIZATION SERVICE on March 1, 2003. DHS is divided into three (3) units. The U.S. CITIZENSHIP AND IMMIGRATION SERVICES (CIS) processes immigration petitions such as NATURALIZATION and ASYLUM applications. The U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) handles immigration enforcement within the U.S. border, while U.S. CUSTOMS AND BORDER PROTECTION (CBP) handles enforcement matters outside the U.S. border. DHS is headed by the Secretary, who is appointed by the president.

DEPORTABLE; DEPORTABILITY. *See* DEPORTATION.

DEPORTATION. The expulsion of a NONCITIZEN from

the United States by legal process. The various forms of misconduct and other reasons for which individuals may be deported are known as the grounds of deportability. The administrative proceedings to determine whether an individual is deportable (i.e., whether one or more of the grounds of deportability apply to him or her), and if so, whether he or she should be granted any relief from deportation, are known as deportation proceedings. Due to a change in the law enacted as part of the ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996, all such proceedings initiated on or after April 1, 1997, are called REMOVAL PROCEEDINGS and are governed by rules different than those that apply to deportation proceedings.

DEPORTATION PROCEEDINGS. *See* DEPORTATION.

DEPORTATION, STAY OF. *See* STAY OF DEPORTATION.

DERIVATIVE BENEFICIARY. *See* BENEFICIARY.

DERIVATIVE CITIZENSHIP. *See* DERIVATIVE NATURALIZATION.

DERIVATIVE NATURALIZATION. The operation of law by which a child under 18 years of age may automatically become a U.S. CITIZEN as a result of the NATURALIZATION of one or both parents. This process has two basic requirements: the naturalization of one or both parents and the attainment of lawful permanent resident status by the child before a certain age. There is no required order for the two events. The specific requirements for derivative naturalization depend upon the law that was in effect at the time that the last of the requirements was met. In some cases a child does not automatically become a citizen if only one parent naturalizes, but in such cases the parent may be able to apply for the child to naturalize under special naturalization procedures.

DIVERSITY VISA. An IMMIGRANT VISA available to individuals from countries from which relatively few people have immigrated to the United States in recent years. Under the diversity process, applicants enter a VISA LOTTERY, and if they are

selected they apply for their visas themselves rather than having to first have approval of VISA PETITIONS filed by third parties such as family members or employers. To obtain a visa, lottery winners must meet certain requirements, including being admissible (*see* ADMISSIBILITY) and having either a high school education or its equivalent, or at least two years' work experience in an occupation that requires at least two years of training or experience.

DOMICILE. Term that is generally used to describe a person's primary place of residence combined with that person's intent to reside at that residence. The definition of domicile may vary by program, but it is generally used to determine whether an applicant meets residence requirements to be eligible for a given program.

## E

EAD. *See* EMPLOYMENT AUTHORIZATION DOCUMENT.

EMPLOYMENT-AUTHORIZED SOCIAL SECURITY NUMBER. *See* SOCIAL SECURITY CARD.

EMPLOYMENT AUTHORIZATION. Permission to accept employment in the United States. U.S. CITIZENS, U.S. NATIONALS, LAWFUL PERMANENT RESIDENTS, LAWFUL TEMPORARY RESIDENTS, REFUGEES, and ASYLEES are automatically authorized to be employed in the U.S. by virtue of their status. Other NONCITIZENS must receive permission to work—i.e., employment authorization—from the DEPARTMENT OF HOMELAND SECURITY. The INS issues documentation of employment authorization in a variety of forms, including an EMPLOYMENT AUTHORIZATION DOCUMENT, Forms I-688B and I-766, and an "employment authorized" stamp on Form I-94, "Arrival Departure Record."

EMPLOYMENT AUTHORIZATION DOCUMENT (EAD). An I-688B or I-766 form, both of which are cards issued by the IMMIGRATION AND NATURALIZATION SERVICE to document that a NONCITIZEN is authorized to work. A number of other INS documents also establish authorization to work in

the United States.

EMPLOYMENT-BASED VISA. An IMMIGRANT VISA available to an IMMIGRANT of either extraordinary professional ability or reputation, or whose employer in the United States obtains a certification from the U.S. Department of Labor that there are not sufficient U.S. workers able, willing, and available to do the immigrant's job and that admitting the person into the workforce would not adversely affect the wages or working conditions of U.S. workers.

EMPLOYMENT ELIGIBILITY VERIFICATION. *See* I-9 FORM.

ENTRY WITHOUT INSPECTION (EWI). The act of coming into the United States by avoiding INSPECTION by a U.S. customs officer.

EOIR. *See* EXECUTIVE OFFICE FOR IMMIGRATION REVIEW.

EWI. *See* ENTRY WITHOUT INSPECTION.

