

# COUINSEL

October 2005

f Paschal Nwokocha Law Offices, LLC.

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## About Counsel

*A newsletter publication of Paschal Nwokocha Law Offices, LLC, Counsel is dedicated to the needs and interests of our clients and subscribers.*

*Each issue of Counsel explores specific areas of immigration law, which may be of personal or business interest to its readers.*

*Counsel does not constitute legal advice. Readers are urged to consult an attorney before acting on any information contained in this publication.*

## Our Mission

At Paschal Nwokocha Law Offices, our mission is to provide the highest quality professional, client-driven legal services to businesses and individuals at reasonable rates.

We believe the Immigration and Nationality laws of the United States should work for our clients, *not* against them. And we employ all available tools to seek the best possible solutions on their behalf.

## NEWS!

### Office Move Announcement

In our continuing effort to grow, and properly position ourselves to address the needs of our clients, our office will be moving to a new location on February 1, 2006. Our new address is going to be:

**Associated Bank Building  
5353 Wayzata Boulevard  
Suite 625  
Minneapolis, MN 55416**

We will continue providing the same exceptional service for which we are known.

The new office is located off Highway 394 & Park Place.

### Why A Special Edition On Religious Workers.

At Paschal Nwokocha Law Offices, we have continued to process an increasing number of Religious Worker petitions all across the United States and overseas. Our institutional clients have included Churches, Religious Congregations, Hospitals, Mosques, Temples, etc. We have been called upon to counsel attorneys, in-house counsels, etc., on issues involving Religious Workers. Sometimes, we have been called upon to appeal or help correct mistakes caused by other counsels inexperienced with the issues of Religious Worker petitions. We consider ourselves quite privileged to fill this growing need in the United States.

We have recorded tremendous success in all the Service Centers: Lincoln, NE, St. Albans, VT, Mesquite, TX, and Laguna Niguel, CA.

As our clients needs have grown, we deem it appropriate to dedicate this Holiday Season newsletter to issues

affecting Religious Workers.



## Religious Workers: Options for Religious Organizations and their workers

Religious organizations in the U.S. continue to witness an increase in immigrants they serve. Along with that is the severe shortage of qualified workers to serve the needs of the immigrants. It is to address this specialized need of religious organization that Congress created the Religious Worker visa.

Moving to the United States permanently or temporarily is possible for a pastor, priest, or religious professional including cantors, teachers, etc. The person can move to the U.S. permanently—as an immigrant, or temporarily—with a non-immigrant visa. (As used here, “priest” includes pastors of churches, and ministers of other religions and denominations.) The option one decides to take, and what is legally available to the person, depends on one’s circumstances and goals. We advise individual clients to secure the consent of their organizations before making a major decision.

**Non-Immigrant Religious Worker “R” Visa:** The United States immigration laws (8 U.S.C § 1101 (a)(15)(R), and the accompanying regulations) allow priest and religious workers to come to the United States with the specific purpose of performing their religious duties. To be eligible for this status, the applicant has to meet the following requirements:

- The person has to be a minister or working in a professional capacity in a religious vocation or occupation;
- The person is working for a “religious organization”; and

- The person has to have been a member of the religious denomination for 2 years before applying for the R-Non Immigrant visa or status.

When the United States government approves the petition, the person will have up to five years to stay in the United States in this R-non-immigrant status. The spouse and children of a person in R status are allowed to come in and stay in the United States as well. The law requires the priest or religious professional to work with the organization that filed the application for him. Whenever the person terminates his relationship with the sponsor, a new petition needs to be filed with the Immigration Service for the person to remain in the U.S legally.

### ***Religious Worker—Special Immigrant Visa:***

The U.S Immigration law at 8 U.S.C §1101(a)(27)(C)(ii) and the 8 C.F.R §204(m) have provisions to allow foreigners to gain Permanent Residency status (also known as green card) in the United States if they meet certain qualifications. These qualifications relate to the person’s status as a religious worker or minister.

Please note, the application of this law to religious professionals is set to expire by October 1, 2008 unless Congress decides to extend it. It has been extended in the past and we expect that congress will extend it again. Under the present law, however, only ministers will be able to take advantage of these provisions from October 2008. Other religious workers, including cantors and teachers, would be exempt from this provision.

**Process & Strategy:** The process for getting either the non-immigrant or immigrant status can be quite complicated and often involves strategies unique to each petition. See “Myths” below. Thus, we advise organizations and individuals

to seek the counsel of a professional who has extensive experience in the type of matter.

