

## Immigration (Part 1 of 2) – History & Citizenship

*"Give me your tired, your poor,  
Your huddled masses yearning to  
breathe free,  
The wretched refuse of your  
teeming shore.  
Send these, the homeless,  
tempest-tossed to me,  
I lift my lamp beside the golden  
door!"*

– Emma Lazarus, 1883

America has deep affection for immigrants. In fact, it's been projected that about 40 percent of Americans today will find an immigrant within their family history. America is a sovereign nation and a democratic republic operating under the rule of law. That is why many immigrants come here. They come from places where the law is corrupt, malleable and limiting. Economic opportunity and safety are also powerful incentives for immigrants and their families today.

To help each of us better understand our immigration practices, Operation Wildfire looks at the history of immigration, DACA and the legal path to citizenship.

### The History of Immigration

Around the time of the Revolutionary War, New York merchant Samuel Ellis purchased an island in the New York Harbor between the States of New York and New Jersey where he built a tavern for local fishermen. Ellis died in 1794, and in 1808 New York State bought the island for \$10,000. The U.S. War Department used Ellis Island to build military fortifications and store ammunition during the War of 1812. Half a century later, Ellis Island was used as a munitions arsenal for the Union Army during the Civil War.

The first federal immigration law, the Naturalization Act, was passed in 1790. At that time, Congress first defined eligibility for citizenship by naturalization in this law and limited this important right to "free white persons." Only white, male property owners could naturalize and acquire the status of citizens. Women, nonwhite persons and indentured servants could not. Access to citizenship would become more expansive over time; although, the racial restriction was not eliminated entirely until 1952. This law also produced the legal category of "aliens ineligible for citizenship" which largely affected Asian immigrants and limited their rights as noncitizens to key realms of life in the United States such as property ownership, representation in courts, public employment, and voting.

The first Ellis Island Immigration Station opened on January 1, 1892. Over the next five decades, more than 12 million people would pass through the island on their way into the United States. Two new islands were created by using landfill. Island Two housed hospital administration and a psychiatric ward, while Island Three held the contagious diseases ward.

Processing began with a medical examination was performed. Military surgeons marked individuals clothing using a letter of the alphabet: For example, 'H' indicated heart trouble suspected; 'L' suspected lameness; 'X' suspected feeble-mindedness and so on.

Immigrants were then filtered into long lines to be interviewed by inspectors and interpreters. This legal informational interview would verify the passenger ship's manifest agreed with information provided by the individual. If everything was consistent, the passenger would continue through the process. If the immigrant's answers were inaccurate or suspicious, or if conflicting information had arrived about the passenger prior to arrival, the immigrant would be detained. Detention could be overnight, a few days even several months. Passengers would be forced to stay at Ellis Island until the challenge that caused the detention was resolved.

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President Warren G. Harding signed the Emergency Quota Act into law in 1921. According to the new law, annual immigration from any country could not exceed 3 percent of the total number of U.S. immigrants from that same country as recorded in the U.S. Census of 1910.

The Immigration Act of 1924 went even further, setting strict quotas for immigrants based on countries of origin, including an annual limit of 165,000 immigrants from outside the Western Hemisphere.

In 1950, passage of the Internal Security Act excluded immigrants with previous links to communist and fascist organizations. With this, Ellis Island experienced a brief resurgence in activity.

The Immigration and Naturalization Act of 1952, combined with a liberalized detention policy, caused the number of detainees on Ellis Island to plummet to fewer than 30 people. The INA:

- Reaffirmed the national origins quota system;
- Limited immigration from the Eastern Hemisphere while leaving the Western Hemisphere unrestricted;
- Established preferences for skilled workers, and relatives of U.S. citizens and permanent resident aliens; and,
- Tightened security and screening standards and procedures.

The Immigration and Naturalization Act ("INA") remains the primary statute governing immigration to the United States.

- Since its initial passage, the INA has been modified several times by means of the Immigration Act of 1990, the Illegal Immigration and Immigrant Responsibility Act of 1996, and others.
- Contrary to the popular narrative that America has always been a nation of mass immigration, U.S. policy has alternated between more permissive and more restrictive rules and regulations.
- Despite periodic efforts by Congress to strengthen enforcement, the overall trend in U.S. immigration policy since the 1960s has been toward liberalization of immigration laws and increasingly lax enforcement.
- Assuming office in January 2017, President Donald Trump used the authority granted to him by Congress to improve immigration enforcement and address the worsening crisis at our southern border. However, those efforts have frequently been blocked by activist courts and partisan gridlock in Congress, as well as an unwillingness to amend our current immigration laws by legislative means.