EXCEPTIONAL AND EXTREMELY UNUSUAL HARDSHIP. The degree of harm that non-LAWFUL PERMANENT RESIDENT (LPR) applicants for CANCELLATION OF REMOVAL must show would be suffered by his or her U.S. CITIZEN or LPR spouse, parent, or child were the applicant to be removed from the United States. Whether this standard is met requires a consideration of all relevant factors of possible hardship. The standard is somewhat more restrictive than the EXTREME HARDSHIP standard that must be met by applicants for SUSPENSION OF DEPORTATION.

EXCLUDABILITY. *See* EXCLUSION.

EXCLUSION. The denial of ADMISSION TO THE UNITED STATES to a NONCITIZEN following a hearing before an IMMIGRATION COURT. The various forms of misconduct and other reasons for which noncitizens may be excluded are known as the grounds of excludability. The administrative proceedings to determine whether an individual should be excluded are known as exclusion proceedings. Because of a change in the law

enacted as part of the ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996, all such proceedings initiated on or after April 1, 1997, are called REMOVAL PROCEEDINGS and are governed by rules that are somewhat different from those that apply to exclusion proceedings. Individuals who are excluded are barred from returning to the U.S. for a period of time, unless the ATTORNEY GENERAL grants them permission to return.

EXCLUSION PROCEEDINGS. *See* EXCLUSION.

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (EOIR). A branch of the U.S. Department of Justice, and that operates independently of the DEPARTMENT OF HOMELAND SECURITY. The EXTREME HARDSHIP. The degree of harm that applicants for SUSPENSION OF DEPORTATION must show would be suffered by them or their U.S. CITIZEN or LAWFUL PERMANENT RESIDENT spouse, parent, or child were the applicants removed from the United States. Assessing whether this standard is met requires a consideration of all relevant factors of possible hardship.

EOIR includes the Office of the Chief IMMIGRATION JUDGE, the BOARD OF IMMIGRATION APPEALS, and the Office of the Chief Administrative Hearing Officer. The chief immigration judge supervises the immigration judges who hear REMOVAL, DEPORTATION, EXCLUSION, and rescission cases in IMMIGRATION COURTS. The BIA hears appeals of decisions made by immigration judges, as well as appeals of some decisions made by INS officers. The chief administrative hearing officer supervises the ADMINISTRATIVE LAW JUDGES, who hear cases involving employer sanctions, immigration-related employment discrimination claims, and document fraud charges.

## F

FAMILY-BASED VISA. An IMMIGRANT VISA available to an individual because one or more members of his or her immediate family is either a U.S. CITIZEN

(parent, adult child, spouse, or sibling) or a LAWFUL PERMANENT RESIDENT (parent or spouse). The citizen or LPR relative must file a VISA PETITION on behalf of the person seeking to immigrate, and once a visa is available the person seeking the visa must file a visa application.

FEDERAL REGISTER. A daily publication of the United States government containing, among other things, all proposed, interim, and final rules and regulations written by federal departments and agencies to interpret and implement federal statutes. Interim and final regulations that have been published in the Federal Register are codified in the CODE OF FEDERAL REGULATIONS.

FOREIGN BORN. A term referring to people residing in the United States who were not U.S. CITIZENS at birth.

## G

GENERAL AMNESTY IMMIGRANT. The “general AMNESTY” provision of the IMMIGRATION REFORM AND CONTROL ACT OF 1986 (IRCA) allowed IMMIGRANTS who had resided unlawfully in the United States since before January 1, 1982, to legalize their immigration status. A person who became a LAWFUL PERMANENT RESIDENT via the IRCA’s “general amnesty ” provision can be called a general amnesty immigrant. These immigrants are also referred to as “section 245A” immigrants (the section of the IMMIGRATION AND NATIONALITY ACT containing the general amnesty provision).

GREEN CARD. A term commonly used when referring to any PERMANENT RESIDENT CARD, despite the fact that it has been years since the DEPARTMENT OF HOMELAND SECURITY issued green versions of this card.

## H

HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 (HRIFA). A law that allows eligible Haitian nationals to obtain ADJUSTMENT OF STATUS and become LAWFUL PERMANENT RESIDENTS under

special rules. To be eligible, Haitian nationals must have been residing in the U.S. prior to December 31, 1995, and must either have applied for ASYLUM or been PAROLED INTO THE U.S. prior to that date. Certain Haitians who came to the U.S. as minor children are also eligible under broader rules. Eligible Haitians must have applied for adjustment under the HRIFA prior to April 1, 2000. Dependents are also eligible.

HRIFA. *See* HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998.

HUMANITARIAN PAROLE. A form of PAROLE granted to a NONCITIZEN when the DEPARTMENT OF HOMELAND SECURITY determines as a matter of discretion that he or she should be allowed into the United States for urgent humanitarian reasons or because allowing the person into the country will significantly benefit the public.

I-9 FORM. The “Employment Eligibility Verification” form used by United States employers to verify that their employees are eligible to be employed.

I-130 FORM. The form used by U.S. CITIZENS and LAWFUL PERMANENT RESIDENTS to petition for an IMMIGRANT VISA for a family member.

