

Undocumented Student Action Week

Education and Career UndocuDreams Made Possible



California Community Colleges



HOUSEKEEPING

- The presentation will be available after the event on the Vision Resource Center and the Undocumented Student Action Week website.
- Closed Captioning is available. Please click on the CC icon below to activate the closed captioning.
- Q&A will be available, and presenters will answer questions as time permits.
- Chat is disabled.
- If you require technical assistance, please email conferences@foundationccc.org



Presenters

- **Carolina Castaneda**, Staff Attorney, Lead Fellowship Trainer, ILRC
- **Erin Quinn**, Senior Managing Attorney, ILRC

PATHWAYS TO BELONGING:

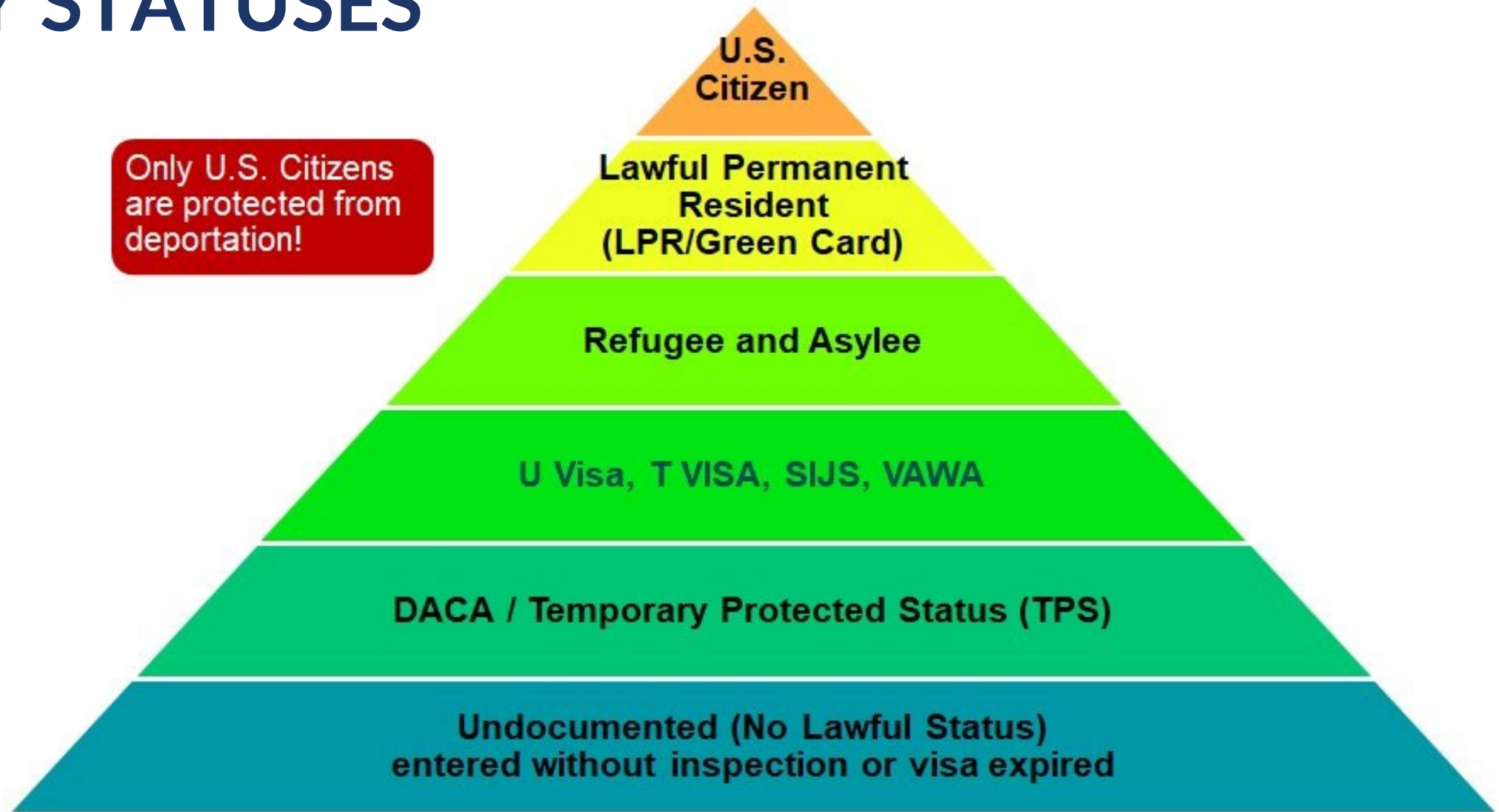
Understanding Naturalization and Lawful Permanent Residency in the United States



