



# The Immigration Insider

KRA IMMIGRATION LAW GROUP

## FAMILY & LITIGATION UNIT



### APPLYING FOR NATURALIZATION

Foreign nationals seek to become United States citizens in order to gain certain benefits of citizenship. These benefits include: the ability to vote in federal, state or local elections, the ability to travel with ease, and the ability to petition for relatives abroad. Additionally, U.S. citizens may retire abroad with full social security benefits, hold political office, and have greater financial and tax benefits.

guage requirements, the applicant must establish that he or she is a person of good moral character for the requisite five (5) years (three [3] years for spouses of U.S. citizens or VAWA applicants). Please note that the USCIS may consider earlier conduct to determine good moral character. Applicants who have been convicted of aggravated felonies or murder are permanently barred from naturalization.

There are two major paths to U.S. citizenship. The first path is by operation of law and includes persons born in the U.S. and persons born abroad to qualifying U.S. citizen parents (“derivative citizenship”). The second path is through *naturalization* following the lawful acquisition of permanent residency. Naturalization requires an affirmative application (Form N-400) with the United States Citizenship and Immigration Services (USCIS) and satisfaction of eligibility requirements. While the naturalization process may be straightforward for certain applicants, there are several issues that should be considered for applicants with questionable criminal and immigration histories. Specifically, applicants who have had problems with criminal or immigration laws may be denied naturalization and subsequently placed into removal (deportation) proceedings with limited relief. For this reason, it is important to thoroughly consider one’s criminal and immigration history before applying for naturalization.

Good moral character has been interpreted as character that measures up to the standards of the average citizen in a given community. Some individuals are considered to lack good moral character due to their commission of certain criminal or immigration violations, particularly “crimes involving moral turpitude.” A crime involving moral turpitude generally refers to conduct which is contrary to accepted rules of morality and the duties owed between persons or to society in generally. Examples of crimes involving moral turpitude include: aggravated assault and battery, child/spousal abuse, kidnapping, rape, and murder.

Please note certain criminal and immigration violations will not only render an applicant ineligible for naturalization, but may also result in the removal (deportation) of the applicant from the U.S. Examples of these offenses include, but are not limited to, the following: alien smuggling, terrorist activity, firearm offenses, aggravated felonies, drug-related offenses, crimes of domestic violence, or multiple criminal convictions.

Because an applicant’s criminal and immigration history is considered upon applying for naturalization, we urge you to thoroughly consider the good moral character requirement and to contact an immigration attorney to determine whether naturalization is a safe path for your immigration needs.

Please note the above requirements for naturalization may have additional exceptions and limitations. For further information regarding obtaining U.S. citizenship through naturalization, please contact our Spanish-speaking staff at Kennedy Riordan & Associates via email at [Manuela@cis-immigration.com](mailto:Manuela@cis-immigration.com) or via telephone at (734) 762-7550 to determine if you are eligible for naturalization.

By: Manuela Policicchio

Several requirements must be met in order to acquire U.S citizenship through naturalization. In order to qualify for naturalization, the applicant must be at least eighteen (18) years old and lawfully admitted for permanent residence (“green card” holder). The applicant must have resided continuously in the U.S. for five (5) years as a lawful permanent resident. This residency requirement is reduced to three (3) years for applicants who obtained their permanent resident status based on marriage to a U.S. citizen, or based on the Violence Against Women Act (VAWA). The applicant must also be physically present in the U. S. for at least half of the applicable continuous residency period. Furthermore, the applicant must have a minimal level of ability to read, write, and understand English, and must understand the fundamental history and principles of the U.S. government.

In addition to the age, residency and English lan-

#### Did you know....?

*A marriage to a U.S. Citizen does not automatically give you permanent residence in the United States?*

*A B1/B2 visa does not authorize you to stay in the United States for ten years?*

*If you have a pending immigration case, you must request a travel permit in order to travel abroad and that it can take any where from 60 to 90 days to obtain?*

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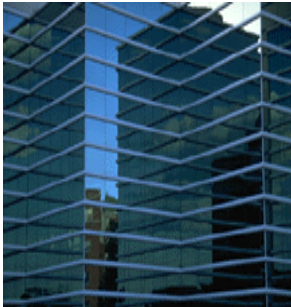


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## WARNING AGAINST “NOTARIOS PÚBLICOS”!