IIRIRA. *See* ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996. ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996 (IIRIRA). An act of Congress that substantially revised the IMMIGRATION AND NATIONALITY ACT, among other things the IIRIRA replaced DEPORTATION and EXCLUSION proceedings with a new, single process, called REMOVAL.

IMMEDIATE RELATIVE. A legal term referring to those IMMIGRANTS who, by virtue of their familial relationship to U.S. CITIZENS, are eligible to obtain an IMMIGRANT VISA without being subject to the numerical limitations that apply to most other immigrants. An immediate relative must have one of the following relationships: (1) the minor, unmarried child of a U.S. citizen; (2) the spouse of

a U.S. citizen; (3) the parent of a U.S. citizen who is over 21 years of age; and (4) the widow or widower of a U.S. citizen, and any minor child of the immigrant, if the marriage lasted at least two years before the citizen's death and the surviving spouse files a petition within two years of the death. Also for a two-year period, self-petitioning abused immigrants are considered immediate relatives of a U.S. citizen even if the citizen spouse or parent lost that status on account of the abuse, or if the marriage terminated on account of the abuse.

IMMIGRANT. A person who leaves his or her country to settle permanently in another country. In the context of United States immigration law, the term refers to any NONCITIZEN in the U.S. except any individual who was ADMITTED TO THE UNITED STATES as a NONIMMIGRANT and continues to maintain that status.

IMMIGRANT VISA. An official authorization appended to a passport that permits the bearer to enter and settle permanently within a particular country. A NONCITIZEN who has been granted an immigrant visa and ADMITTED TO THE UNITED STATES is a LAWFUL PERMANENT RESIDENT and may work, may travel within the U.S. without restriction, and is eligible to apply for U.S. citizenship after a requisite period of residence.

IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE). An agency with the DEPARTMENT OF HOMELAND SECURITY, IMMIGRATION AND CUSTOMS ENFORCEMENT handles enforcement matters within the U.S. borders, including detention, REMOVAL, and worksite raids. ICE is headed by the Assistant Secretary who is appointed by the president.

IMMIGRATION AND NATIONALITY ACT OF 1952 (INA). The basic law governing the immigration and nationality policy of the United States. Rather than writing a completely new law each time it changes immigration policy, since 1952 Congress generally has enacted amendments to the INA. However, some important laws are not codified in the INA, such as the laws providing for FAMILY UNITY status, relief under the NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT



OF 1997, and ADJUSTMENT OF STATUS under the HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998.

IMMIGRATION AND NATURALIZATION SERVICE (INS). Before March of 2003, the largest agency within the U.S. Department of Justice, responsible for administering and enforcing United States immigration law (i.e., the IMMIGRATION AND NATIONALITY ACT). The INS used to be headed by the commissioner of the INS, whom the president appointed and who reported to the U.S. ATTORNEY GENERAL. The functions of the INS is now performed by the DEPARTMENT OF HOMELAND SECURITY, which is headed by a Secretary.

IMMIGRATION COURT. An administrative tribunal presided over by an IMMIGRATION JUDGE, who is charged with hearing cases involving questions of immigration law, such as whether or not a NONCITIZEN is admissible or removable, or whether he or she may be granted relief, such as ASYLUM or a WAIVER of INADMISSIBILITY or DEPORTABILITY.

The immigration courts are part of the executive branch of the federal government rather than the judicial branch; specifically, they are a part of the EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, which in turn is a branch of the U.S. Department of Justice. They are supervised by the Office of the Chief IMMIGRATION JUDGE.

IMMIGRATION JUDGE. An administrative agency official who hears and decides cases brought before an IMMIGRATION COURT.

IMMIGRATION REFORM AND CONTROL ACT OF 1986 (IRCA). An act of Congress that established sanctions against employers who fail to verify the EMPLOYMENT AUTHORIZATION status of their workers and that created an AMNESTY program to legalize UNDOCUMENTED IMMIGRANTS with long residence or agricultural work histories in the United States.

INA. *See* IMMIGRATION AND NATIONALITY ACT OF 1952.

INADMISSIBILITY. *See* ADMISSIBILITY.

INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER (ITIN). An identification number that persons not eligible for a SOCIAL SECURITY CARD may use to file a tax return or open a bank account. To obtain an ITIN, individuals must file a Form W-7 with the Internal Revenue Service. The ITIN may not be used to obtain SOCIAL SECURITY or other benefits, or to claim the Earned Income Tax Credit.

INS. *See* IMMIGRATION AND NATURALIZATION SERVICE.

INSPECTION. An examination by an officer of the DEPARTMENT OF HOMELAND SECURITY of a person seeking to enter the United States, whether at the border or a port of entry, such as an international airport. It may involve anything from a cursory visual examination of the person to an extensive interrogation. Persons who enter the U.S. by avoiding inspection have made an ENTRY WITHOUT INSPECTION.

IRCA. *See* IMMIGRATION REFORM AND CONTROL ACT OF 1986.

