

Immigration Law **TODAY**

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Bringing In Skilled Foreign Workers

Family and
Citizenship

Marital Disharmony

VAWA Petitions



Nolo Press Tackles Immigration in Self-Help Books

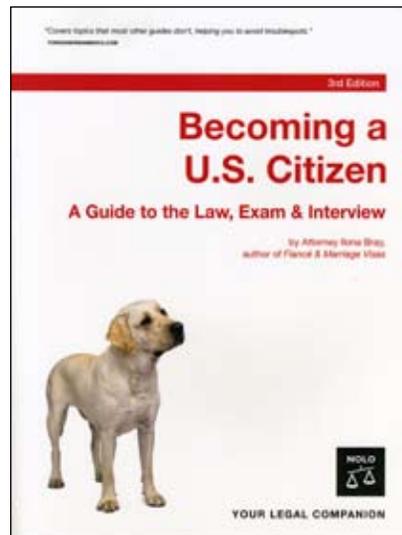
N OLO PRIDES ITSELF ON BEING “the only publisher in America with a staff of lawyers dedicated to creating books and software” to help readers prepare immigration applications without hiring a pricey attorney. (See I. Bray, *U.S. Immigration Made Easy* (12th Ed. 2006)). To Nolo’s credit, however, it is quick to point out when an attorney’s expertise is needed. Nolo recently published three immigration books written by AILA member Iona Bray: *U.S. Immigration Made Easy*, 12th Ed. (Nolo; \$39.99 paperback), *How to Get a Green Card*, 7th Ed. (Nolo; \$29.99, paperback), and *Becoming a U.S. Citizen*, 3rd Ed. (Nolo; \$24.99, paperback). These books offer the clearest, most accurate explanation of immigration law for nonlawyers thus far. And while no book can take the place of a lawyer’s knowledge and judgment, these volumes are better than most other nonattorney sources of immigration advice available today.

Plain English for the Masses

These books seem to have three uses. First and most obvious, they provide detailed information about immigration processing for those who will not be hiring a lawyer. There have been many instances in which people have received advice from pseudo-lawyers (or lawyers who do not specialize in immigration work), and the results have been disastrous. Many of those foreign nationals would have been better off to have these books as references.

Second, the books provide a useful background for those foreign nationals working with attorneys or nonprofit agencies, since they can refer to the books for more information on a category that is being suggested to them. Each book has sections that explain what to expect from an attorney in terms of responsiveness, price, service, and how to choose an attorney. These books actually may promote a better relationship between attorney and client by helping the client understand not only the basics, but also the complexities of immigration work.

Third, the books provide a very accessible source of information and ideas for nonattorneys in a law office, or for staff at a community or legal aid organization.



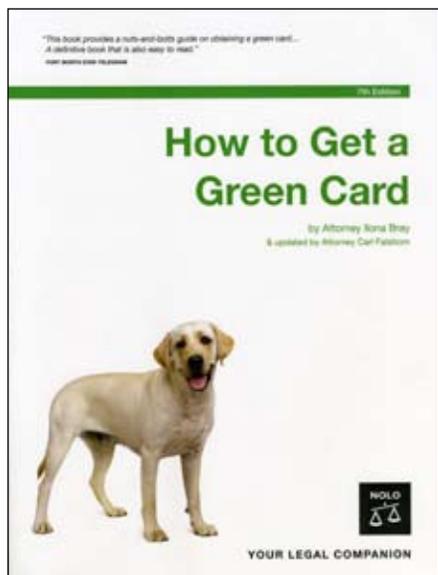
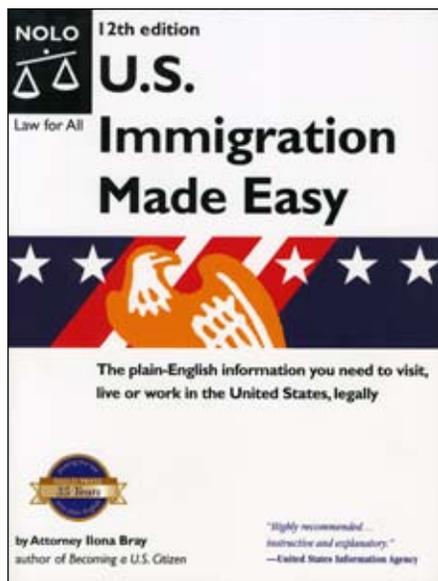
This author’s firm prefers that its paralegals read articles written for attorneys, but having some of the staff flip through these books led to some good questions—particularly about topics that they might not have read about on their own.

These books are well laid-out, and clear icons are used to point out problem areas, cross-references to other sections, and when to consult an attorney. However, the books are for those with a good command of English. The language is refreshingly clear and blunt on important points.

Clear Explanation of Naturalization Process

In many ways, the best of the three books is *Becoming a U.S. Citizen*. Foreign nationals tend to file naturalization applications without attorneys, usually acting on their own or with assistance from community organizations. The topic is discreet, and the 170-page book does a good job of reviewing the issues, reprinting forms, and offering the text of a sample interview. In reading *Becoming a U.S. Citizen*, this author felt a bit like a chess player trying to beat a computer chess program—thinking of issues or approaches that would show how a human being can win.

