

Untangling The Law

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IMMIGRATION LAW: Can an illegal alien in the U.S. apply to immigrate to Canada?

There are many cases where individuals who are illegally in the U.S. or another country want to immigrate to Canada as permanent residents. Many of these individuals are scared to apply because they do not want to be sent "back home". While the general rule is that a person should apply for permanent residency in the country in which they are a citizen or legal resident, certain illegal aliens in the U.S. (and other countries) can apply to immigrate to Canada.

Who can apply for Canadian permanent residency while illegal in the U.S.?

Persons who have been "lawfully admitted" to the U.S. for at least one year can apply for permanent residence in a Canadian Visa Office in the U.S. As a result, if a person was initially "lawfully admitted" to the U.S. for one year but overstayed their U.S. visa and are currently illegal in the U.S., that person can apply to immigrate to Canada.

Is there a minimum time period the person must have been in the U.S.?

It is not necessary that the person have actually been in the U.S. for one year. It is only necessary that the person have been "lawfully admitted" for one year. For instance, if a person got a one year visa to the U.S. but, after 6 months in the U.S., had that visa taken away, he would still be able to apply to immigrate to Canada.

If a Canadian immigration interview is needed, will the illegal alien have to go "back home"?

If a Canadian immigration interview is needed, the illegal alien in the U.S. would normally be interviewed at the Canadian Visa Office in the U.S. that is processing the application unless "program integrity" reasons dictate otherwise. If the Canadian immigration application is denied, Canada will not require the illegal alien to leave the U.S.

While Canada will not require the person to leave the U.S., being in the U.S. illegally does have consequences. Not only is it a violation of U.S. laws, the circumstances relating to the illegal presence in the U.S. can effect the Canadian immigration assessment.

If a family member has been "lawfully admitted" but his/her spouse or children have not been "lawfully admitted" can the family still apply?

According to current Citizenship and Immigration Canada interpretations, family members who are included on a permanent resident application do not need to have been lawfully admitted to the country in which the "applicant" has submitted an application.

This Article is prepared for general information purposes only and is intended to provide comments for readers and friends of the Filipino Journal. The contents should not be viewed as legal advice or opinion.

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One person, one vote, many ways

There are more ways to cast your vote in an election besides marking a ballot on election day, says Canada's Chief Electoral Officer.

"While most people vote on election day, they could instead choose to vote at the advance polls or by special ballot," says Chief Electoral Officer Marc Mayrand.

"Many people are not aware that they can, in fact, vote by special ballot at any point during the election period if they first register to do so."

With the special ballot, electors can vote by mail or in person at their local Elections Canada office. Those away from their riding can register at any local Elections Canada office or with Elections Canada in Ottawa.

Electors must first complete a special ballot application form, which they can get from a local Elections Canada office, from www.elections.ca, or by phoning 1 800-463-6868.

Electors can register in person at a local Elections Canada office, or they can mail or fax their application to Elections Canada in Ottawa. They have to provide proof of identity and address and ensure Elections Canada receives their application by 6 p.m. on the Tuesday before

election day. When their application is approved, electors get a special ballot voting kit - by mail if that's how they applied, or right away if they registered in person.

Electors who have successfully registered for a special ballot won't be able to vote in any other way during the election.

In order to be counted, special ballots have to reach Elections Canada by election day - by the close of polls locally, at the local Elections Canada office; or by 6 p.m., Eastern Time, at Elections Canada in Ottawa.

"Elections Canada wants to ensure that all eligible voters have the opportunity to cast their ballot in whatever way is most convenient for them," says Mr. Mayrand.

The special ballot process is different for Canadian Forces and incarcerated electors. More information for these electors is available on Elections Canada's website or by phone.

For those wanting to vote at the advance polls, they will be held on Friday, April 22, Saturday, April 23 and Monday, April 25, from noon to 8 p.m.

For more information, go to www.elections.ca or call 1-800-463-6868.

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