## J

JOINT SPONSOR. An individual who completes an AFFIDAVIT OF SUPPORT (Form I-864) when a SPONSOR lacks sufficient income and assets to support a sponsored IMMIGRANT at 125 percent of the FEDERAL POVERTY LEVEL. The legal obligations imposed on joint sponsors and legal requirements that they must meet are the same as those that pertain to sponsors.

## L

LAWFUL PERMANENT RESIDENT (LPR). An IMMIGRANT who has been granted a status that allows him or her to reside and work permanently in the United States. LPRs can travel abroad and return to the U.S., as long as they have not abandoned their U.S. residence or committed acts

that would make them inadmissible under immigration law. An LPR can apply for NATURALIZATION to U.S. citizenship after living in the U.S. for five years (three years if married to a U.S. CITIZEN, and one year for certain persons in the military and Veterans). LPRs may lose permanent residence status only by abandoning it or by being stripped of it in rescission, EXCLUSION, DEPORTATION, or REMOVAL proceedings.

LAWFUL TEMPORARY RESIDENT (LTR). A person who applied for and was given AMNESTY under the provisions of the IMMIGRATION REFORM AND CONTROL ACT OF 1986. Congress intended temporary residency to be a middle step between UNDOCUMENTED IMMIGRANT and LAWFUL PERMANENT RESIDENT status. Persons who applied for and received temporary residency because they had lived in the United States without proper immigration papers since before January 1, 1982, had to file a second application for permanent residency. The first application process was known as Phase 1 of the amnesty program; the second application is known as Phase 2. Until the Phase 2 applications are approved or denied, applicants remain LTRs.

People who applied for and received temporary residency under the SPECIAL AGRICULTURAL WORKER (SAW) amnesty program did *not* have to file a second application for permanent residency. On December 1, 1989, SAWs who had worked three years in agriculture before May 1986 ("Group 1" SAWs) became lawful permanent residents automatically. On December 1, 1990, SAWs who had worked one year in agriculture before May 1986 ("Group 2" SAWs) also became lawful permanent residents automatically.

LAWFULLY PRESENT. Considered to be in the United States legally. Solely for SOCIAL SECURITY purposes, the ATTORNEY GENERAL has established a definition of "lawfully present" that includes only certain specified categories of lawfully present NONCITIZENS. Under this definition, an individual who is not a U.S. CITIZEN or U.S. NATIONAL is lawfully present if he or she is in one of the following categories: QUALIFIED IMMIGRANT;

PAROLEE (other than those paroled pending a determination of excludability or for prosecution); LAWFUL TEMPORARY RESIDENT; FAMILY UNITY beneficiary; person granted TEMPORARY PROTECTED STATUS; person granted DEFERRED ENFORCED DEPARTURE; person in DEFERRED ACTION STATUS; the spouse or child of a U.S. citizen whose immigrant VISA PETITION has been approved and who has a pending application for ADJUSTMENT OF STATUS; applicant for ASYLUM or WITHHOLDING OF DEPORTATION or WITHHOLDING OF REMOVAL or withholding of removal under the CONVENTION AGAINST TORTURE who has been granted EMPLOYMENT AUTHORIZATION or who is at least 14 years of age and has had an application pending for at least 180 days; and NONIMMIGRANTS who have been inspected and ADMITTED TO THE UNITED STATES and who have not violated the terms of that admission.

LAWFULLY RESIDING. For benefits purposes, an IMMIGRANT is lawfully residing in the U.S. if she or he is a resident of the U.S. and is LAWFULLY PRESENT. A U.S. resident is an individual who establishes residency in the U.S. with the intent to continue living in this country (including Puerto Rico, Guam, and the Virgin Islands of the United States). There is an exception for certain children of military parents stationed abroad. Temporary absences of less than six months from the U.S. do not terminate or interrupt the period of U.S. residency provided they are made with no intention of abandoning U.S. residency. Persons who are absent from the U.S. for more than six months are presumed to have abandoned their residency unless the individual presents evidence of intent to resume U.S. residency.

LEGAL IMMIGRATION FAMILY EQUITY ACT (LIFE) AND LIFE ACT AMENDMENTS. A statute enacted on December 21, 2000, that made a number of changes to immigration law. Among other things, the act established a legalization program for class members in LATE AMNESTY litigation and a FAMILY UNITY program for their spouses and minor children; broadened immigrant eligibility for ADJUSTMENT OF STATUS; and created new NONIMMIGRANT visa categories for certain

beneficiaries of FAMILY-BASED IMMIGRANT PETITIONS.

LEGALIZATION. The technical term for the process of obtaining LAWFUL PERMANENT RESIDENT status through AMNESTY.

LIFE Act. *See* LEGAL IMMIGRATION FAMILY EQUITY ACT AND LIFE ACT AMENDMENTS.

## M

\* \* \* \* \*

## N

NACARA. *See* NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT OF 1997.

NATIONAL. *See* U.S. NATIONAL.

