



THE CPAC INFORMER

Political Issues Impacting the
Caribbean American Diaspora

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IMMIGRATION

In this volume of the CPAC Informer, we look at immigration reform and how it impacts Caribbean nationals. Broadly defined, immigration reform is a term used in political discussion regarding changes to a country's immigration policy. In the U.S., the term is widely used to describe proposals to increase legal immigration while decreasing illegal immigration. The focus on immigration reform has intensified in the past year with legislation being actually considered and debated by Congress.

We interviewed two experts on the matter of immigration and the law as it impacts Caribbean nationals. Jaye Lowe, an Immigration attorney, answers frequently asked questions from the Caribbean community. Adrienne DerVartanian, Director of Immigration and Labor Rights, Farmworker Justice answers our questions about the Agricultural guest worker, (commonly termed farm worker) program and shares her insight into what it means for our often forgotten Caribbean immigrants to feed other people's families.

Immigration practitioners continue to advise clients within the context of the current immigration laws. Below are a series of frequently asked questions with general responses in nature for informational purposes. More in depth answers to specific questions can be had in consultation with an immigration practitioner.

We round off this volume with our regions response to providing undocumented immigrants with a valid driver's license.

Immigration and the Law: What Caribbean Nationals Need to Know!

I am thinking of coming to study in the United States, what is the process involved in obtaining a student visa?

Anyone intending to come to the United States to study must have a student visa. There are two categories of student visas. The F-1 visa applies to students coming to study at various levels in the non vocational education spectrum, (such as colleges and universities), as well as private elementary schools and high schools. The M-1 visa is for students coming to engage in vocational studies.

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Immigration and the Law: What Caribbean Nationals Need to Know!

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Persons must first apply and be accepted by an accredited institution and a SEVP approved school. This process is intense and one must fulfill rigorous financial requirements in addition to the obvious academic credentials. After acceptance, the school will then provide the applicant with an I-20 to be presented in a visa interview at the American Consulate. At the visa interview, further inquiries into a person's financial ability to continue the course of study is done.

A determination is made thereafter. The issuance of a student visa is for the duration of status or for the length of the course. Academic requirements must be maintained.

Will I be able to live and work in the United States after completing my studies?

To be able to live and work in the United States after completing studies in a student category (the 1 year optional practical training excepted), an individual must change their current status to that of one of the non immigrant work categories that exist pertinent to their qualifications and planned employment purpose. The H-1B visas for persons in specialty occupations, as well as the R-1 visa for religious workers are two visas that are available for persons completing studies and wanting to work in the United States.

Please note that it is important to make sure that a person remains in status during their time as a student. They must not contravene the immigration rules, such as being out of school during the period of study, or work without permission. The seminal rule in immigration law is that a person must be in status to change status. Any contravention of such will make the person unlawfully present. This

precludes any change of status to another category.

I overstayed my visitor's visa, what options are available to me in obtaining a green card?

A visitor who has overstayed the time given by Homeland Security, is unlawfully present in the United States. It is the I-94 that gives the permissible dates and not the visa as many persons believe. The visa allows entry into the United States but it is the I-94 that gives the range of dates Homeland Security determines that you should have in the country. Once the date on the I-94 has expired there are serious ramifications for not honoring the date by departing. Persons who depart the United States after an expired I-94 are subject to a re-entry bar of several years depending on the length of the overstay. Likewise, persons who remain and are unlawfully present are precluded from changing status in the United States except those who are determined to be first preference family members. These are the relatives of United States citizens such as spouses, children under the age of 21, and parents.

Does having a United States Citizen Child allow one to get a green card?

An adult United States Citizen Child who is over the age of 21 can file for parents to get a green card.

I have relatives in the United States; can they sponsor me for a green card?

Some relatives can be sponsored into the US by both citizens and permanent residents. Immediate relatives such as spouses, children under the age of 21, including step children, adult children, parents as well as siblings may be sponsored by US citizens. Permanent residents may file for the similar categories except parents or siblings.

