

Be Empowered & “Know Your Rights”

Winter 2016



The Current Landscape

- No matter who is president, everyone living in the U.S. has certain **basic rights under the U.S. Constitution.**
- Immigrants with status, pending status, and undocumented immigrants have Constitutional rights.
- It is important to assert these rights and protect our basic rights.

January 2017

- There are anticipated changes coming post-elections, especially with immigration laws.
- New president and administration will come into power on January 20, 2017
- No one knows anything for sure what the new administration will do and what type of laws they will pass
- Right now, everything is speculative. No one knows what will happen.

January 2017

- New President has made statements in the past that make us believe he will:
 - Increase deportations
 - Decrease number of refugees
 - Eliminate DACA
 - Increase cooperation between ICE and local law enforcement agencies
 - Prioritize the removal of those with a criminal history, old orders, or those without status
 - May require a registry for certain countries

Goals For Today

- Understanding your rights when encountered by immigration officers.
- Understanding your current immigration status.
- Understanding rights in immigration court.
- Understanding where to go for help.

What to Do When Confronted By An Immigration Officer

What are my rights if an immigration officer confronts me?

- Regardless of whether you have status or not, you have basic rights under the U.S. Constitution, no matter who is President of the United States.
- Be familiar with your these rights and comfortable asserting them so that your rights can be protected.

What are my rights if an immigration officer confronts me?

- At home: you do not need to open the door unless the officer provides you with a **court warrant**.
 - Do not open the door.
 - Slide your “Know Your Rights” card under the door.
 - Ask to see a signed warrant from a **judge**.
 - Look at the warrant carefully to make sure it is signed by a judge.
 - Call an attorney.

What are my rights if an immigration officer confronts me?

At home :

- You do not have to let ICE into your home without a signed warrant from a judge.
- If you allow ICE officers into your home they can look for your passport as evidence that you are not a U.S. citizen.
- If ICE officers find evidence in your home, they can use the evidence against you.

What are my rights if an immigration officer confronts me?

- Outside of your home:
 - Stay calm. Do not run or resist arrest.
 - Keep your hands where the officer can see them. Do not get upset or agitated.
 - Ask if you are under arrest or free to leave. If you are free to leave, **ask to leave**.
 - You have the right to remain silent. Say you want to remain silent.
 - You have a right to an attorney. Ask to call a lawyer.

What are my rights if an immigration officer confronts me?

- The only people who cannot ever be deported are U.S. citizens.
- People with immigration status can lose that status if they commit certain crimes, or violate their status
- ICE needs information about where you were born and where you are a citizen to place you into immigration court.

What are my rights if an immigration officer confronts me?

- You **do not** have to answer questions, even simple ones about where you are from.
- Say you want to remain silent.
- Ask to call a lawyer.

How Can I Be Prepared?

- Know your rights in case an officer asks you questions or comes to your home.
- Memorize phone numbers for your family members and your attorney or an attorney you trust.
- Think of a U.S. Citizen or someone with immigration status that you trust who can pay a bond if you are granted one by an immigration judge.

What Status Do I Have?

What Immigration Status Do I Have?

- It is important to understand whether you have immigration status or not.
- Have you ever filed an application with immigration before?
- Do you have a work card or a green card?
- Have you ever been caught by immigration before? At the Border?
- Do you have an open court case?
- Did you miss a scheduled interview?

Do I Have The Right to See An Immigration Judge?

- If you have never seen an immigration judge before or have never been ordered deported at the border before, you have a right to see an immigration judge.
- In immigration court, you have the right to have an attorney represent you but the attorney is not free.
- Ask for the legal services list of attorneys.
- You have a right to apply for any forms of immigration relief that you qualify for.

Do I Have The Right to See An Immigration Judge?

- If you have already been ordered deported by an immigration judge or at the border, you will not automatically be able to see a judge again.
- You should speak with an **experienced immigration attorney** to get advice on your case or make an appointment for an immigration consultation at a local **legal clinic**.

What Status Can I Apply For?

Can I Ask for A Bond In Immigration Court?

- Not everyone is eligible for a bond in immigration court.
- If you are eligible to ask for a bond, the judge does not have to give you one.
- If the judge grants you a bond, the lowest amount he is allowed to set is \$1,500. Someone with legal status has to post your bond before you can be released.

Can I Ask for A Bond In Immigration Court?

- Things that make your bond case stronger are strong family ties and community ties. Think of who you would ask to write you letters if you needed a bond. Your boss? Your family?

What Am I Eligible To Apply For?

