

The Facts of Immigration

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Immigrants in Oregon

- In 2015, 397,293 immigrants (foreign-born individuals) comprised 9.9 percent of the population
- Top counties of origin:
 - Mexico 37%
 - China 6%
 - Vietnam 5.2%
 - India 4.1%
 - Canada 3.6%
- In 2016, 498,875 people in OR (12.4% of the population) were native-born Americans who had at least one immigrant parent
- More than 1/3 of all immigrants in OR are naturalized U.S. citizens
- More than 10,000 DACA recipients live in OR
- Undocumented immigrants in OR paid \$80.8 million in state and local taxes in 2014
- 130,000 undocumented immigrants comprised 32 percent of the immigrant population and 3.2 percent of the total state population in 2014.

Source: <https://www.americanimmigrationcouncil.org/research/immigrants-oregon>.

Some Immigration Terms

- Citizens and Non-citizens
- Undocumented, unlawful presence
- Alien and “A number”
- Legal Permanent Resident (LPR)
- Green card
- Work permit
- Visa
- DACA
- Period of authorized stay

Overview: How the U.S. Immigration System Works

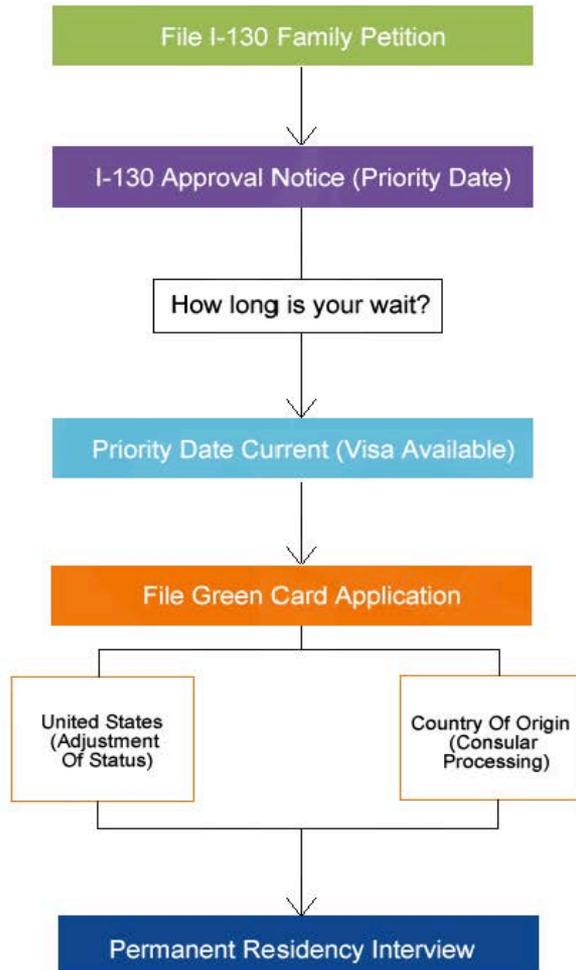
- Family-based immigration
- Employment-based immigration
- Refugees and asylees
- The diversity visa program
- Other forms of humanitarian relief
- U.S. citizenship