BEWARE OF NOTARIOS PÚBLICOS AND IMMIGRATION CONSULTANTS who offer you immigration advice!! A “Notario Público” in the United States is NOT a lawyer and cannot give you legal advice or represent you in an immigration matter. In fact, “Notarios Públicos” have nothing to do with lawyers. A “Notary Public” in the United States is simply responsible for witnessing and signing documents and administering oaths. No legal education is needed to be a “Notary Public” and most people in the general public can qualify to be one. On the other hand, in many Latin American countries, “Notarios Públicos” are elite attorneys who are subject to rigorous examinations, regulations, and codes of professional responsibility. Due to a semantic and cultural misunderstanding, Latino immigrants are at particular risk of being exploited by “Notarios Públicos” because they believe them to be attorneys. “Notarios Públicos” trick Latinos into believing that they are elite attorneys who are able to help with their immigration needs but, in fact, have no legal training. Many times the work “Notarios Públicos” provide Latinos proves detrimental to their livelihoods and eliminates the possibility of obtaining immigration benefits in the United States, such as obtaining a Green Card or becoming a citizen of the United States. “Notarios Públicos” also may put Latino immigrants at serious risk of deportation with the government by promising relief they claim to be available, which in fact is not actually available; this only alerts the government of the immigrant’s unlawful status in the United States and may result in deportation. Additionally, the “Notario Público” generally charges a large sum of money for relief that may not actually be available to the individual. For this reason, please do not contact a “Notario Público” for your immigration concerns.

NO IMMIGRATION BILL HAS CURRENTLY PASSED, although you may be hearing in your community of a proposed Immigration Reform Bill. There are several Proposals being considered by the United States gov-

ernment, but nothing has passed and become law. We urge you to contact an Immigration Attorney when legislation does pass, and NOT a “Notario Público.” Although the DREAM Act has not passed, it may pass and will provide a path to permanent legal status for hundreds of thousands of eligible undocumented high school graduates. Also, the AgJob Bill is a bill that will provide a path to permanent status for 1.5 million seasonal agricultural workers. Again, none of these bills are law! However, when immigration reform passes and relief becomes available, please do not contact a “Notario Público.” Please contact an Immigration Attorney for help with your immigration needs.

We warn you against contacting “Notarios Públicos” because the problem with the unauthorized practice of law in Michigan is very widespread, especially in the Latino immigrant community. The abuse is becoming so detrimental to immigrants that Michigan’s legislature has passed the “Michigan Immigration Clerical Assistant Act” (MICA) in 2004, which will punish “Notarios Públicos” who are assisting immigrants for profit, and who have not complied with the Act’s numerous requirements. Penalties under MICA can be severe and “Notarios Públicos” may have misdemeanor and felony charges lodged against them and face criminal penalties as severe as time in prison. Remember, Latino immigrants have rights in the United States and those rights may be taken away when an individual relies on the incorrect and misleading advise of a “Notario Público.” Know your rights!!

For further information regarding your immigration concerns, please contact Kennedy Riordan & Associates (KRA) Immigration Law at (734) 762-7550.

By: Manuela Policicchio

***“Immigration law is a mystery and a mastery of obfuscation, and the lawyers who can figure it out are worth their weight in gold.”***

Karen Kraushaar,  
CIS spokeswoman



## Green Card!

There are three general means to obtain lawful permanent resident (“green card”) status in the United States. The most common means is family-based sponsorship and includes individuals sponsored by U.S. citizens or lawful permanent resident relatives. The second means is employment-based sponsorship and includes individuals sponsored by qualified U.S. companies. Lastly, an individual can obtain a green card through the diversity visa lottery, also known as the green card lottery. This article will discuss obtaining a green card through family-based sponsorship and the process of adjustment of status, whereby a sponsored individual obtains lawful permanent resident status while in the United States. Additionally, we will discuss options for persons who have entered the United States without inspection, overstayed their visas, or accepted unauthorized employment while in the United States.

Family-based sponsorship occurs when a U.S. citizen or lawful permanent resident files a Petition for Alien Relative (Form I-130) on behalf of a qualifying family member. Two categories of family members qualify for family-based sponsorship: **immediate relatives** and **preference immigrants**. Immediate relatives include spouses, parents or minor children of adult U.S. citizens. Preference immigrants include unmarried children of U.S. citizens (1<sup>st</sup> Preference), spouses, minor children, and unmarried children of lawful permanent residents (2<sup>nd</sup> Preference), married children of U.S. citizens (3<sup>rd</sup> Preference), and brothers and sisters of U.S. citizens (4<sup>th</sup> Preference). Please note, if the beneficiary of the I-130 petition is present in the United States and is eligible to apply for adjustment of status, the application for adjustment of status (Form I-485) may be filed concurrently with the I-130.