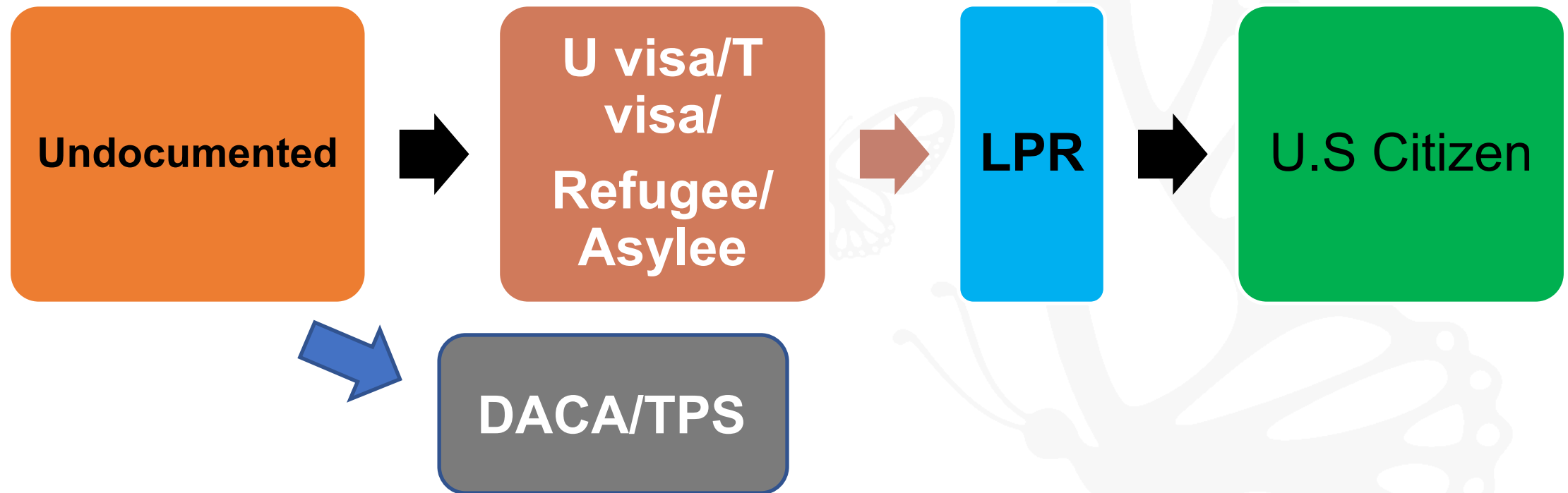
IMMIGRATION PATHWAYS

- Intro to Immigration Statuses
- The Pathway to Citizenship
- Getting to Lawful Permanent Residence
- Becoming a Citizen