U.S. Citizens	Permanent Residents & Immigrants (“Green Cards”)	Non-Immigrants (Temporary Status)	Permitted to Enter or to Stay w/o Legal Status	No Legal Status
<p>3 Ways:</p> <ul style="list-style-type: none"> • Birth in the U.S. • Naturalization • Derivation through Parents 	<p>Family Ties</p> <ul style="list-style-type: none"> • Immediate Relatives • Other Family Members • Importance of terminology <p>Employment Various bases</p> <p>Diversity Visa Lottery</p> <p>Refugees/Asylees</p> <p>Humanitarian/Special Categories</p> <ul style="list-style-type: none"> • VAWA self-petition • U visas • T visas <p>Cancellation of Removal</p>	<p>Temporary Visitors (e.g., B-1, B-2, VWT, VWB)</p> <p>Temporary Workers (e.g., CW-1, E-1/E-2/E-3, H-1b/H-1c, H-2a/H-2b, H-3, I, L-1a/L-1b, O-1/O-2, P-1/P-2/P-3, Q-1, R-1, TN)</p> <p>Students and Exchange Visitors</p> <ul style="list-style-type: none"> • J-1 exchange visitors • F-1/M-1 students <p>Victims of Human Trafficking & Other Crimes (T and U Visas)</p>	<p>Pending COS/EOS/AOS</p> <p>Deferred Action</p> <ul style="list-style-type: none"> • DACA <p>Temporary Protected Status (TPS)</p> <p>Parole:</p> <ul style="list-style-type: none"> • Advance parole • Humanitarian Parole • Parole in Place (PIP) <p>Special Parole Policies for Cubans</p> <ul style="list-style-type: none"> • Family Reunification • Other programs cancelled January 12, 2017 	<p>Entered Without Inspection (EWI)</p> <p>Overstays</p> <p>Visa Status Violators</p>

Family-Based Immigration

- “Immediate relatives” of U.S. citizens (USCs)
 - Spouses of USCs
 - Unmarried children under 21
 - Parents of USCs who are 21 or older
 - Unlimited number of visas in this category
- Family preference system – categories:
 - 1: USC petitions for unmarried adult child (23,400 limit)
 - 2A: LPR petitions for spouse and minor children (87,900 limit)
 - 2B: LPR petitions for unmarried adult children (26,300 limit)
 - 3: USC petitions for married adult children (23,400 limit)
 - 4: USC petitions for brother or sister (65,000 limit)
- Fiance(e) Visas - “90-Day Fiance”

PERMANENT RESIDENCE PROCESS



Can They Immigrate?

- Example: Carlos entered the U.S. in 2000 without inspection and remained in the U.S. until 2004 when he returned to Mexico to visit his mother who was terminally ill. He re-entered without inspection in 2005, and has not departed. In 2010 he married Elizabeth, a U.S. citizen. Elizabeth would like to file a petition for Carlos. Can he qualify for a green card?
 - What if Carlos only has one EWI in 2000 and has never departed?