NATURALIZATION. The process by which IMMIGRANTS become U.S. CITIZENS. To be eligible to apply for naturalization, an individual must have lived in the United States as a LAWFUL PERMANENT RESIDENT for five years—or three years if married to a U.S. citizen, or one year for certain persons in the military and VETERANS.

NATURALIZATION, DERIVATIVE. *See* DERIVATIVE NATURALIZATION.

NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT OF 1997 (NACARA). An act of Congress that allowed eligible nationals of Cuba and Nicaragua to apply for ADJUSTMENT OF STATUS under especially favorable rules, provided that they applied prior to April 1, 2000. The law also allows eligible nationals of Guatemala, El Salvador, and countries of the former Soviet Bloc, and their dependents, to apply for SUSPENSION OF DEPORTATION or CANCELLATION OF REMOVAL for non-LPRs under especially favorable rules and with no deadline for their applications.

NONCITIZEN. This term refers to a person who is not a U.S. CITIZEN or a U.S. NATIONAL.

NONIMMIGRANT. A NONCITIZEN who has been

granted a nonimmigrant status that allows him or her to remain in the United States temporarily for a specific purpose. There are more than two dozen nonimmigrant categories, each of which has specific requirements concerning the purpose of the individual’s stay in the U.S. Most nonimmigrant categories require as a condition of the status that the individual have the intent of returning to a residence abroad. Nonimmigrants who overstay or violate a condition of their status become UNDOCUMENTED IMMIGRANTS. *See also* NONIMMIGRANT VISA.

## O

ORDER OF SUPERVISION. The status of an individual who has a final order of DEPORTATION or REMOVAL but who is allowed to remain in the United States because the DEPARTMENT OF HOMELAND SECURITY has been unable to remove him or her, usually because of strained diplomatic relations with the individual’s home country. Persons under an order of supervision may obtain EMPLOYMENT AUTHORIZATION from the DHS.

## P

PERMANENT RESIDENT. *See* LAWFUL PERMANENT RESIDENT.

PERMANENT RESIDENT CARD. A document issued by the DEPARTMENT OF HOMELAND SECURITY as evidence that an individual has been granted LAWFUL PERMANENT RESIDENT status. The current version of the card is INS Form I-551, but cards of different design and color, and designated by other numbers, were used for this purpose in the past. Formerly, these documents were called “resident alien cards” or “alien registration receipt cards.” This card is also commonly known as a GREEN CARD, even though it has been many years since the DHS issued green versions of this card.

PETITION. *See* VISA PETITION.

PETITIONER. *See* VISA PETITION.

PRINCIPAL BENEFICIARY. *See* BENEFICIARY.

PROGRAM OPERATIONS MANUAL SYSTEM (POMS). Internal guidelines used by the Social Security Administration to implement policy within the agency.

PRWORA. *See* PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

PUBLIC ASSISTANCE. Term that refers to public benefits provided by, or funded through, a federal, state, or local governmental agency.

PUBLIC CHARGE. A term used by the DEPARTMENT OF HOMELAND SECURITY, the IMMIGRATION COURT, and the U.S. State Department to refer to a person who is considered primarily dependent on the government for subsistence, as demonstrated by either receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense. Where this consideration is applicable, an IMMIGRANT who is found “likely at any time to become a public charge” can be denied ADMISSION TO THE U.S. or denied status as a LAWFUL PERMANENT RESIDENT. In very specific and rare circumstances, an immigrant who is found to have become a public charge may be removed from the United States.

## Q

QUALIFIED ALIEN. A legal term used in the PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 to designate a person.

QUALIFIED IMMIGRANT. For public benefits purposes, a person who has one of the following immigration statuses: (1) LAWFUL PERMANENT RESIDENT; (2) REFUGEE; (3) ASYLEE; (4) granted WITHHOLDING OF DEPORTATION/REMOVAL; (5) CONDITIONAL ENTRANT; (6) granted PAROLE for a period of at least one year; (7) CUBAN/HAITIAN ENTRANT; or (8) ABUSED IMMIGRANT, and children and parents of abused immigrants. NONCITIZENS who do not have one of the above-listed statuses

are NOT QUALIFIED IMMIGRANTS for benefits purposes.

QUALIFYING QUARTER. A quarter of work history that may be credited to an IMMIGRANT and used to meet the “FORTY (40) QUARTERS EXEMPTION” to end the period of immigrant SPONSOR DEEMING or to terminate a sponsor’s liability under an enforceable AFFIDAVIT OF SUPPORT.

Qualifying quarters are credited to workers based on the amount of their earnings. Prior to 1978, qualifying quarters were considered earned and credited differently than they have been since 1978.

## R

REFUGEE. A NONCITIZEN given permission to come to the United States because he or she was persecuted, or has a well-founded fear of being persecuted (on account of race, nationality, religion, political opinion, or membership in a particular social group), in his or her home country. Refugees are given this status before coming to the U.S., usually when they are temporarily located in a third country. A refugee is granted the right to live and work in the U.S. and, after a one-year period, may apply to become a LAWFUL PERMANENT RESIDENT (LPR). Refugees remain eligible for the REFUGEE EXEMPTION even after they adjust to LPR status.