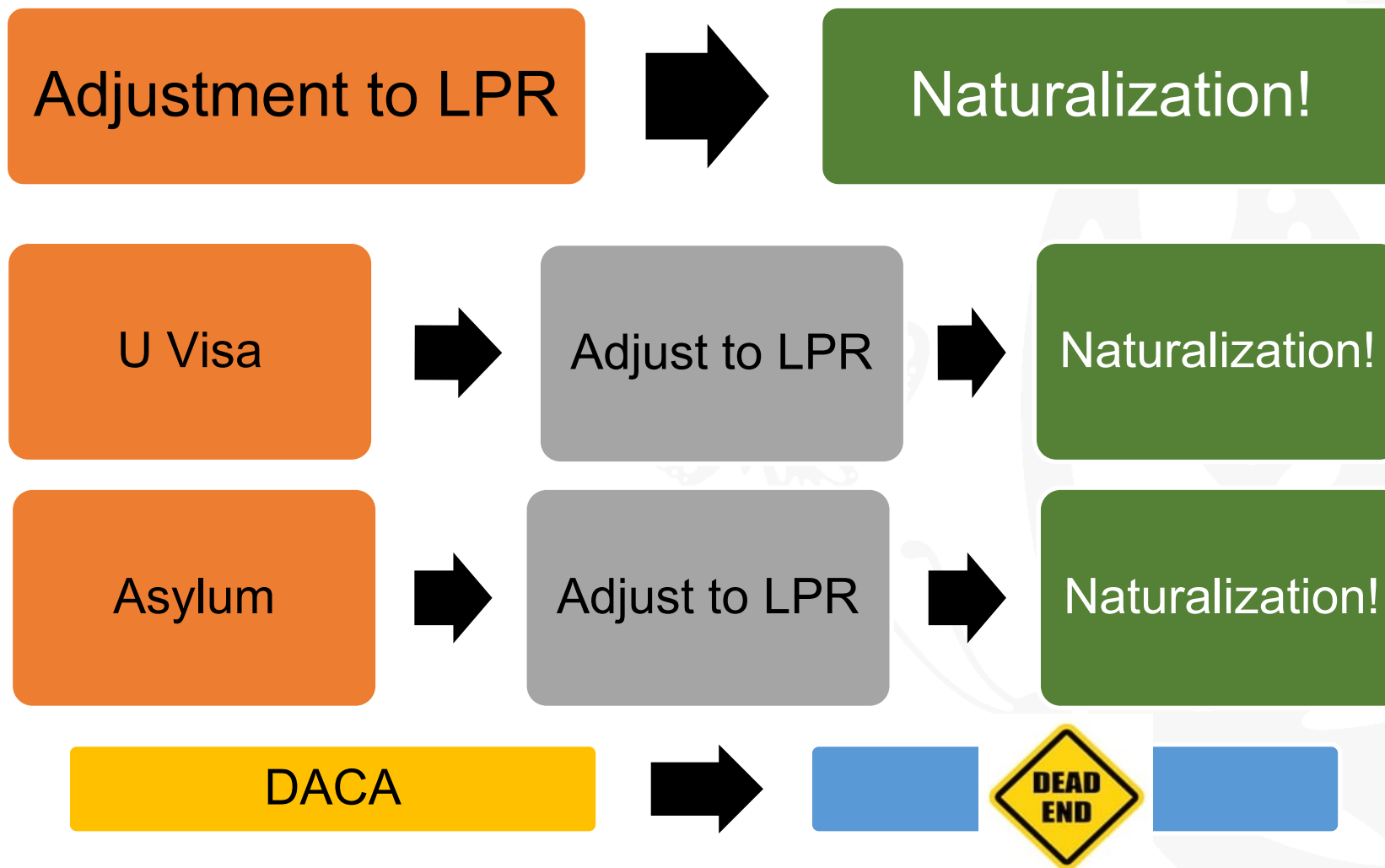
MANY STATUSES



IMMIGRATION PATHS



NOT ALL STATUSES ARE EQUAL

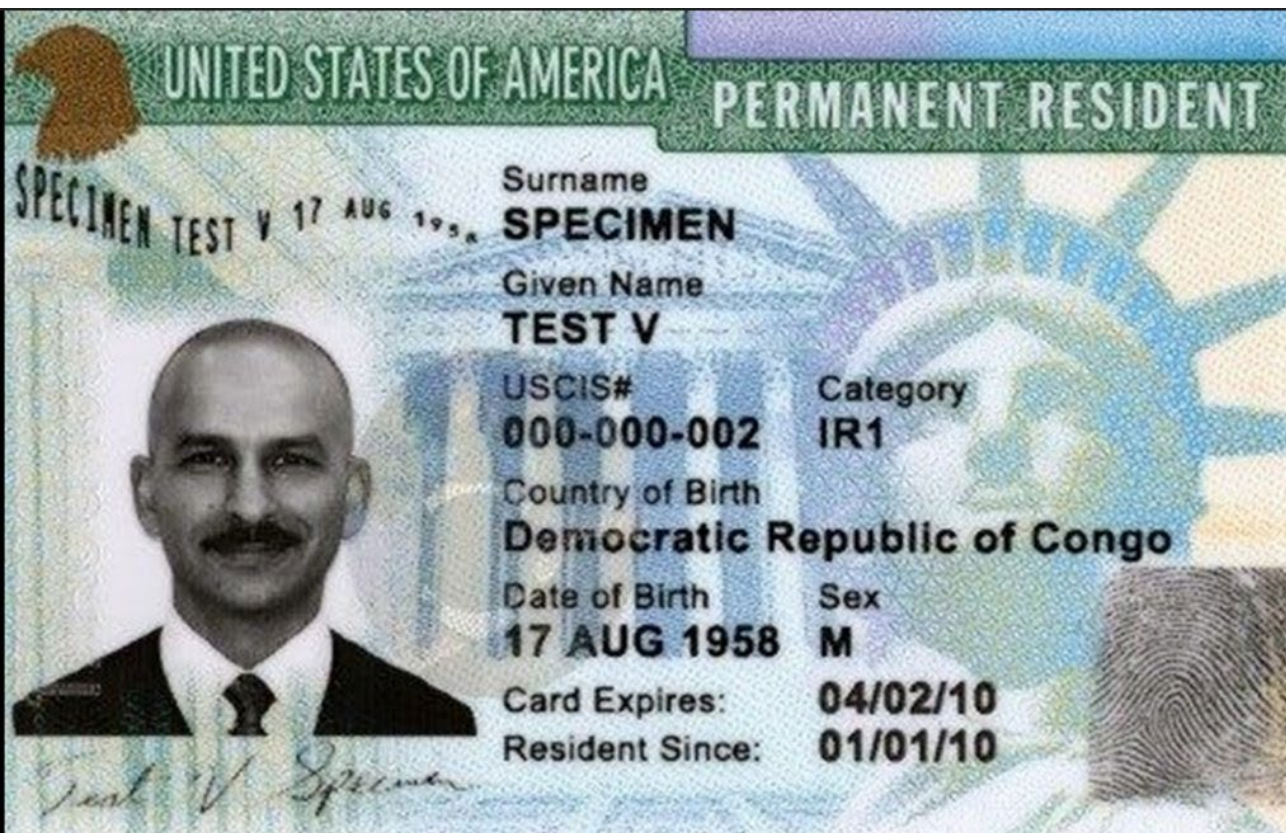




Paths to citizenship can be long!!

GETTING FAMILIAR WITH TERMS

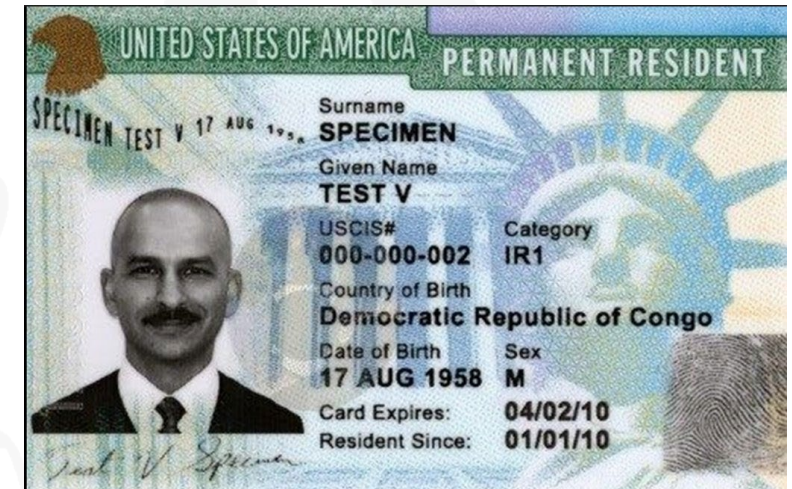
- **Lawful Permanent Resident:** LPR, green card holder, mica
- **Pathways:** Usually refers to pathway to citizenship **or** pathway to residence
(Since you have to become a permanent resident to get to citizenship, people refer to it in both ways!)
- **“Natz,” Naturalization, Derivation, acquisition:** ways people become citizens (**USC**)



Becoming a Permanent Resident

BENEFITS OF LPR STATUS

- Permission to live and work in the United States
- Eligibility for certain public benefits
- Right to travel within the United States and abroad
- Can apply for naturalization



LIMITATIONS LPR STATUS

- Can lose their status if convicted of certain crimes



Remember that it is still a federal crime to possess marijuana!