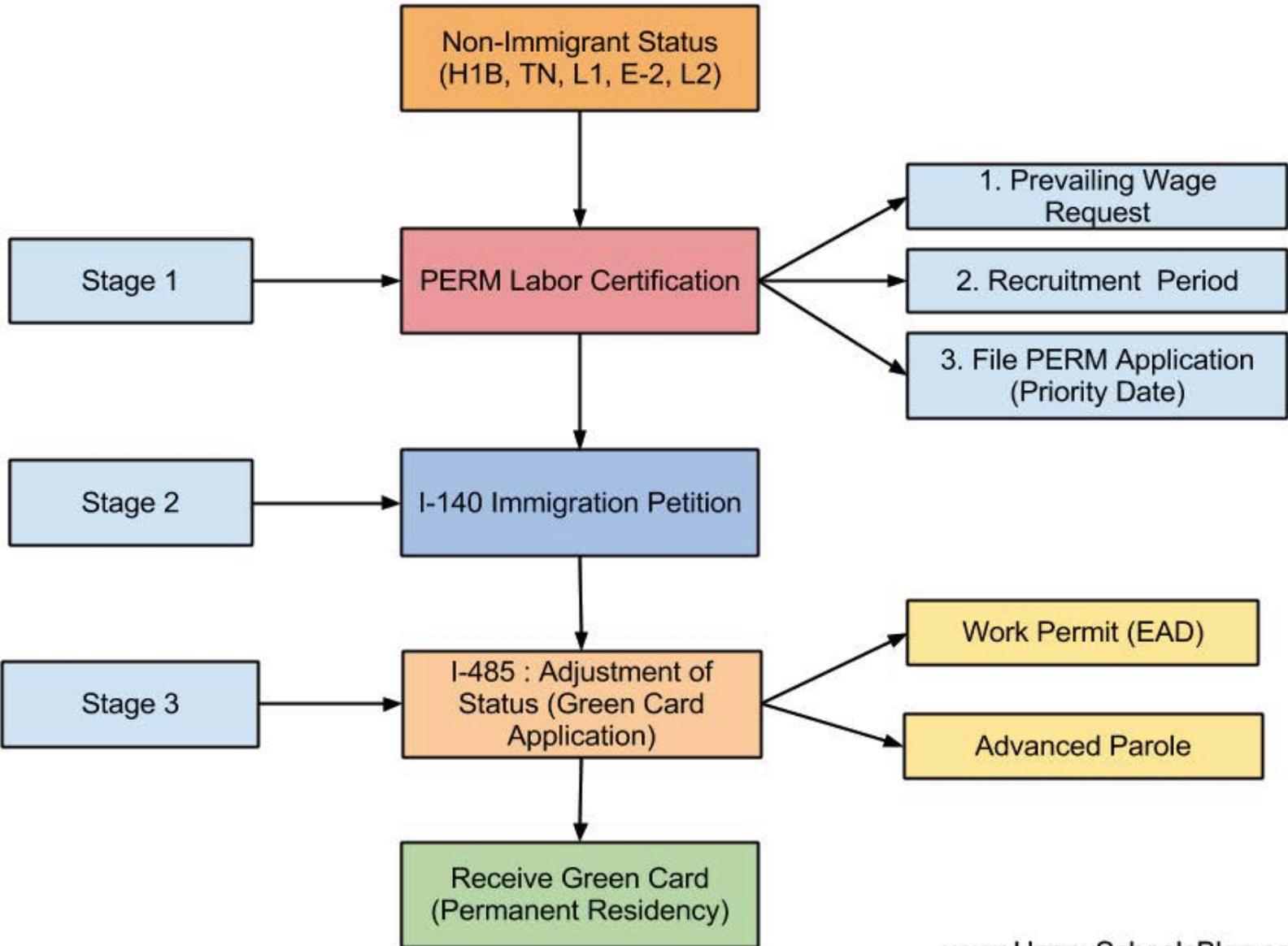
Can They Immigrate?

- Example: Diego and Maria are married. In 1990, they fled Guatemala after Diego's father was kidnapped by the guerillas. They entered the U.S. without inspection in 1990 and have not departed. They have three U.S.-born citizen children ages 16, 18, and 21. Can the 21-year old U.S. citizen petition for Diego and Maria?
 - What if Diego's USC brother filed a petition for him before April 30, 2001?

Employment-Based Immigration

- Temporary visa categories: 20+ categories
 - Examples: H-1B, L-1, E-1/E-2, TN, B-1, R-1, O-1, P-3
- Permanent Immigration
 - Preference categories:
 - 1: Persons of extraordinary ability (40,000 limit)
 - 2: Professionals with advanced degrees (40,000 limit)
 - 3: Skilled workers (40,000 limit)
 - 4: Special immigrants (10,000 limit)
 - 5: Investors of \$500k to \$1,000,000 (10,000 limit)