To test the abilities of the book, this author considered complicated issues that had arisen over the years. For example, can a widow apply for citizenship three years after she becomes a lawful permanent resident (LPR) if her husband died after that three-year period, therefore giving her three full years of living together in a bona fide marriage? The answer is in the book. “You need to stay married to the U.S. citizen spouse all the way through the citizenship interview... [the three-year timeframe to file the N-400] won’t apply and you will be required to wait five years if ... your spouse dies.” →



Two more complicated questions include the timeframes for which asylees and refugees need to wait before naturalizing. The book cites 8 Code of Federal Regulations (CFR) §209.2(f) in stating that refugees who acquired LPR status have their permanent residence backdated to the date they entered the United States, while asylees have a maximum one-year rollback.

So far, the book was doing quite well. Then one final challenge was hurled at it—a gray area to test the subtlety of the self-help citizenship guide: good moral character. Even there, the book fared remarkably well. The text warns the reader to consider any

contact with the police in any country, since sometimes a crime can be relevant for immigration purposes when the foreign national believed it was dismissed. The book explains that the U.S. Citizenship and Immigration Services (USCIS) examiner can look back beyond the five-year period preceding an application for evidence that might indicate a lack of overall good moral character, such as issues with drugs, alcohol, or violence.

The book does not mention mandamus as a tool for moving a stalled case forward, nor does it list estate tax marital exemption as a possible advantage to citizenship. While there were other concerns regarding clarification within this and the other books, much of the information was accurate and detailed.

The Weakest Link

The weakest section was on “Getting a Green Card Through Employment”—perhaps indicating that the author had less experience in that area. The employment-based visa sections do appear intended to inform the reader who is working with an attorney, rather than on his or her own using the book as a self-help guide. Far fewer people will try an L-1 on their own than they will an I-130 application. For example, the employment-based green card section advises concurrent filing of I-140 and I-485, even though this can be a risk if there is any potential weakness with the I-140 or if the employer backs out before a request for evidence.

Another weak aspect in all the books is the estimate of timing—immigration practitioners worry about estimating a timeframe in any case, given the tremendous variation. *U.S. Immigration Made Easy*, for example, estimates about 12 months from filing to interview for an adjustment of status through a family member, and refers clients to the USCIS processing times on the website for estimates. The books cannot hope to have current information on processing times, and the online updates for these volumes provide little additional information beyond advertising the books. Since families and businesses try to plan around visa processing, consulting an attorney just for an accurate picture of the

timing issue might well be worthwhile.

When to Seek for Help

The books’ disclaimer appears on the back of the inside front page at the bottom:

Please note: We believe accurate, plain-English legal information should help you solve many of your own legal problems. But this text is not a substitute for personalized advice from a knowledgeable lawyer. If you want the help of a trained professional—and we’ll always point out situations in which we think that’s a good idea—consult an attorney licensed to practice in your state.

Although this author disagrees with the placement of the disclaimer, the books point out (in various ways all through the text) when a lawyer is needed or recommended. The books acknowledge that good attorneys offer perspective on the regulations and policies, insights into interpretations and trends in gray areas, and the ability to consider categories other than the ones the client might be aware of. In addition, attorneys have up-to-date knowledge of processing times, which are a constantly moving target; and through G-28s, attorneys should get notices of USCIS actions if the client’s copy does not arrive. Finally, attorneys who are AILA members have an excellent AILA case-liaison system to address delayed or problem cases.

Chapter 10 of the citizenship book, “Legal Help Beyond This Book,” reviews areas in the naturalization context that should lead to a consultation with a lawyer, and offers good advice about how to find an attorney. Certain topics in each volume are flagged with “Get a Lawyer”—these include I-751 waivers, immigration court cases, and most cases involving criminal issues. Other topics suggest a consultation, such as for the “E” visa (where a consultation with an experienced immigration lawyer is listed as a “wise business move”), or an H-1B (where the book suggests it is in the employer’s best interest to hire an attorney because of cap issues).

Chapter 6 in *U.S. Immigration Made Easy* goes further by warning upfront that “even a seemingly simple case can suddenly become nightmarish.” It also advises that a foreign national should seek legal representation if a benefit might disappear in a finite

period of time, such as a child aging out or a diversity lottery winner filing for permanent residence. Overall, the books accept the role of a good attorney in complicated cases, while trying to provide enough information for the enthusiastic foreign national to file on his or her own.

No Substitute for Legal Representation

It has been said—albeit only half jokingly—that every foreign national in the United States should have a consultation with an immigration lawyer at least once to understand the particular short- and long-term options available. Unless the foreign national reads the entire book, and accurately takes in a tremendous amount of material, mistakes can be made; and a very small mistake can lead to tremendous consequences in this field. Therefore, these books would work best as a supplement to legal representation or consultation, rather than a substitute.

In addition, there are issues that simply cannot be digested in book form. By reputation, some USCIS offices require varying levels of evidence for an I-601 waiver, and some service centers have different standards for O-1 and EB-1-1 petitions. In another example from last year, New York USCIS began denying I-485 cases summarily (without an I-72) if the affidavit of support requirements were not fully documented at the interview.

These trends and regional variations are another moving target in this business and can lead immigration practitioners to make gut-level decisions on whether to file a challenging case. Again, no book can replace that kind of experience.

Moreover, as *U.S. Immigration Made Easy* points out, attorney cover letters and presentation of materials can make a difference, especially with busy adjudicators, and such written materials by attorneys “are difficult to produce if you are not experienced in immigration law.”

Worthy Read

Overall, having high-quality materials for foreign nationals about immigration serves an important purpose. Many people who may not have the means to hire an attorney would pay \$29.99 for *How to Get a Green Card* before filing an application. These books are far above the level of information available to many people now, and they provide useful references for those working with attorneys or nonprofit organizations on immigration cases. The books—along with others on fiancé(e) and marriage visas and student and tourist visas—are available at www.nolo.com. 

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