- Although LPRs can travel freely, they cannot live in another country



Absences over 6 months from the U.S. can cause problems

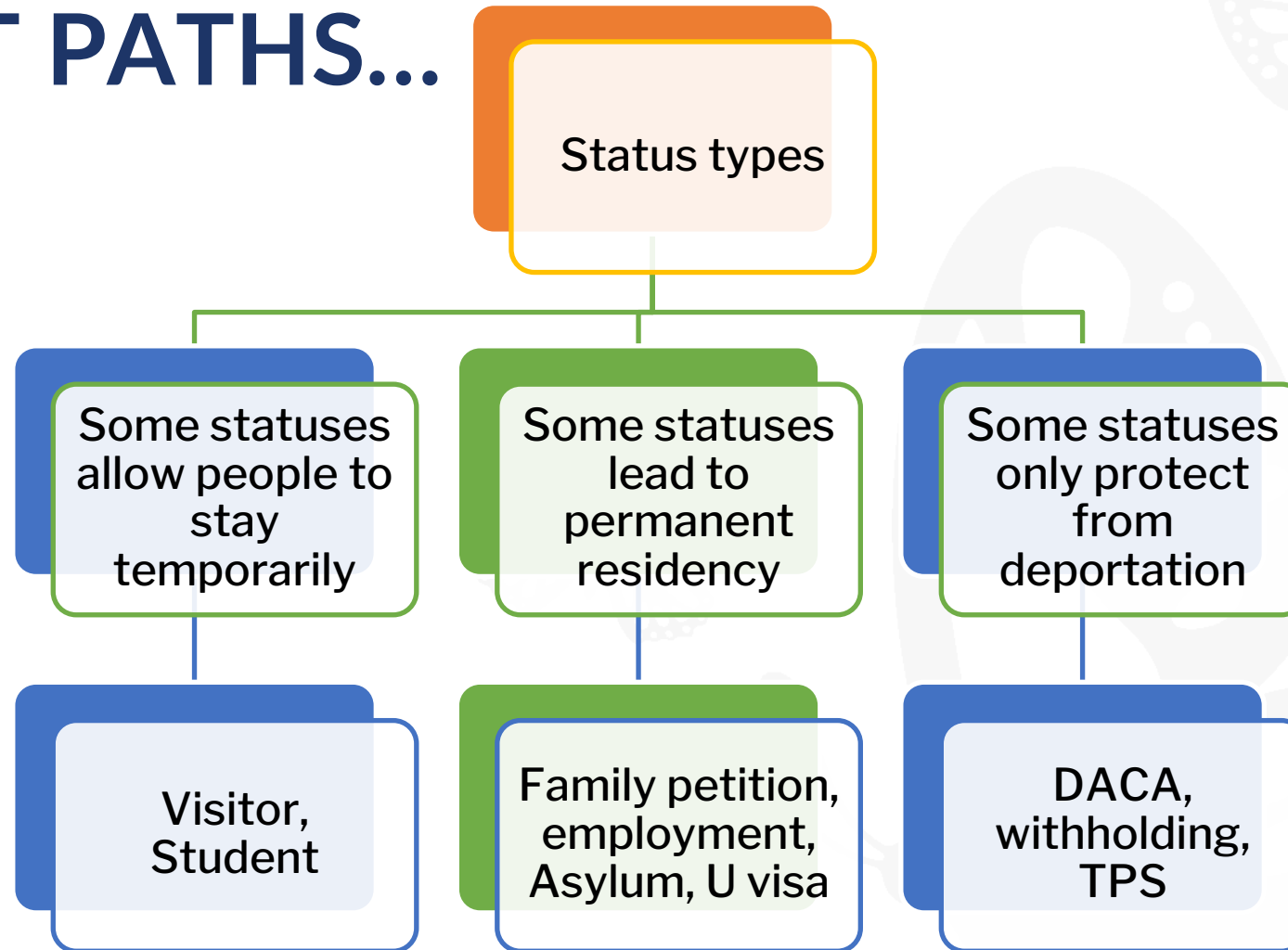
- Cannot vote in federal elections in the United States



Falsely Claiming Citizenship can cause deportability!

- Can petition less relatives when compared to United States citizens

DIFFERENT PATHS...