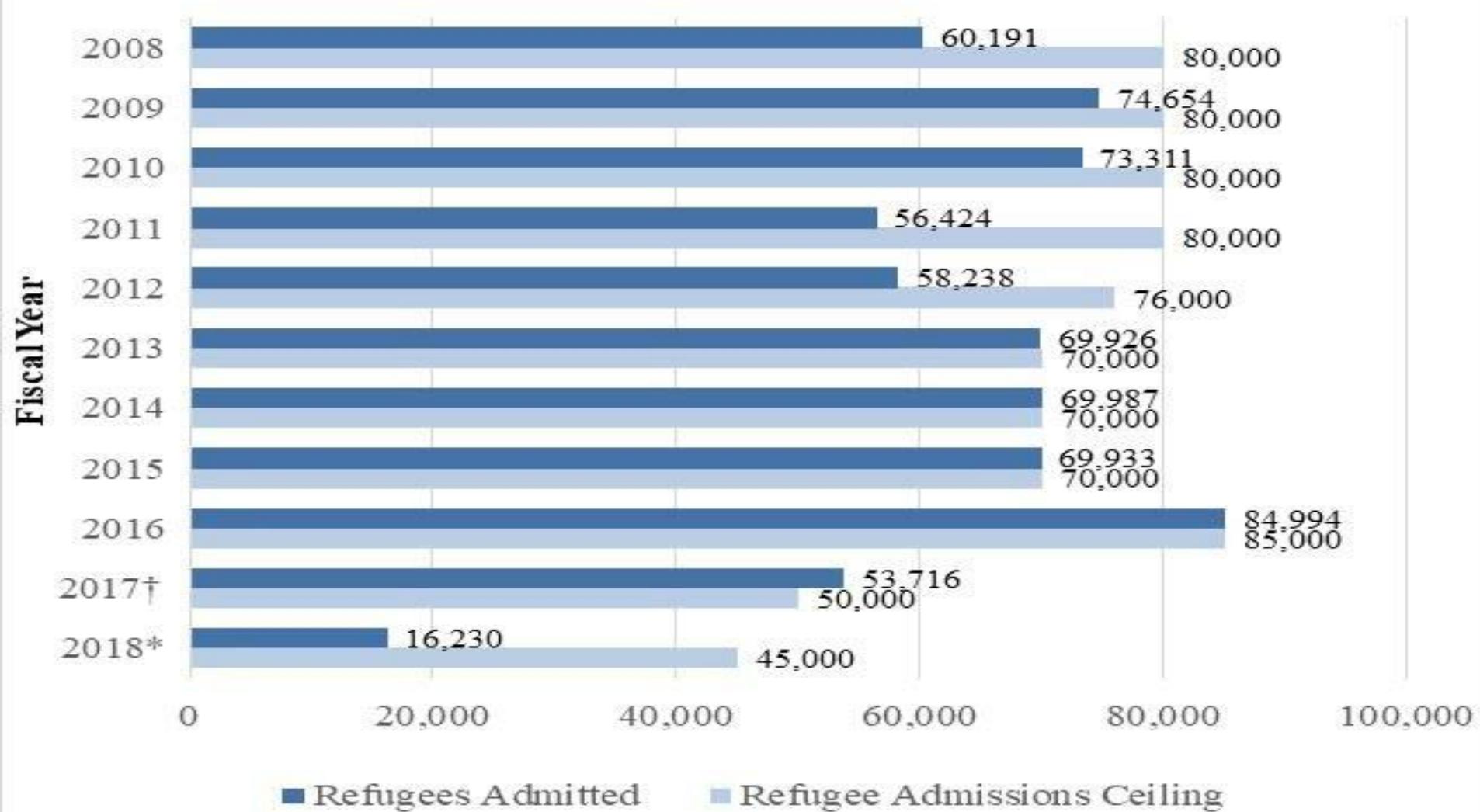
Stages of Green Card Process : Employment Based



Refugees and Asylees

- Refugee: “well-founded fear of persecution due to race, membership in a particular social group, political opinion, religion, or national origin.” Refugees apply from outside the U.S.
 - Numerical ceiling: each year, the President determines the ceiling for refugee admissions. For FY 20
- Asylee: person in the U.S. seeking protection based on the same five protected grounds for refugees. Can apply at a port of entry or within one year of arrival.
 - There is no limit on the number of asylum grants
- Refugees and asylees can apply for LPR after one year

Figure 1: Refugee Admission Ceiling and Refugees Admitted, FY 2008-2018*



Source: U.S. Department of State, Refugee Processing Center, June 30, 2018. Fiscal Year 2018 as of June 30, 2018. † FY 2017 ceiling set at 110,000 by Obama administration; subsequently reduced to 50,000 by Trump administration.

