



Washington Defender Association's  
Immigration Project

[www.defensenet.org/immigration-project](http://www.defensenet.org/immigration-project)

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## Immigration Status Questionnaire (August 13, 2014)

### Questions to Determine if Client is a U.S. Citizen:

- Were you born in the U.S.?
- Did you ever apply for citizenship and were issued a certificate of citizenship?

*If yes to either of these questions, client is a U.S. Citizen and not subject to deportation/removal. (People born in Puerto Rico and the Northern Marianas are US citizens by birth and, if born in American Samoa, US non-citizens who are like citizens in that they cannot be deported)*

*If no, client may have automatically derived citizenship by operation of law through a parent, if certain conditions are met. The following questions are designed to determine this.*

- Are either of your parents a U.S. citizen?

*If no, then client is not a U.S. citizen by parental naturalization.*

*If yes, then continue with these questions. Be sure to consult with competent immigration counsel with the information to determine if your client automatically acquired citizenship.*

- How old were you when your parent(s) became U.S. citizens?
- Were you living with your parent(s) in the U.S. when they became U.S. citizen(s)?
- Are you a lawful permanent resident (greencard holder)?
- When did you get your greencard/LPR status? Were you under 18?

### Questions to Determine Immigration Status of Noncitizens:

#### Entry into the U.S.

- Did you come to the U.S. by illegally crossing the border at some place other than a U.S. checkpoint?

#### Visa

- Did you come to the U.S. on some type of visa?
- What kind of visa (i.e. student, tourist, employment)
- Is your visa still current or is it expired?

- Are you getting a U-visa because you were a crime victim? Is someone assisting you?

Greencard (A greencard now says “Permanent Resident “on it.)

- Are you a legal permanent resident? Do you have a greencard ? (same thing)
- If not, have you or any of your relatives ever filed family visa petitions for you to get a greencard?
- If so, when were they filed?
- Who filed these petitions? (I.e. parent? spouse?)
- Are the papers still in process with the immigration authorities?

Work Permit (A work permit will say “Employment Authorization” on it.) There are many different types of status that let you apply for a work permit. If you can make a legible copy of the card, the “(c)-code” information on it can pinpoint the type of status or application it is linked to. WDAIP can help with that.

- Were you given a work permit?
- Do you know why it was granted?

Marriage

- Are you married to a U.S. citizen or lawful permanent resident?

*Marriage per se does not confer any lawful immigration status on a noncitizen spouse. Where the noncitizen marries a US citizen or LPR, this entitles the noncitizen to begin the process of applying for lawful status based upon a valid marriage.*

Refugee or Asylee

Did you come to the U.S. after having been given refugee status/visa? (*Refugee visas are granted outside the US and people then enter legally; a refugee visa is often stamped or noted on an “I-94” entry document.*)

Have you ever applied for asylum since you arrived in the U.S.? (*Political asylum is granted to people who are inside the US when they apply.*)

- Was your application granted?
- If so, when?
- If so, are you still in asylee or refugee status or did you apply for your greencard? (Refugees must, and asylees can apply for a greencard, after one year.)
- If not granted, is your application still pending?
- If your application was denied, have you had a hearing with an immigration judge?

DACA (Deferred Action for Childhood Arrivals)

*DACA is a type of non-statutory, temporary administrative status created in 2012, after the Dream Act and immigration reform law failed. It gives temporary status and work authorization to some undocumented people who entered the US before age 16, before 6-15-2007, and who were born on or after 6-15-1981. DACA does not lead to LPR status or give any other immigration status. Felony and some misdemeanor convictions are a bar.*

- Did you apply for the program for Dreamers/people who came before they were 16?
- Did you apply for work authorization?
- How old were you when you came to the US? When did you come?

### COFA (Compact of Free Association) Resident

*Three Pacific island nations have Compacts of Free Association with the United States. COFA citizens may come into, reside in, and work indefinitely in the US, but like permanent residents, they can be deported or excluded for crimes. They are not US nationals. Origin in a COFA country is usually the tip-off to this status, although such a person could have become an LPR or US citizen through normal channels. These countries are:*

- Federated States of Micronesia (FSM) (Chuuk, Yap, Pohnpei, Kosrae)
- Republic of Palau
- Republic of the Marshall Islands (RMI)

### Temporary Protected Status (TPS)

*TPS is a type of temporary status well short of asylum. Eligibility is established by designation by the Secretary of Homeland Security and must be renewed, usually every 18 months. TPS allows work authorization but does not lead to LPR or any other immigration status. The group is designated by country and date of arrival. Countries with groups currently designated for TPS are listed here <http://www.uscis.gov/humanitarian/temporary-protected-status-deferred-enforced-departure/temporary-protected-status>*

*Currently (August, 2014) there are TPS designated groups from El Salvador, Haiti, Honduras, Nicaragua, Somalia, Sudan, South Sudan and Syria. Any felony or two misdemeanors are bars to TPS.*

- Do you have TPS? (*Most people know if they have it.*)
- When did you arrive in the US?

### Removal Proceedings or Previously Deported and Came Back

- Have you ever seen an immigration judge or been detained by immigration?
- Do you have another hearing that you have to go to?
- Have you ever been deported?

### ICE Order of Supervision (Final Order of Removal/Deportation)

*People with final orders of removal (deportation) sometimes cannot be deported because the country of origin will not cooperate or because a travel document cannot be obtained. In such cases ICE will release the person with an Order of Supervision. They usually have to report to ICE, and can apply for work authorization. Some people stay in this status for years or permanently.*

- Did you ever see the immigration judge? Were you ordered deported?
- Were you told you can't be deported because your country won't take you back?
- Do you have to report to ICE (Immigration and Customs Enforcement)?