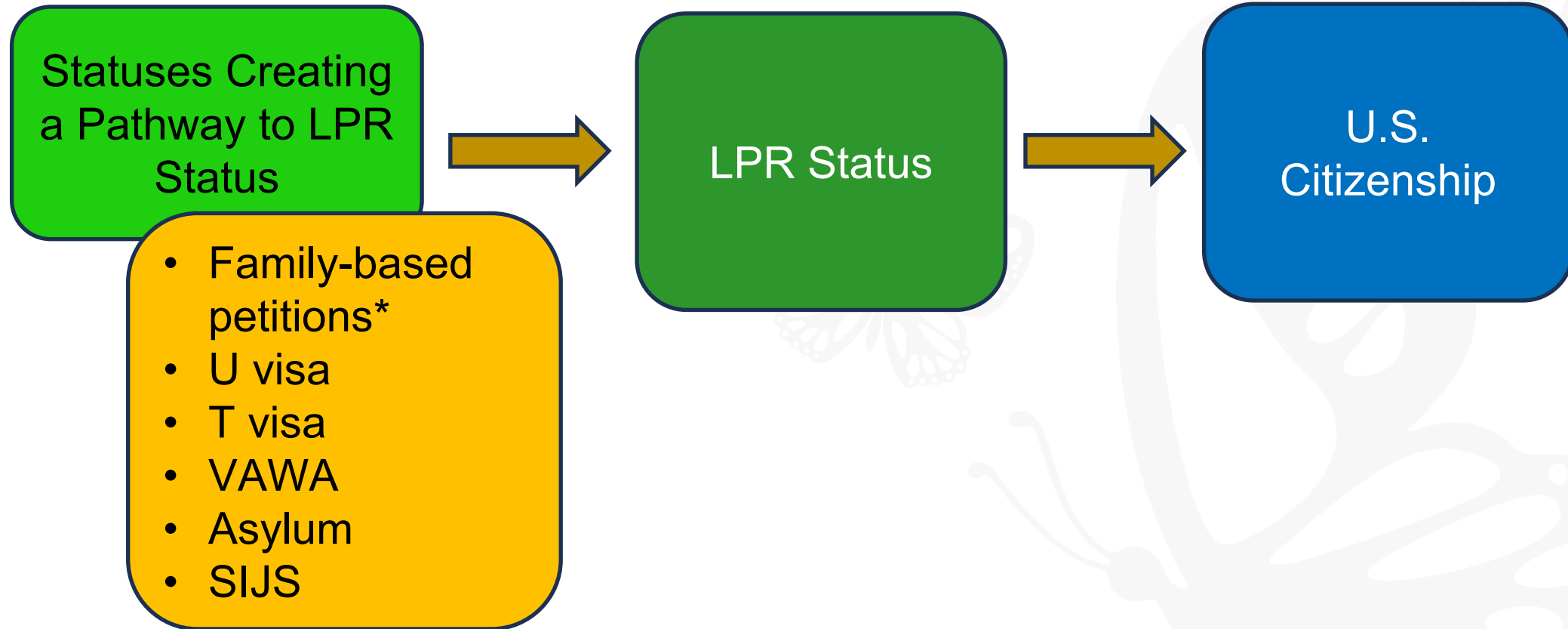
QUIZ:

Name a status that isn't on the direct path to citizenship:

_____ or _____, maybe temporary visa

- But people with these statuses can take steps to get a green card (permanent residence) through other pathways! Stay tuned!
- **Example:** TPS holder Tomas gets travel permission and goes to El Salvador. He is admitted back into the U.S. when he returns. Tomas is married to a U.S. citizen. They can now start the family petition process to achieve permanent resident status for Tomas.

PATHWAYS TO LPR STATUS



MANNER OF ENTRY



- Our immigration law sort people by status and by the way they entered the United States (**manner of entry**).
- For family-based immigration, a person's manner of entry (combined with other requirements) usually determines whether they can **adjust status** to that of a lawful permanent resident (LPR) in the United States or whether they will have to attend a consular interview abroad (**consular process**)



MANNER OF ENTRY

- **Inspected and Admitted, or Paroled**

Did an officer see the person and let them enter?

- **Without Inspection**

Did the person cross over the border without being seen? Did they enter, presenting false claim to U.S. citizenship?

FAMILY-BASED IMMIGRATION

There are two ways to immigrate into LPR status: Adjustment of Status and Consular Process.