In order to qualify for adjustment of status, the individual must be eligible for a visa, meaning an immigrant visa must be available. An immigrant visa is always available to the immediate relative category because there is no numerical limitation on the amount of visas issued to that category. Therefore, a sponsored immediate relative is immediately eligible to apply for his or her green card. Unlike the immediate relative category, the preference immigrant category is assigned a limited number of visas each year and allocated on a per-country basis. This results in long backlogs. An

individual’s place in the backlog is determined by his or her “priority date” which is the date issued when the immigrant petition was filed. Current priority dates are listed in the U.S. Department of State’s Visa Bulletin and are updated monthly. The dates listed on the Visa Bulletin for each preference category represents the cut-off date and a visa is available only for individuals whose priority date is **earlier** than that cut-off date.

Additionally, in order to qualify for adjustment of status, the individual must have been inspected and admitted or paroled into the United States. Following lawful entry, the individual must have maintained his or her nonimmigrant status. Exceptions apply, however, for immediate relatives of U.S. citizens who have failed to maintain lawful status by overstaying their authorized period of admission.

Although individuals who have illegally entered the United States are generally ineligible to apply for adjustment of status, an exception exists under the LIFE Act. Specifically, an individual who has entered the United States without inspection, has overstayed their visa, or has accepted unauthorized employment may adjust status to lawful permanent resident if a qualifying immigrant visa petition, including family (I-130) and employment-based (I-140) petitions, or labor certification was filed on the individuals behalf on or before **April 30, 2001**. Individuals whose petitions were filed between January 15, 1998 and April 30, 2001, must have been physically present in the United States on December 21, 2000, while those whose petitions were filed before January 14, 1998 do not need to establish physical presence in the United States on any particular date. Individuals who believe they qualify for this exception should contact a qualified immigration attorney to discuss their eligibility for this application.

Please note, this article is not intended to be legal advice. We strongly urge you to contact our Spanish speaking staff at Kennedy Riordan & Associates via email at [Manuela@cis-immigration.com](mailto:Manuela@cis-immigration.com) or via telephone at (734) 762-7550 for further information.

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## *FAMILY & LITIGATION UNIT*

### **Contact Us**

*KRA Immigration Law Group - the law offices of Kennedy Riordan & Associates P.C. - is solely dedicated to the practice of Immigration and Nationality Law. We represent businesses and individuals in all areas of immigration law including: temporary and permanent residence based on employment, business investment, international trade, family based permanent residence, international consular processing, naturalization, Form I-9 audits, employer sanctions, political asylum, exclusion and deportation proceedings, administrative appeals and litigation.*

#### **Lisa Tehlirian, Director of Litigation Unit**

Lisa Tehlirian graduated from the University of Michigan, Ann Arbor in 2000 with a Bachelor's degree in General Studies with concentrations in biological anthropology and psychology. Ms. Tehlirian continued her studies and received her Juris Doctor in 2004 from the University of Detroit Mercy School of Law in Detroit, Michigan. Following her legal studies, Ms. Tehlirian was accepted into the U.S. Department of Justice, Attorney General's Honors Program where she worked as the Judicial Law Clerk/Attorney Advisor for the Executive Office for Immigration Review (EOIR), U.S. Immigration Court in Detroit, Michigan.

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Lucia Hernandez graduated from the University of Michigan, Dearborn in 1998 with a Bachelor's degree in International Studies with concentrations in Business Administration and Spanish Studies. Ms. Hernandez continued her studies and received a Master's degree in Spanish Studies with a concentration in linguistics from Wayne State University in Detroit, Michigan.

She currently is part of the Family and Litigation Unit at Kennedy Riordan & Associates, P.C. as a paralegal and unit coordinator.

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Autumn Misiolek is currently attending the University of Detroit Mercy in Detroit, Michigan in pursuit of a Bachelor's Degree in Political Science with a concentration in Pre-Law. After graduation, Ms. Misiolek plans on continuing her education to receive her Juris Doctor.

She currently is part of the Family and Litigation Unit at Kennedy Riordan & Associates, P.C. as a legal assistant.

The Immigration Insider is published solely for educational purposes. Please note that this publication only provides you with basic information on immigration law, and does not replace attorney advice. Every immigration case is different. We strongly urge you to consult a licensed Immigration Attorney with your individual case, because it is easier to plan your immigration strategy ahead than it is to go back to try and fix mistakes. If you wish for us to be your immigration attorney, please refer to the bottom of the front page for our contact information.



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