Other forms of Humanitarian Relief

- Temporary Protected Status (TPS): designation of a country for TPS due to ongoing armed conflict, environmental disaster, other extraordinary and temporary conditions
- Parole: allows temporary admission for urgent humanitarian reasons or significant public benefit

U.S. Citizenship

- In order to qualify:
 - LPR status for 5+ years (or 3+ years if LPR by marriage to a USC)
 - 18+ years old
 - Continuous residency
 - No lengthy departures
 - Majority of time in U.S.
 - Good moral character
 - Pass English and U.S. history and civic exams
 - Pay the application fee of \$725

DACA

- June 15, 2012: DHS announced it will not deport certain undocumented youth who came to the U.S. as children (Deferred Action for Childhood Arrivals)
- As of February 21, 2019: three U.S. District Court orders allowing DACA recipients to submit renewal applications remain in effect. The U.S. Supreme Court will hear the case later this year
- USCIS stopped accepting first-time DACA applications as of October 6, 2017
- For updates, see <https://www.nilc.org/issues/daca/>

Zero Tolerance Policy

- The policy was in effect April 2018 – June 2018
 - **8 U.S.C. 1325** makes it a crime *to unlawfully enter* the United States. This is a misdemeanor punishable by a fine, up to six months in prison, or both.
 - **8 U.S.C. 1326** makes it a crime *to unlawfully reenter* after having been deported, ordered removed, or denied admission. This crime is punishable as a felony with a maximum sentence of two years.
- Under the policy, federal authorities separated children from parents with whom they had entered the U.S. as a means to deter illegal immigration
 - Adults were prosecuted and held in federal jails
 - Children were placed under supervision of US Department of Health and Human Services
- June 2018: discovery that the policy did not have measures to reunite children with parents
- June 20, 2018: Presidential order ending family separations at the border
- January 2019: a government report revealed that the total number of children separated from their parents was more than 2,737, with the exact number unknown. Source: <https://apnews.com/48210bbf243e423ea151ff04e4878ce6>

What's Happening at the Border?

- If you are caught after you enter without inspection (EWI)
 - Notice to appear in removal proceedings before an IJ
- If you are caught trying to enter illegally at a port of entry (e.g. hidden, false documents)
 - Expedited order of removal
- If you legally arrive at the port of entry and request asylum
 - Credible fear interview
 - Waiting in Mexico
 - Pass credible fear interview
 - Release?
 - GPS monitor/ISAP
 - Immigration Court hearing

ENFORCEMENT FROM ARREST TO FINAL ORDER

- Prosecutorial discretion
- ICE arrests – who, why, and where?
- Sources of information
- ICE detention
- Bond proceedings
- Removal proceedings
- Common forms of relief – cancellation, asylum, Adjustment, U and T visas, and others

Changes in Immigration Court

- More Immigration Judges
- Changes in asylum cases
 - Declaration required up front
 - Matter of A-B-
- Stipulations with government counsel are very limited
- No “administrative closure”
- Restrictions on continuances
- Effect of the government shutdown
- Appeals
 - Board of Immigration Appeals
 - U.S. Court of Appeals for the Ninth Circuit

New “Notice to Appear” Policy

- An **NTA** is a document that instructs an individual to appear before an immigration judge.
- Starting **Oct. 1, 2018**, USCIS may issue NTAs on denied status-impacting applications
- Starting **Nov. 19, 2018**, USCIS may also issue NTAs based on denials of U, T, and VAWA cases

Notario Fraud

- What is a “notario”?
- Who is authorized to practice immigration law in Oregon?
- Example: U.S.A. v. Snyder/Vega

Immigration Legal Service Providers

- Non-Profit Organizations:
 - Catholic Charities www.catholiccharitiesoregon.org
 - Immigration Counseling Services <https://www.ics-law.org/>
 - SOAR Immigration Legal Services www.lcnw.org
 - IRCO Immigration Legal Services <https://irco.org/what-we-do/legal-services/>
 - Lutheran Family Services www.lcnw.org
 - Centro de Servicios para Campesinos de PCUN www.pcun.org
 - Student Legal Services – PSU www.pdx.edu/sls/immigration-clinic
- Private Attorneys:
 - American Immigration Lawyers Association:
<https://www.ailalawyer.com/>
 - Oregon State Bar Lawyer Referral Service:
<https://www.osbar.org/public/ris/>