STEP ONE:

Petitioner files I-130 Visa

Petition on behalf of family member



STEP TWO:

Adjustment of Status or Consular
Processing

Beneficiary files application to become
permanent resident

WHO CAN PETITION WHOM?

U.S. Citizens can petition for:

- Spouses
- Children (under 21 and unmarried)
- **Parents**
- Unmarried Sons and Daughters
- **Married Sons and Daughters**
- **Siblings**

LPRs can petition for:

- Spouses
- Children (under 21 and unmarried)
- Unmarried Sons and Daughters

ADJUSTMENT OF STATUS v CONSULAR PROCESS

Adjustment of Status

- For someone in the U.S.
- Can become LPR without leaving the U.S.
- Generally requires an inspection into the United States, but also special cases.

Consular Process

- For someone who must leave the U.S. or is already outside the U.S.
- Interview at a U.S. Embassy/Consulate
- If entered without inspection at border/airport and doing family-based immigration will generally have to consular process

ADJUSTMENT OF STATUS v CONSULAR PROCESS

Adjustment is almost always better for those in U.S.!

- No risk of travel, getting stuck outside U.S.
- Right to have legal counsel present
- Right to legal review
- Less expensive

QUIZ

- Amelia entered the United States with a visitor visa. When she first arrived in the U.S., a border agent stamped her passport at the airport. But that was many years ago. She is no longer authorized to be in the U.S.
- Amelia is now married to a U.S. citizen, Geri. Can she adjust status, and stay in the U.S. to file for permanent residency?

*There are special rules about family members of citizens which help. People like Amelia should get screened by a legal practitioner.

EXAMPLE

Pierre entered without inspection when he was very young. He doesn't remember the details, he just knows the stories his family shares. Pierre has had DACA for many years now. He just married Lori, U.S. citizen. Can Pierre adjust status?

Probably not right away. Pierre has never been inspected and admitted. But Pierre has some options. He could travel with advance parole through his DACA status. He will then have a new entry where he would be inspected and admitted.

***There are also special rules about old petitions, so a legal practitioner will double check family history. Also, he might qualify for other ways to get a green a card...**

SOME OF THE OTHER PATHWAYS TO LPR STATUS

U visa: Available to immigrant victims of certain crimes who have been helpful in a criminal investigation or prosecution

T visa: Available to certain survivors of human trafficking, including certain forms of serious workplace exploitation

VAWA: Available to certain people who have been abused by their USC or LPR spouse, parent, or USC son or daughter

Asylum: Available to those fleeing persecution or who have a fear of persecution in their home country

SIJS: Generally available to those under 21 and unmarried who have been abused, abandoned, or neglected by a parent

Non-LPR COR: Available only in removal proceedings to those present in the U.S. for 10+ years who can show their removal would cause extremely unusual hardship to a qualifying relative

TO APPLY FOR LPR STATUS

U visa: Requires **3 years** in U nonimmigrant status

T visa: Requires 3 years in T nonimmigrant status (or earlier in some cases)

VAWA: Some will be able to apply right away others will have to wait until their priority date is current

Asylum: Requires 1 year in asylee status

SIJS: Must wait until priority date is current

Cancellation of Removal:
Requires 10 years in the U.S.

And must be in
Immigration Court!!



LPR STATUS! YAY! NOW WHAT?

... On the pathway to
United States Citizenship!

-in the meanwhile, you have all
the benefits of Lawful
Permanent
Residency



NOT ALL PATHS ARE THE SAME...

0

- LPR STATUS

3 years

- Can apply 3 years later if married to a USC for 3 years

5 years

- Can apply 5 years later for most everyone else

??

- Children might qualify when parent naturalizes, military



CITIZENSHIP- THE FINAL FRONTIER!

- Persons who go through the naturalization process
- Certain children of naturalized citizens
- Certain persons born abroad to U.S. citizen parents
- Persons born in the US, Guam, Puerto Rico, or the US Virgin Islands, Northern Mariana Islands

BENEFITS OF U.S. CITIZENSHIP

- **The Right to Vote:** Citizens can cast a ballot and fully participate in the electoral process.
- **Protection from Loss of Legal Status:** Citizens may not be removed, or deported, from the United States. They are also able to re-enter the U.S. without being required to establish admissibility each time.
- **Freedom of Travel:** Citizens can leave and re-enter the United States easily, regardless of how long they are gone. They never lose their right to live here legally.
- **Passport:** They can obtain a US passport for identification abroad.
- **The Right to Hold Office:** They can run in elections and win public office.