Does a criminal offense prevent one from getting a green card?

Having a criminal offense in most cases does prevent a person from getting a green card. Most felony convictions are absolute bars to getting a green card. However, there are some

instances where persons that have committed certain classes of felonies can apply for a waiver of the crime. If accepted, they can get a green card. One misdemeanor offense does not prevent a person from getting a green card; however, more than one misdemeanor can be considered to be evidence of lacking good moral character and will affect the granting of a green card to such a person.

Can someone with a green card be removed from the US for a criminal offense?

Green card holders who have criminal convictions are indeed subject to being removed from the US. Even those who have been here for many years, have established lives, and have US citizen spouses and children are not in any way exempt from removal proceedings being initiated against them. All felony convictions subject persons to being placed in removal proceedings. Persons who are convicted of a certain class of crimes classified in the immigration laws as "aggravated felonies" have no relief from being deported. Neither length of time in the US nor family ties are factors considered in the case of aggravated felons. However, there are instances when a person convicted of a crime not classified as aggravated felonies, may be given a second chance to remain in the US. Persons convicted of a single misdemeanor offense are not subject to removal. Multiple misdemeanors, however, can subject one to removal.

Jaye A. Lowe, ESQ is the principal attorney for Immigration Law Practice in Tacoma Park, Maryland. With over 25 years of experience, her practice focuses on clients before the United States Citizenship and Immigration Service on matters such as residence status, labor certification, citizenship, and temporary work visas.

Agricultural Guest Worker Program

Who are farm workers?

Farm workers are also called seasonal agricultural workers or migrant farm workers. Every day, farmworkers perform the valuable role of cultivating and harvesting our nation's fruits and vegetables, and tending our livestock. An estimated 2-2.5 million farmworkers are employed on farms and ranches in the United States. Including spouses and children of farmworkers, there are roughly 4.5 million farmworkers and family members in the U.S. The large majority of farmworkers are immigrants from Mexico, and the majority of farmworkers (53%) lack authorized immigration status under current U.S. laws.¹

Are there farmworkers from the Caribbean islands in the US?

Yes! While farmworkers from the Caribbean islands are not a significant percentage of farmworkers, there are farmworkers from Haiti, Jamaica and other Caribbean islands. Most of the farmworkers from the Caribbean islands are found in the states along the eastern coast of the United States, from Florida to Maine. In addition to farmworkers from Haiti who reside in the United States year-round, there are also significant numbers of Caribbean farmworkers who come to the U.S. temporarily through the H-2A agricultural guestworker program.

What is the H-2A agricultural guestworker program?

The H-2A guest worker program allows agricultural employers to hire workers from other countries on temporary work permits for

agricultural jobs that last ten months or less. To bring in H-2A guest workers, employers must first show that they have tried and are unable to find U.S. workers to meet their labor needs. Although the H-2A program includes some basic requirements to protect U.S. workers from negative effects on their wages and working conditions, (as well as to protect foreign workers from exploitation), the structure of the H-2A program, including the dependence of H-2A workers on their employers, is inherently flawed and leads to a system that is rife with abuse of both foreign and domestic workers. For an in-depth analysis of the H-2A program's flaws, please read Farmworker Justice's report, *No Way to Treat a Guest*.

What are the typical wages and working conditions of Caribbean farmworkers?

In general, farmworkers work extremely hard for very low wages, and perform an essential role in bringing food to our table. Farmworkers' incomes are very low, with many farmworkers earning at, or near, the minimum wage. An average farmworker income is about \$15,000-\$17,500 per year.² Poverty among farmworkers is more than double that experienced by other wage and salary workers.³

Farmwork is one of the most hazardous occupations in the country, with routine exposure to dangerous pesticides, arduous labor and extreme heat. Yet farmworkers face discrimination in labor law as they are excluded from many of

the protections that other workers enjoy, including federal laws on overtime pay, collective bargaining, most federal occupational safety standards and certain child labor law protections. The result for farmworkers is entrenched poverty and high workforce turnover.