For additional information on the INA, visit <https://www.fairus.org/legislation/reports-and-analysis/history-of-us-immigration-laws>

All 33 structures on Ellis Island were officially closed in November 1954. To learn more about Ellis Island, visit <https://www.history.com/topics/immigration/ellis-island>

In 1965, President Lyndon B. Johnson signed the Immigration and Naturalization Act of 1965, which abolished the earlier quota system based on national origin and established the foundations for modern U.S. immigration law. The act allows more individuals from third-world countries to enter the U.S. (including Asians) and establishes a separate quota for refugees.

The Immigration Reform Act of 1986 was a compromise, a trade of illegal immigrant amnesty for better enforcement going forward. Amnesty was granted to more than 3 million aliens but enforcement never materialized. This experience has haunted conservatives ever since, making further compromise for similar purposes incredibly difficult.

## **Deferred Action for Childhood Arrivals (DACA)**

DACA is a U.S. immigration policy allowing some individuals with unlawful presence in the U.S. and after being brought to the country as children to receive a renewable two-year period of deferred action from deportation and to become eligible for an employment authorization document (work permit) in the U.S. To be eligible for the

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program, recipients may not have felonies or serious misdemeanors on their records. Unlike the proposed DREAM Act, which would permanently protect certain immigrants who came to the United States as children but are vulnerable to deportation, DACA does not provide a path to citizenship for recipients. The policy, an executive branch memorandum, was announced by President Barack Obama on June 15, 2012. U.S. Citizenship and Immigration Services (USCIS) began accepting applications for the program on August 15, 2012.

In November 2014, President Obama announced his intention to expand DACA to cover additional undocumented immigrants. Multiple states immediately sued to prevent the expansion, which was blocked on June 23, 2016 by an evenly divided U.S. Supreme Court in *United States v. Texas*.

Under President Donald Trump, the U.S. Department of Homeland Security rescinded the expansion, while it continued to review the existence of DACA as a whole. In September 2017, the Administration announced a plan to phase out DACA, triggering multiple lawsuits challenging this action. The government deferred implementation of this plan for six months to allow Congress time to pass the DREAM Act or some other legislative protection for undocumented immigrants. Congress failed to act and the time extension expired on March 5, 2018.

On his first day in office on January 20, 2021, President Joe Biden issued an Executive Order to reinstate DACA.

On July 16, 2021, Judge Andrew Hanen of the Southern District of Texas ruled that DACA was “created in violation of the law” and “illegally implemented.” He barred the government from accepting new applications to the program, effectively cancelling Biden’s Executive Order. However, the ruling allows for immigrants currently protected by the program to keep their status and allow DACA renewals while the case goes through the appeals process. DHS is, however, prohibited from granting initial DACA requests and accompanying requests for employment authorization. Consistent with that order, DHS will continue to grant or deny renewal DACA requests, according to existing policy. To learn more about DACA, visit <https://www.uscis.gov/DACA>

## How to Become a Legal Citizen

Naturalization is a process in which a non-U.S. citizen voluntarily becomes an American citizen. To become a U.S. citizen, you must:

- Have had a Permanent Resident (Green) Card for at least five years, or for at least three years if you’re filing as the spouse of a U.S. citizen
- Renew your Green Card before applying for citizenship if:
  - Your card will expire within six months of applying, or
  - Your card has already expired
- Meet certain eligibility requirements. Some requirements may include being:
  - At least 18 years old when you apply
  - Able to read, write and speak basic English
  - Of good moral character
- Go through the ten-step naturalization process which includes:
  - Determining your eligibility to become a U.S. citizen.
  - Completing the application for naturalization.
  - Taking the U.S. Naturalization Test
  - Having a personal interview

To learn more about becoming a U.S. Citizen, visit <https://www.usa.gov/become-us-citizen>

**Coming Next:** In **Immigration Part 2**, Operation Wildfire will discuss the citizenship debate, the overstayers, the impact of illegal immigration and what can be done.

*Sources: The Atlantic, History.com, fairus.org, uscis.gov, usa.gov, National Review*