• Source: <http://www.immlaw.com/citizenship.html>

BENEFITS OF U.S. CITIZENSHIP

- **Government Employment:** Citizens may obtain one of the many government-related jobs restricted only to US citizens.
- **Public Benefits:** They can collect certain public benefits that Lawful Permanent Residents cannot. They can also receive Social Security benefits wherever they live worldwide.
- **Tax Deductions:** They can receive substantial deductions on U.S. estate taxes.
- **End to USCIS Reporting:** US citizens don't have to report any information—address changes or anything else—to the U.S. Citizenship and Immigration Services (USCIS).

• Source: <http://www.immlaw.com/citizenship.html>

BENEFITS OF U.S. CITIZENSHIP

- **Bringing family members to the United States:** US citizens can help family members become Permanent Residents.
- **Obtaining citizenship for children:** In most cases, a child born abroad to a U.S. citizen is automatically a U.S. citizen.
- **US citizens can file a petition for their:**
 - Spouse
 - Parent
 - Child of any age, married or unmarried
 - Brother
 - Sister

• Source: <http://www.immlaw.com/citizenship.html>

COMPARISON OF BENEFITS

	LPR	USC
Vote in federal elections?	✗	✓
Can run for office?	✗	✓
Protected from deportation?	✗	✓
Travel freely?	✗	✓
Petition spouse, children, & unmarried sons/daughters?	✓	✓
Petition parents?	✗	✓
Petition married sons and daughters?	✗	✓
Petition siblings?	✗	✓
Ability to lawfully work in the United States?	✓	✓

BASIC REQUIREMENTS FOR NATURALIZATION

- At least 18 years old
- Lawful permanent resident
- Five years of continuous residence (exception if applying as the spouse of a US citizen)
- Physical presence for half of the five years (exception if applying as the spouse of a US citizen)
- Good moral character
- Be able to pass exams on English and U.S. government and history
- Take a loyalty oath and be attached to the U.S. Constitution

ENGLISH AND CIVICS WAIVER

Age Exempt from English

- They are **50 and have been a Permanent Resident** for at least **20** years.
- They are **55 and have been a Permanent Resident** for at least **15** years.
- **If the applicant is 65 and has been a Permanent Resident for at least 20 years, no English AND they can study from a designated list of just 20 questions for civic and history.**

Medical Exception: English and Civics

- Certain medical conditions may be exempt from English and/or Civics.
- The applicant's medical doctor or specialist must complete the Form N-648 (Medical Certification for Disability Exceptions).

SPECIAL CASES

Military Exceptions:

Active members of the military at time of war qualify immediately for naturalization.

Special Requirements.

USCIS Military Hotline:

1-877-CIS-4MIL (1-877-247-4645)



AUTOMATIC CITIZENSHIP FOR KIDS

If a parent naturalizes, their children under 18 might automatically become citizens!

Under current law, a person might become a USC if, when they are under 18:

- A parent is a U.S. citizen by birth or through naturalization (including an adoptive parent);
- The child is a lawful permanent resident (LPR);-and
- The child is residing in the United States in the legal and physical custody of the U.S. citizen parent.

EXAMPLE

- Ana just became a citizen yesterday! 11 years ago, USCIS granted her U visa application. 4 years later, she applied for a green card. She got her green card in in 2018. Then, after 5 years as a green card holder, she applied to become a US citizen.
- Ana has two children, ages 12 and 16. They got their green cards after Ana.
- They automatically became citizens yesterday, when Ana's naturalization is complete.

EXAMPLE

- Jon just completed the naturalization process yesterday too! He has two children that had been living in Mexico with their grandma. They crossed the border without inspection and are now living with him.
- Because they are not LPRs, they do not automatically become citizens. But Jon can file a family-based petition for them. They will have to consular process. If they become permanent residents before they turn 18, they will automatically become citizens once they are living in Jon's physical and legal custody.

CHECK YOUR ELIGIBILITY AND GET INFO!

- <https://www.newamericanscampaign.org/learn-about-becoming-a-citizen/benefits-of-citizenship/>