- Legal screenings are critical. Attend a legal screening and know your immigration options.
- Many undocumented immigrants, including DACA recipients, may be eligible for permanent immigration status such as:
 - Victims of crimes
 - People afraid to return to their home countries due to persecution or torture, including individuals who identify as LGBT
 - Minors who have been abandoned, abused or neglected by one or both of their parents
 - Trafficking victims
 - Victims of domestic violence
 - Green card/lawful permanent residence through a family member or based on employment
 - Other options exist!!!

What Am I Eligible To Apply For?

- **Common Forms of Relief:**
 - Family Immigration Processes
 - Asylum
 - Special Immigrant Juvenile Status
 - U or T Visa
 - VAWA
 - DACA (filing new DACA is risky right now. But if you have DACA, you can renew it)
 - TPS
 - Cancellation of Removal (“The Ten Year Law”)— *Only in Court*
 - Plus, there are other forms of relief you may qualify for!

So what are my options?

- **Family:** You may be eligible for a residence if your parent, step-parent, spouse, (or child over 21) is a U.S. citizen or resident
- If you entered the U.S. without a visa, you may need to leave the U.S. to have an interview before you can reenter



So what are my options?

- **Asylum:** You may be eligible for asylum if you are afraid to return to your country because of harm or threats of physical harm based on protected grounds (race, religion, nationality, political opinion, social group)
- You should apply within **one year** of entering the U.S. (but there are exceptions)
- Asylum is complicated
- General violence in your country is not a basis for asylum (unless tied to protected ground)
- If your case is not successful before the asylum officer it will be sent to immigration court.
- Only file asylum with the help of a qualified lawyer

So what are my options?

- **Special Immigrant Juvenile Status (SIJS):**
You may be eligible for SIJS if you
 - are living without both parents in the U.S.
 - one or both of your parents has not supported you or is not part of your life, and
 - you are under 21.
- It is very important to see a lawyer plenty of time before you turn 21!

So what are my options?

- **U-Visa:**
 - were the victim of a crime in the US
 - have reported the crime to law enforcement
 - suffered physical or mental harm from the crime
- **T-Visa:**
 - performed work or commercial sex due to force, fraud, or coercion or
 - performed commercial sex under the age of 18
 - And are willing to report to law enforcement
- As an applicant under 21, you can petition for your spouse, parents, children, and siblings under 18!

So what are my options?

- **VAWA:**
 - were the victim of domestic violence in the U.S. or were the child of a victim of domestic violence in the U.S.
 - the abuser is a U.S. citizen or resident
 - the abuser is married to the victim or the victim's parent
 - victim suffered battery or extreme cruelty
 - victim lived with abuser

*Filing a U-Visa, T-Visa, or VAWA petition will not directly result in immigration consequences for the abuser

So what are my options?

- **DACA:**

- entered the U.S. before age 16, before 06/15/2007
 - resided in the U.S. continually since 06/15/2012
 - in school or graduated
 - no serious crimes
-
- At this time, we do not recommended you submit a new DACA application, though you should renew DACA until the new administration eliminates it.

So what are my options?

- **Temporary Protected Status (TPS):**

national of country, residing in U.S. since specified date -

- El Salvador – February 13, 2001
- Haiti – January 12, 2011
- Honduras – December 30, 1998
- Nepal – June 24, 2015
- Somalia – May 1, 2012
- Syria – August 1, 2016

*need to apply within registration dates unless can show exception why USCIS should accept a late application

*cannot be passed on from a family member

Not a real thing -

- **Cancelation of Removal or the “10-year rule”**
 - Must be in deportation process already in order to apply
 - Must show “extreme and unusual hardship” to a U.S. citizen or resident spouse/parent/child, such as having a serious disease
 - Balance of equities
- **Having a child in the U.S. will not give status**
- **Speak to an experienced attorney**
- **Do not become a victim of fraud**

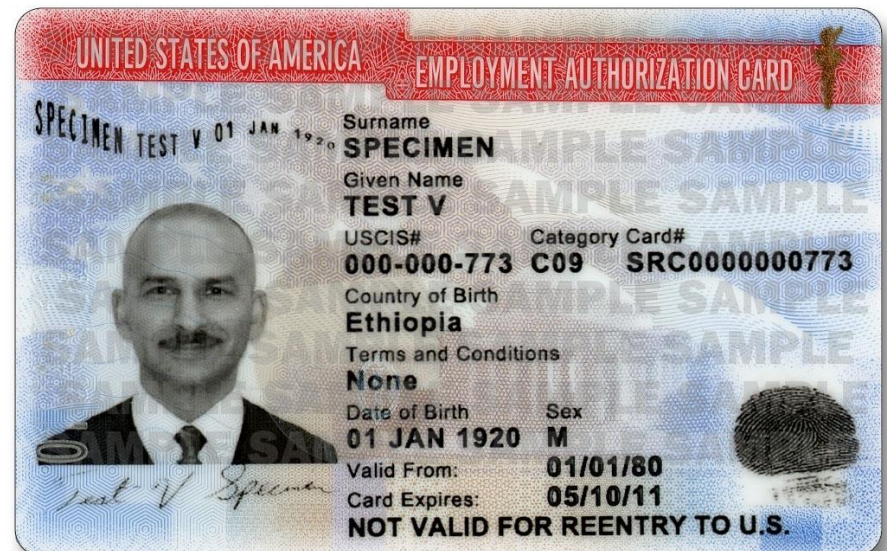
What does my work card mean?

