

Immigration 101: What You Need To Know



By Michael J. Wildes

The U.S. Constitution confers U.S. citizenship upon persons born within the U.S., but also grants it to specific individuals born outside the U.S. The U.S. Congress determines who may be admitted into the U.S., who can acquire U.S. citizenship, and who can be expelled from the country. While Congress' power is very broad, that does not mean that noncitizens seeking admission, or those already in the U.S., have no rights. Their legal rights depend on their particular immigration status. U.S. visas are issued only at U.S. Consulates and Embassies abroad once in possession of a visa. Extensions and changes of status are available only in the United States.

The U.S. immigration law defines noncitizens as persons who are not nationals or citizens of the U.S. and divides aliens into two main visa categories, namely: (1) immigrants, and (2) nonimmigrants. The law presumes that all noncitizens are immigrants, except those who can affirmatively show that they are bona fide nonimmigrants. Immigrants include persons who already have lawful permanent residency ("LPR") status, persons in the process of applying for LPR status, undocumented persons, and those in the U.S. who are not in a nonimmigrant status. The notion is that immigrants enter the U.S. with the intention of remaining permanently. In contrast, nonimmigrants are presumed to come to the U.S. for a limited, temporary purpose.

Before further describing these two basic visa categories, it is important to mention the existing admissibility and deportability categories that apply to all noncitizens. Admissible noncitizens are those who may be legally admitted into the U.S., and deportable persons refer to persons who after admission or entry into the U.S., may be removed. In addition, while there are laws prohibiting the admission and requiring the removal of some non-

citizens, there are also provisions allowing noncitizens to secure a waiver of these inadmissibility grounds, although, most waiver provisions are discretionary and the government is not required to grant them. More specifically, these waiver grounds may be divided into seven general categories:

- (1) health-related (persons with communicable diseases of public health significance);
- (2) economic (persons considered likely to become a public charge);
- (3) criminal (persons who have committed crimes involving moral turpitude, or violations of state, federal or foreign laws related to controlled substances);
- (4) security and foreign policy (such as terrorism);
- (5) immigration violations (a broad range of violations preventing persons from gaining lawful admission);
- (6) quasi-criminal behavior (restrictions based on moral grounds reflecting contemporary American values); and
- (7) miscellaneous (such as persons who have made false claims of U.S. citizenship and thus became ineligible to gain U.S. citizenship).

While there is often a great deal of confusion between deportability and inadmissibility provisions, just remember that deportability applies to noncitizens who were in the U.S. and inadmissibility applies to those who are not in the country.

Immigrant Visas: Lawful Permanent Residence

U.S. law provides noncitizens with a way of obtaining long-term residency, a status giving them a right to remain and work here indefinitely. LPR status can be obtained by a noncitizen in several different ways, including:

- (1) Family-based immigrant visa (persons with a close familial relationship with a U.S. citizen or an LPR);
- (2) Employment-based immigrant visa (foreign workers, if they have unique skills, or are offered a job in the U.S. that will not

adversely impact a U.S. worker);

- (3) Asylees and refugees;
- (4) Registry (includes persons who have been in the U.S. continuously for an extensive certain period of time and can show "good moral character");
- (5) Cancellation of removal (includes persons who have been in the U.S. illegally for over 10 years and whose removal would result in extreme and unusual hardship to close family who are U.S. citizens or LPRs);
- (6) Diversity immigrant visas (applies to winners of an annual visa lottery who are nationals of certain designated countries); and
- (7) Legalization and other special relief (person who may obtain LPR status through special congressional enactment through "legalization" for set groups of people or through private legislation).

Whether and how a person may obtain LPR status depends on the person's immigration posture at the time the application is filed and whether the person is in the U.S. An LPR may live and work in the U.S. and travel in and out of the country, but is still subject to possible exclusion under U.S. immigration laws until the person becomes a U.S. citizen.