REMOVAL. The expulsion of a NONCITIZEN from the United States by legal process. The administrative proceedings held to determine whether an individual should be removed are known as removal proceedings. Removal proceedings were created as part of the ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996, and starting on April 1, 1997, removal proceedings prospectively replaced both DEPORTATION and EXCLUSION proceedings. Generally, removal proceedings include a removal hearing, which is held before an IMMIGRATION JUDGE. At the hearing, the judge may determine whether a noncitizen who has not been ADMITTED TO THE UNITED STATES is admissible; whether a

noncitizen who was previously admitted is DEPORTABLE; and whether the individual qualifies for any relief from removal, such as ADJUSTMENT OF STATUS, CANCELLATION OF REMOVAL, ASYLUM, or WITHHOLDING OF REMOVAL.

REMOVAL HEARING. *See* REMOVAL.

REMOVAL PROCEEDINGS. *See* REMOVAL; *see also* DEPORTATION.

RESIDENT ALIEN CARD. *See* PERMANENT RESIDENT CARD.

RESIDENT, CONDITIONAL. *See* CONDITIONAL RESIDENT.

## S

SAW. *See* SPECIAL AGRICULTURAL WORKER.

SELF-PETITION. A petition for an IMMIGRANT VISA filed by an individual who is also the BENEFICIARY of the petition. Individuals who are permitted to self-petition include certain ABUSED IMMIGRANTS filing under the VIOLENCE AGAINST WOMEN ACT and widows or widowers of U.S. CITIZENS who qualify as IMMEDIATE RELATIVES.

SEVERE FORM OF TRAFFICKING IN PERSONS. A serious form of exploitation or abuse under the VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT OF 2000. Severe forms of trafficking include sex trafficking and the forced or fraudulent recruitment, harboring, transport or provision of a person for labor or services that subject an individual to involuntary servitude, peonage, debt bondage, or slavery. Sex trafficking is defined as a commercial sex act induced by force, fraud, or coercion, or any such act compelled of a minor. Debt bondage is defined as a debt arising from an individual's pledge of personal services as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not limited and defined. The debt may also include services by a person under

another's charge, such as the debt pledged by a parent for services to be rendered by a child. Involuntary servitude is a condition of servitude induced by any scheme intended to cause a person to believe that, if the person did not enter or continue in such condition, that person or another person would suffer serious harm or physical restraint. The definition also includes conditions of servitude brought about by the abuse or threatened abuse of the legal process.

SOCIAL SECURITY CARD. Card issued by the Social Security Administration to identify individuals for SOCIAL SECURITY purposes. LAWFUL PERMANENT RESIDENTS and other IMMIGRANTS permitted to work indefinitely in the United States qualify for an unrestricted card, which is the same as the one provided to U.S. CITIZENS. Other WORK-AUTHORIZED immigrants receive a card that states that it is valid for work only with authorization from the DEPARTMENT OF HOMELAND SECURITY. Persons who are not entitled to work in the U.S. may, under certain limited circumstances, obtain a card marked "not valid for employment."

SPECIAL AGRICULTURAL WORKER (SAW). An IMMIGRANT who was granted LAWFUL TEMPORARY RESIDENT (LTR) or LAWFUL PERMANENT RESIDENT (LPR) status under the farm worker AMNESTY program of the IMMIGRATION REFORM AND CONTROL ACT OF 1986.

Two categories of farm workers were eligible to apply for SAW amnesty. Group 1 SAWs are individuals who showed that they had performed at least 90 days of qualifying agricultural work in each of the three years between May 1, 1983, and May 1, 1986. They also had to prove they had lived in the U.S. for six months during each of those years. Group 2 SAWs are individuals who showed that they had performed at least 90 days of qualifying work between May 1, 1985, and May 1, 1986.

Group 1 SAWs with LTR status who had not become DEPORTABLE adjusted automatically to LPR status on December 1, 1989. Group 2 SAWs with LTR status adjusted automatically to LPR status on

December 1, 1990.

**SPECIAL IMMIGRANT JUVENILE.** An individual who may apply for **LAWFUL PERMANENT RESIDENT** status because he or she has been declared dependent on a juvenile court or a state, and has been determined eligible for long-term foster care due to abuse, neglect, or abandonment. There must also have been an administrative or judicial finding that it would not be in the juvenile's best interest to be returned to his or her country of nationality or last residence.

**SPONSOR.** An individual who completes an **AFFIDAVIT OF SUPPORT** to help a sponsored **IMMIGRANT** enter the United States.