Why is immigration reform important to the Caribbean farm worker?

The majority of our nation's farmworkers lack immigration status and work authorization. This includes those from the Caribbean. Our nation's broken immigration system, in conjunction with labor laws that discriminate against farm workers and the labor practices of many agricultural employers, have combined to create an agricultural labor system that is unsustainable and fundamentally unfair. Undocumented workers' fear of deportation deprives them of bargaining power with their employers and inhibits them from challenging illegal employment practices. The presence of so many vulnerable farmworkers depresses wages and working conditions for all farmworkers, including U.S. citizens and lawful immigrants. With today's strong enforcement of immigration laws and high numbers of detentions and deportations, farmworkers live in fear of being torn from their families, livelihoods and communities. The consequences of this situation are untenable.

What is the outlook for immigration this year as it relates to Caribbean farmworkers?

Last summer, by a broad bipartisan vote, the Senate passed a comprehensive immigration bill-- *the Border Security, Economic Opportunity, and Immigration Modernization Act*, S. 744.

¹ Findings from the National Agricultural Workers Survey (NAWS) 2001 - 2002: A Demographic and Employment Profile of United States Farm Workers, available at <http://www.doleta.gov/agworker/report9/chapter1.cfm#eligibility>.

² National Agricultural Workers Survey (NAWS), Public Access Database, United States Department of Labor, Fiscal Years 2007-2009.

³ See Kandel, W. Profile of Hired Farm workers, A 2008 Update, United States Department of Agriculture, Economic Research Report, No. 60, July 2008. Available at <http://www.ers.usda.gov/Publications/ERR60/>.

Although a similar bill, HR 15, has been introduced in the House of Representatives, the way forward in the House is less certain. It is not yet clear what kind of immigration reform bill the House might move forward, and whether it would create a path to citizenship or merely grant a temporary status that would deprive many long-term residents and aspiring citizens of the opportunity to become full members of our country and US citizens. Updates on the prospects of immigration reform as it impacts farm workers can be found on Farmworker Justice's [blog](#).

Are there any specific provisions in the Senate and House immigration bill that will impact Caribbean farmworkers?

Yes! Both the Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744 and the similar House version, HR 15, include specific provisions related to agriculture. The agricultural provisions represent a stakeholder compromise that was reached after many months of difficult and tense negotiations between farm workers (represented by the United Farm Workers), agricultural employers and Senators Feinstein (D-Cal.), Bennet (D-Col.), Rubio (R-Fla.), and Hatch (R-Ut.). The agricultural immigration compromise includes two main parts:

1) an earned legalization program that would provide qualifying farm workers and their family members an opportunity to earn legal immigration status followed by lawful permanent residency and then possible citizenship; and 2) a carefully negotiated new agricultural worker visa program that would replace the H-2A temporary foreign agricultural worker program.

If enacted, the stakeholder compromise would accomplish a top priority: providing qualifying undocumented farm workers and their family members and H-2A agricultural guest workers an opportunity to obtain legal immigration status leading to permanent residency and the opportunity to become U.S. citizens. The new agricultural worker visa program (the W-3 and W-4 visas) would end or weaken certain longstanding H-2A labor protections but it would also provide important new rights for agricultural visa workers. The stakeholder agreement contains concessions on immigration and labor issues that were difficult for all parties.

What are some of the challenges Caribbean farmworkers face?

Like most farmworkers, Caribbean farmworkers face many challenges in the workplace. Agricultural work is physically demanding, often involving repetitive lifting and carrying heavy

loads, harsh weather conditions, use of hazardous machinery and implements, work with animals, exposure to toxic pesticides, and other strenuous environments. Agriculture ranks as one of the three most dangerous occupations in the United States. Every year, thousands of farmworkers suffer work injuries, causing economic hardship to the workers and their families, and all too often resulting in serious disability and tragic death.