Nonimmigrant Visas: Temporary Admission to the United States

Given the law's presumption that all persons coming to the U.S. intend to be immigrants wishing to stay here permanently, nonimmigrant visa applicants have a heavy burden to prove to consular officers abroad and U.S. Customs and Border Protection officers at the border that they will depart the U.S. after completing their journey. Also, there are no catch-all nonimmigrant visas and each applicant must establish that he or she qualifies under one of the specific nonimmigrant categories. Finally, each nonimmigrant visa may be obtained only by individuals meeting that category's specific requirements and upon receiving the visa, each applicant must comply with all of that visa's requirements for the duration of their U.S. stay.

The nonimmigrant visa categories can

be organized into seven separate categories:

- (1) tourism (B-1 and B-2);
- (2) educational (F-1) (M-1);
- (3) special or family related (K and V visas);
- (4) work or business (B-1, E, H-1B, H-2A, H-2B, H-3, I, L, O, P, Q, R, and TN visas);
- (5) governmental or quasi-governmental (A and G visas);
- (6) law-enforcement related visas (S, T, and U visas); and
- (7) miscellaneous (C, D, NATO, and N visas).

A majority of the nonimmigrant visa categories allows beneficiaries to come to the U.S. with one's immediate family under the same visa—a "derivative" visa. However, most categories do not allow the nonimmigrant or his/her family member to work while being here.

The nonimmigrant process can be a difficult one to achieve or maintain. The rules are not always clear, especially to the extent that nonimmigrants must navigate around the grounds of inadmissibility and deportability, while still maintaining a valid visa status and possibly extending their period of stay. Certain persons in lawful nonimmigrant status may transition to permanent residency through a process called "adjustment of status." However, maintaining, properly changing, or adjusting status pose special challenges because U.S. immigration laws are very complex, often making it difficult to navigate the system without professional assistance and advice.

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Each May, Jewish History and American History Collide

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markets and retailing in America today. His other inventions include the grocery sack, the folding inter-office basket carrier, the milk bottle rack, and the baggage cart.

Northern New Jersey Knows its Tanach

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away," at that time. Rabbi Frazier usually begins writing the questions in the summer and continues throughout the year, allow-

In Florida, JAHM will be marked by the airing of the new documentary "A Call to Serve: Florida Jews and the U.S. Military," on the PBS network affiliate WFLN on May 13, 18, and 29.

"The film covers immigration, patriotism, acculturation, citizenship, courage, facing obstacles, and leadership," the Jewish Museum's Zervitz told *JNS.org*. "The courageous people portrayed risked their lives for the dreams of our nation. These individuals' stories and their character traits are role models for future generations."

Zola—who besides for his role at the American Jewish Archives is the Professor of ing time to proofread and verify the work. "We run the U.S. contest toward the end of the school year – so the kids will have almost a full year to study," he says. The best way to prepare, he says, is to "keep reading the psakim again and again," adding that "everyone has a few memory tricks. But the best preparation is just reading and reviewing." He notes that he too benefits from writing the Chidon question because he needs to review the Tanach so extensively.

So, regarding Moses, discounting his unlikely connection to Snow White, what might an actual Chidon query be? Below is a multiple choice question from the 2009 High School Exam.

What did Moses not command the judges whom he appointed?

1. "Fear out low and high alike"
2. "You must be wholehearted with the Lord your God"

society—namely, the separation of church and state and the Constitution's guarantees of religious freedom. That openness, Zola explained, fostered a creative and dynamic expression of Judaism in the U.S., and as a result American Jewish scholarship, organizational creativity, and culture spawned Jewish innovations and initiatives that benefited Jewish life worldwide.

Zola said he remains guided by the expression of his teacher—the late Jacob Rader Marcus, namesake of the American Jewish Archives center—who advised, "A people that is not cognizant of its past can have little hope for its future."

3. "Any matter that is too difficult for you, you shall bring to me"
4. "Fear no man"

Some of the tests are archived. To try a few more questions go to Chidonusa.wordpress.com. Mazel tov to all the participants!

Helen Weiss Pincus is a freelance writer whose work has been published in *The Record*, *The New York Times*, *Lifestyles*, and more.