**SSI.** *See* **SUPPLEMENTAL SECURITY INCOME.**

**SSN CARD.** *See* **SOCIAL SECURITY CARD.**

**STAY OF DEPORTATION OR REMOVAL.** An order issued by the **DEPARTMENT OF HOMELAND SECURITY**, an **IMMIGRATION COURT**, the **BOARD OF IMMIGRATION APPEALS**, or a federal court temporarily halting the execution of a **DEPORTATION** or **REMOVAL** order. A stay of deportation or removal is most commonly issued in conjunction with an appeal or a motion to reopen a case.

**SUSPENSION OF DEPORTATION.** A form of relief from **DEPORTATION** that is available to individuals who have been in the United States for at least seven years and who show that their deportation would cause **EXTREME HARDSHIP**, either to themselves or to a **U.S. CITIZEN** or **LAWFUL PERMANENT RESIDENT (LPR)** parent, spouse, or child. Persons who are granted suspension of deportation thereby become **LPRs**. A special form of suspension of deportation is available to certain **ABUSED IMMIGRANTS** if they have been in the U.S. for at least three years and their deportation would cause extreme hardship.

**SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS (SAVE).** A system utilized by some agencies, in conjunction with the **DEPARTMENT OF HOMELAND SECURITY**, to verify an applicant's immigration

status. Under the system, an agency forwards copies of an applicant's immigration documents to the **INS**, which uses primary or secondary processes to verify the immigrant's status. Under primary **VERIFICATION**, the **DHS** utilizes its computer database to verify an immigrant's status. If primary verification yields inconclusive results, the **DHS** uses secondary or manual procedures to locate an immigrant's file and verify status.

## T

**TEMPORARY PROTECTED STATUS (TPS).** A temporary grant of permission to remain in the United States and to work that is granted to nationals of a particular country when the **ATTORNEY GENERAL** determines that unstable or dangerous conditions in that country warrant such relief. Once a **TPS** designation has been made for a country, its eligible nationals who are in the U.S. may apply for **TPS** status and **EMPLOYMENT AUTHORIZATION**. Since the creation of this status by the **Immigration Act of 1990**, it has been designated for over a dozen countries. The attorney general has most commonly designated **TPS** for a country for either one-year or eighteen-month periods, but it is also common for **TPS** designations to be extended if unstable conditions persist in the country. Persons granted **TPS** are considered for **SOCIAL SECURITY** purposes as **LAWFULLY PRESENT**.

**TEMPORARY RESIDENT.** *See* **LAWFUL TEMPORARY RESIDENT.**

**TPS.** *See* **TEMPORARY PROTECTED STATUS.**

**TRAFFICKING.** *See* **VICTIM OF TRAFFICKING.**

**T STATUS.** A **NONIMMIGRANT** status that permits a **VICTIM OF TRAFFICKING** to remain in the United States and to work. After three years in this status, a **T** status holder can apply to adjust to **LAWFUL PERMANENT RESIDENT** status.

## U

**UNDOCUMENTED IMMIGRANT.** A **NONCITIZEN** who does not have lawful immigration status. Most

undocumented immigrants either entered the United States without INSPECTION, or were lawfully admitted as NONIMMIGRANTS but violated the terms of that status.

UNEMPLOYMENT INSURANCE (UI). Program that provides periodic payments to eligible workers who are unemployed and looking for work. It is funded by payments made by employers through state and federal unemployment taxes and pays benefits as a matter of right and not based on need or income. UI pays a benefit amount that is based on the wages earned by the worker during a “base period,” usually the 12– to 18–month period before the worker became unemployed.

U.S. CITIZEN. Any person, with the exception of the children of certain diplomats, who was born in the United States or its territories, certain persons born abroad whose parents are U.S. citizens who qualify for acquisition of citizenship, and NONCITIZENS who become citizens through NATURALIZATION.

U.S. CITIZENSHIP AND IMMIGRATION SERVICES (CIS). See CITIZENSHIP AND IMMIGRATION SERVICES.

U.S. CUSTOMS AND BORDER PROTECTION (CBP). See CUSTOMS AND BORDER PROTECTION.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE). See IMMIGRATION AND CUSTOMS ENFORCEMENT.

U.S. NATIONAL. All U.S. CITIZENS and certain NONCITIZENS who owe permanent allegiance to the U.S. and may enter and work in the U.S. without restriction. At present, the only U.S. noncitizen nationals are: (1) persons born in American Samoa and Swain’s Island after December 24, 1952; and (2) residents of the Northern Mariana Islands who did not elect to become U.S. citizens.

U STATUS. A NONIMMIGRANT status that permits victims and witnesses of certain crimes who are assisting an investigation or prosecution to remain in the United States and to work. After three years in this status, a U status holder can apply to adjust to LAWFUL PERMANENT RESIDENT status.

## V

VERIFICATION. Process of corroborating an individual’s citizenship or immigration status.

VICTIM OF DOMESTIC VIOLENCE. See ABUSED IMMIGRANT.

