

Immigration Law Basics

Frequently Asked Questions

What is immigration law?

Immigration law determines who is and is not eligible to enter or remain in the U.S. legally. It reflects a compromise between Americans who do not want new immigrants in our country and Americans who welcome them. As a result, immigration law is not always consistent, logical, reasonable, or fair.

Immigration law is always changing. History shows that even if you cannot become legal now, if you work in the U.S. for a long time without any major trouble, you may become eligible for permanent residence when an “amnesty” program occurs. The last partial amnesty program ended on April 30, 2001.

How can I avoid being deported?

Immigration agents usually aren't out hunting illegals. More often, they simply wait for illegals to come to them via the criminal justice system. To avoid deportation, you should avoid being arrested. If you are arrested for a state crime, Colorado police officers are required to report you to Immigration and Customs Enforcement (ICE) if they believe you are illegal. Here are some tips:

- **If you do have contact with the police, never give a fake name or false identity documents.** You will be charged with a felony crime, such as “Criminal Impersonation” or “Forgery,” or at least a misdemeanor called “False Reporting.” You will be arrested and reported to immigration authorities. It is better to show the police your Mexican driver's license or matricula consular card, rather than showing them a fake ID, including a fake Mexican ID.
- **Do not drive while your driver's license is revoked or suspended.** It is a traffic misdemeanor to drive without a valid Colorado driver's license. Sometimes, police officers will just give you a ticket for this offense, directing you to go to court. On the other hand, if you keep getting traffic tickets, you will eventually have your driving privilege suspended or revoked by the Department of Motor Vehicles (DMV) even if you never had a driver's license in the first

place. If you are caught driving after you have been suspended or revoked, then you will be arrested!

- **Never, ever, drink and drive.** If a police officer suspects that you have been driving drunk, the officer will arrest you rather than simply giving you a summons to go to court.
- **Stay away from cocaine and other illegal drugs.** Even a simple traffic stop can turn into an arrest if the officer finds out you have illegal drugs. Even a tiny amount found in your pocket or vehicle will result in an arrest, a felony prosecution, and often deportation.
- **Always show up for court appearances, even for minor traffic matters.** The courts will not turn you over to immigration authorities if you show up for court. On the other hand, if you don't show up for court, the judge will issue an arrest warrant. The next time you have any contact with police, you will be arrested. You will then be reported to ICE and placed in deportation proceedings – a big price for not taking care of a traffic ticket.
- **Avoid fighting with your spouse.** If a police officer has to respond to a disturbance at your house, he may be required to arrest whomever he believes started the fight or argument. There doesn't even have to be any physical altercation. For example, even if the police believe that you were just yelling at your spouse, then the officer may make an arrest under the domestic violence laws in Colorado.



How can I become legal?

No amount of time, good work, or paying taxes will make you legal in the U.S. But, here are pathways that may help:

- **“Section 245(I)” Eligibility** – If you or a parent



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are the beneficiary of an immigrant petition or labor certification filed before May 1, 2001, you are a "grandfathered alien." You may fix your papers in the U.S. when you have a current priority date, marry a U.S. citizen, or have a citizen child turn 21.

- **Marriage to a U.S. citizen** – If you marry a U.S. citizen, you can get permanent residence. If you entered the U.S. legally (or have TPS), you can get the green card without having to leave the U.S. But, if you entered illegally, then you must return to your country for a consular interview. Returning to your country usually triggers a 10-year bar to admission to the U.S. You can request a waiver of the bar if you are married to a U.S. citizen/resident.
- **U-Visa** – If you are a victim of domestic violence, sexual assault, or felonious assault and have cooperated with law enforcement, you are eligible for a U-Visa.
- **Violence Against Women Act (VAWA) Application** – If your citizen or resident spouse has physically abused you or engaged in extreme mental cruelty, you can self-petition for permanent residence.
- **Employment-based benefits** – Unless you filed an immigrant petition or labor certification before May 1, 2001, it is almost impossible to get permanent residence through your employer if you are in the U.S. illegally. Have your employer contact us about work visas.

Can I fight deportation?

If you are placed in deportation proceedings, you may be able to apply for cancellation of removal. If you win, you become a permanent resident. There are 4 elements of cancellation of removal:

1. 10 years of continuous presence;
2. Good moral character;
3. No convictions for crimes involving drugs, use of force against a spouse or girlfriend, or moral turpitude; and
4. "Exceptional and extremely unusual hardship" to citizen/resident children and/or spouse or parents.

I already have a green card – why should I become a citizen?

After you have had a green card for 4 years and 9 months, you can apply for citizenship. If you are married to a citizen, you can apply after 3 years. The benefits of becoming

ing a citizen of the United States are:

1. You cannot be deported. (If you only have a green card and are convicted of certain crimes, you can be deported.)
2. You can sponsor immediate relatives, including your parents, without a long wait.
3. You can vote – and one day help change the U.S. immigration policy.



Don't be afraid!

According to recent studies, Mexican residents hesitate to become citizens. This is a big mistake. Many worry about losing their Mexican citizenship. This is not true. Mexicans can keep their Mexican citizenship even if they become U.S. citizens. Others worry that they cannot pass the English language test. We recommend that you study English and apply for citizenship. There is no limit to the number of times you can apply for citizenship.

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2 Locations:

110 8th Street – GLENWOOD SPRINGS, CO 81601– (970) 945-5300
850 Chambers Ave., Unit 4 – EAGLE, CO 81631 – (970) 945-5300

www.TedHess.com