Examples:

- Asylum: (a)(05)
- Asylum Pending: (c)(08)
- T-Visa: (a)(16) or (c)(25)
- U-Visa: (a)(19) or (a)(20)
- Deferred Action: (c)(14)
- DACA: (c)(33)
- TPS: (a)(12) or (c)(19)

See:

<https://www.uscis.gov/sites/default/files/files/form/i-765instr.pdf>



Important!

- Immigration law is complicated
- There are other forms of reliefs too, so you need to speak with an experienced immigration attorney if you want to learn more about what you might be eligible for.
- Make sure your attorney has experience in immigration
- If you have a criminal history, ask the attorney if they have specialized knowledge/experience in the immigration consequences of crimes

Immigration Process



Arriving in the US

- For those who enter through an airport or in a car with a visa
- For those who cross the border and are not caught by immigration
- You will not interact with immigration court or officer until you file something or are approached by immigration.



Arriving in the US

- If you were detained by immigration when crossing:
 - When released, you will have to go to immigration court in the city where you told immigration you would be staying
 - Exceptions: obtained status in custody or order of supervision
- Not going to court can result in a **deportation order** and a **warrant of arrest**



Immigration released me – now what?

- **Wait for court date**
 - Court in MA always at:
 - JFK Federal Building, 15 New Sudbury Street, 3rd floor
Boston, MA 02203 (next to Haymarket & Govt Center)
 - Call 1-800-898-7180 to check dates
 - If you move, bring new address to court
- **Reporting**
 - Some people released by immigration may have to report to ICE in Burlington, MA
 - **Someone with reporting requirements or a bracelet should speak to a lawyer as soon as possible**

I have a court date – what do I do?

Go to court!

- You do not need a lawyer at your first court date
- If you do not go to court, you will be ordered deported for failing to appear.
- If you have an outstanding deportation order it can make you more vulnerable to ICE.

Avoiding Scams

- If you need legal advice on immigration matters, make sure the person helping you is authorized to give legal advice
- Only an attorney or an accredited representative working for a Board of Immigration Appeals-recognized organization can give you legal advice.
- Being a “notario público” does not authorize someone to provide you with any legal services

Avoiding Scams

- Please beware of anyone who offers to help you submit an application or a request for any of these actions before they are available.
- There is a lot of misinformation in the community; do not rely on rumors or false promises.

Where Can I Go For Help?

Free Consultations With Immigration Attorneys:

- **Mayor's Office For Immigrant Advancement:**

Free consultations every other Wednesday.

1 City Hall Square, Room 806
Boston, MA 02201

Volunteer lawyers are available on the first and third Wednesday of every month from 12 p.m. - 2 p.m.

- **Greater Boston Legal Services:**

Call for information, (617) 371-1234

MIRA Coalition:

Call for information, (617) 350-5480

Free Consultations With Immigration Attorneys:

- **Irish International Immigrant Center:**
Call for information on intake clinics, (617) 542-7654
- **Catholic Charities:**
Call for information on intake clinics, (617) 464-8100
- **PAIR Project:**
Helps with detained immigration cases and asylum. Call to make an appointment, 617-742-9296

Free Consultations With Immigration Attorneys:

- **Kids In Need of Defense (KIND):**
Call for information on intake for SIJS relief,
(617) 207-4138
- **Committee for Public Counsel Services** (for criminal matters), 617-482-6212
 - Call for information to see if you qualify for free services for your criminal case (pending or post-conviction relief)
 - If you have a criminal case, do not submit anything to immigration unless you have spoken to an experienced immigration attorney.

Attorney General's Office

- **Office of the Attorney General**

Civil Rights Division

One Ashburton Place

Boston, MA 02108

Civil Rights (617) 963-2917 (to report the unauthorized practice of law / immigration fraud)

- To report a hate crime: Any Massachusetts resident who has witnessed or experienced bias-motivated threats, harassment or violence may call the Attorney General's Hotline at **1-800-994-3228** or fill out a civil rights complaint form:

https://www.eform.ago.state.ma.us/ago_eforms/forms/crd_ecomplaint.action

thank you | gracias | merci | xie xie |
obrigado | shukran | asante