VICTIM OF TRAFFICKING. An individual who has been subjected to a SEVERE FORM OF TRAFFICKING IN PERSONS. Under the VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT OF 2000, a victim of trafficking may obtain a NONIMMIGRANT status permitting him or her to remain in the U.S. and to work, if the individual is in the U.S. as a result of trafficking, has not unreasonably refused to cooperate in any investigation of the trafficking (if 15 years old or older), and if the individual would suffer extreme hardship involving unusual and severe harm if deported. Individuals who have been continuously present in the United States for at least three years following a grant of T status may adjust to LAWFUL PERMANENT RESIDENCE status.

VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT OF 2000. An act of Congress that broadened eligibility for ABUSED IMMIGRANTS to obtain LAWFUL PERMANENT RESIDENCE status under the

VIOLENCE AGAINST WOMEN ACT OF 1994. The act also created two new NONIMMIGRANT statuses: the T STATUS for VICTIMS OF TRAFFICKING, and the U STATUS for victims and witnesses of certain crimes. VIOLENCE AGAINST WOMEN ACT OF 1994 (VAWA). An act of Congress that established a procedure by which ABUSED IMMIGRANTS can SELF-PETITION to obtain LAWFUL PERMANENT RESIDENT (LPR) status. The VAWA also established special and more relaxed eligibility rules that eligible non-LPRs who are abused immigrants must meet to qualify for SUSPENSION OF DEPORTATION and CANCELLATION OF REMOVAL.

VISA. An official authorization appended to a passport that permits the person to whom it is issued to enter and travel or settle within a

particular country. NONIMMIGRANT VISAS allow only temporary stays in the United States, whereas IMMIGRANT VISAS provide for permanent residence.

VISA, DIVERSITY. *See* DIVERSITY VISA.

VISA, EMPLOYMENT-BASED. *See* EMPLOYMENT-BASED VISA.

VISA, FAMILY-BASED. *See* FAMILY-BASED VISA.

VISA, IMMIGRANT. *See* IMMIGRANT VISA.

VISA LOTTERY. The U.S. State Department–administered process whereby DIVERSITY VISAS are assigned at random to eligible applicants seeking to immigrate to the United States. Persons from qualifying countries enter the lottery by submitting specific, required information to the proper address at the National Visa Center. Application procedures change from year to year.

VISA, NONIMMIGRANT. *See* NONIMMIGRANT VISA.

VISA PETITION. An application that must be filed by a petitioner and approved by the DEPARTMENT OF HOMELAND SECURITY before an IMMIGRANT BENEFICIARY can apply for a FAMILY-BASED VISA or an EMPLOYMENT-BASED VISA. In family-based cases, the petition is filed by a U.S. CITIZEN or LAWFUL PERMANENT RESIDENT relative, and the DHS approves the petition if the agency is satisfied that the petitioner has either status and the appropriate relation to the beneficiary. In employment-based cases, the petition is filed by an employer.

VOLUNTARY DEPARTURE. A form of relief that the DEPARTMENT OF HOMELAND SECURITY offers to some deportable NONCITIZENS prior to the commencement of DEPORTATION or REMOVAL proceedings, and also a form of relief available to eligible individuals in those proceedings. An individual granted voluntary departure agrees to leave the United States by a designated date. Individuals who comply with this agreement and depart the country prior to the designated date avoid having an order of deportation or removal entered against them.

## W

WAIVER. A discretionary determination to excuse a ground of INADMISSIBILITY or DEPORTABILITY that would otherwise apply to a NONCITIZEN. A waiver may be granted by the DEPARTMENT OF HOMELAND SECURITY or an IMMIGRATION JUDGE, but only where the waiver is authorized by statute.

WITHHOLDING OF REMOVAL. Status available in REMOVAL PROCEEDINGS that prohibits the DEPARTMENT OF HOMELAND SECURITY from returning an individual to a country where his or her life or freedom would be endangered. This status is similar to, but separate from, ASYLUM. The same defense in DEPORTATION PROCEEDINGS is known as withholding of deportation. To obtain withholding, individuals must meet a higher evidentiary standard than applies in asylum, but if they meet this standard they must be granted withholding—i.e., unlike asylum, the status is not discretionary. Persons granted withholding may be deported to a third country if one will accept them, but they cannot be returned to their home country. The CONVENTION AGAINST TORTURE (CAT), an international treaty that the U.S. Senate has ratified, provides a separate basis for withholding of deportation or removal, for individuals for whom there are substantial grounds for believing that the person would be in danger of being subjected to torture.

Unlike the status of REFUGEE or ASYLEE, withholding does *not* provide a basis on which individuals may subsequently obtain LAWFUL PERMANENT RESIDENT status. Nevertheless, persons who are granted withholding may apply for, and be granted, EMPLOYMENT AUTHORIZATION.

WORK CREDIT EXEMPTION. *See* 40 QUARTERS EXEMPTION.

WORK AUTHORIZATION. *See* EMPLOYMENT AUTHORIZATION.

WORK-AUTHORIZED. Adjective that may be used in to describe an individual who has EMPLOYMENT AUTHORIZATION.