Agricultural workers also experience rampant violations of employment laws, including minimum wage requirements. Undocumented workers who challenge illegal employment practices risk losing their job and facing the dire consequences of deportation. Women farmworkers face unique challenges in terms of widespread sexual harassment, assault and discrimination. Cases of indentured servitude, slavery and trafficking are also found in agriculture. H-2A workers, who are dependent on their employer for their ability to remain in the United States and work, are often vulnerable to recruitment abuses, trafficking, and subsequently exploited in the workplace.

Adrienne DerVartanian, Director of Immigration and Labor Rights, Farmworker Justice
www.farmworkerjustice.org

CPAC: Events Calendar

BOARD MEETINGS
 July 12, 2014 1-2 PM
 September 20, 2014 1-2 PM

CPAC LUNCHEON
 November 8, 12-3:00 PM

COMMUNITY EVENTS
Caribbean – American History Month
 June 1-30, 2014

DC Black Theatre Festival presents,
 A STAGE READING of “A MATTER
 OF PERSPECTIVE” A Play By C.G.
 GARDINER

Thursday, June 26, 2014
 7:00 PM

*Howard University Blackburn Center
 Forum Room, First Floor*
 FREE ADMISSION

DC Black Theatre Festival presents, A
 DRAMATIC READING of,
 “A WOMAN’S LOT” A Play by C.G.
 GARDINER

Sunday, June 22, 2014
 2:00 PM and at 4:00 PM

Sitar Arts Center
 1700 Kalorama Road NW, DC
 ADMISSION: \$5.00

Drivers license for undocumented Residents in the DMV Region

Effective May 1, 2014, Washington DC began issuing driver's licenses to undocumented immigrants who have lived in the city for at least six months. In so doing, DC joins 10 states including Maryland, California and Puerto Rico that has implemented this practice. Prior to May 1st, undocumented DC immigrants who drove cars did so illegally, since they were not eligible for a driver's license.

In 2013, the D.C. Council passed a bill which Mayor Vincent Gray subsequently signed to create an opportunity for residents in the country illegally to get a limited- purpose license and ID card. It is anticipated that between 16,000

and 19,000 residents could get one of the new licenses.

DC joins Maryland in providing undocumented immigrants with a valid driver's license.

Immigrant advocates have long supported this opportunity on the grounds that with this resource comes increased mobility and access to basic nectar opportunities for quality of life. In addition to having a valid identification these include opportunities for employment and education. This is a big boost for undocumented immigrant children of the Caribbean Diaspora who were, for example brought here by their parents since the card allows them

to access benefits like in-state tuition at public universities.

What the license will not allow however; is for undocumented immigrants to use it to board a plane or enter federal buildings. Why you ask? Reportedly, this is because the federal government considers the IDs and their holders unlawful. As a result of this, D.C. officials have distinctly marked these driver's licenses in order to comply with a new federal law on secure ID cards. To get more information visit the DC government website at <http://dmv.dc.gov/page/limited-purpose-credential>

How to become a CPAC Member

As is stated in our bylaws, membership in C-PAC shall be open to all persons of Caribbean decent, or persons who are desirous of furthering the goals of C-PAC.

The categories of membership are:

- a) General
- b) Senior (age 62 and older)
- c) Student
- d) Life
- e) Honorary

The associated dues shall be determined by a majority vote of the Board from time to time, except that such dues shall not apply to honorary members. With exception of Honorary and life members, the membership terms shall

begin the January 1 of each year and end on December 31 of each year. Persons joining C-PAC after January 1 shall pay the full annual dues. All members, regardless of the category of membership, shall have the same rights and responsibilities, except that:

- Honorary members shall not have the right to vote on any matter or to stand for election to the Board of Directors; an honorary member shall be selected by a two-thirds vote of all the members of the Board of Directors for exemplary service to the Caribbean-American community; the term of an honorary member shall be indefinite;



Student members shall have the right to vote but not the right to stand for election to the Board of Directors.

- A member may be granted a life membership, absent the payment of the associated dues, by a two-thirds vote of all of the members of the Board of Directors for exemplary service to C-PAC.

CPAC Newsletter Committee

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