## Citizenship in the United States.

A person who gets Permanent Residency status based on the Religious Worker Special immigrant status can stay in the United States for as long as the person wants, provided they comply with the laws of the country. The person can apply to become a United States citizen if they meet other citizenship requirements.



## 7 Myths About Religious Workers Petitions

Our office has handled more than 100 religious worker petitions, and has filed petitions in all the regions of the United States. The following are some of the myths we have identified from our years of consulting with organizations and individuals.

1. *You have to be resident in the United States on R-1 status before you can file for Special Immigrant visa.*

A qualified person, whether within or outside the U.S. can file for special immigrant Visa that will be issued at the person’s place of residence.

2. *You can only file your green card application the same time you file special immigrant petition.*

You can file green card application only after the Special Immigrant petition has been approved. While the Immigration Service is considering allowing concurrent applications, such a procedure has not been approved.

3. *You have to be a church or a*

*501(c) to file the Religious Worker petition.*

Any organization set up for religious purposes can file the petition so long as they meet certain criteria.

4. *R-1 status and Special Immigrant Status for religious worker are the same.*

R –1 is non-immigrant and Special Immigrant leads to Permanent Residency. See the above discussion for details of the distinction.

5. *You are guaranteed Permanent Residency status if you filed your Special Immigrant petition while you are in status.*

Your status at the time you file the Permanent Residency application determines whether your application will be approved.

6. *My organization has to have so much money in the bank account before we can file the application for a new pastor.*

The organization's ability to pay, not the amount in bank account is more important.

7. *Any lawyer can effectively and successfully file religious worker petition.*

The complexity of the process and the various instructions from the Immigration Service means that applicant are better served by experienced professionals knowledgeable about the issues and the law.



Beware of LULAC,  
...unless your are eligible

We have received a lot of inquiries

from our clients and their families about a supposed amnesty: LULAC. People are now rushing to places like New York, Atlanta or Texas to meet with attorneys who, supposedly, can fix their papers by filing for LULAC.

LUCAC allows people who meet the following requirements to file an application for Permanent Residency.

- You entered the United States before 1981;
- You attempted to file apply for legalization with the Immigration Office between 1987 and 1988;
- You remained in the United States continuously from 1986 to the time you attempted to file for legalization.

If you do not meet all of these requirements, you probably should not apply for LULAC. And if you do, you should not provide false information in the application. Most importantly, make sure you carefully review all the application filed on your behalf. There are severe consequences for providing false information in your applications.

We are concerned that some people who are clearly ineligible are filing this application. Such applicants may end up putting themselves in bigger problems than they already are.

*You are ultimately responsible for whatever you sign and file with the Immigration Service.*



***If you, your organization, or one you know needs the services of a Religious Worker, or are intimidated about the process of getting the worker into the country or securing proper status for the Religious Worker, call our office for consultation. We do this more than most lawyers in the***



## ***Did you know?..***

- Claiming to be a United States citizen on the Form I-9 (usually completed when people start work) can result in harsh consequences in immigration. In some circumstances, it can bar the person from getting any type of immigration benefits in the United States.
- INFOPASS: The Immigration Service now requires most people to have scheduled appointments before they can come to the immigration office to inquire about their case.

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## ***Reader's Corner***

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Readers are encouraged to send questions and comments to Counsel at Paschal Nwokocha Law Offices.

To subscribe to or unsubscribe from Counsel, or to receive copies of Counsel for your business, please send your request to:

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St. Paul, MN 55114**

***Or call us: 651.917.0020***

***Visit us on the Web:  
www.Paschal-Law.com***

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## **Disclaimer**

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### Free 24-hour information on immigration law

Topic	Description
1313	Eligibility for Citizenship
1314	Applying for citizenship
1315	Dual Citizenship
1316	About student visas
1317	Maintaining your student visa
1318	About Political Asylum
1319	Applying for political asylum
1322	Employer responsibilities
1323	Labor certification
1324	Labor Certification Process
1325	Work permits
1326	Applying for a green card
1327	Employment-based green cards
1328	Family-based green cards
1329	Marriage-based green cards
1336	Immigration Status Categories
1337	About deportation & exclusion
1338	Deportation Proceedings
1334	Questions to ask about legal issues

**Step 1:** Dial 763.586.5700

**Step 2:** Enter the 4-digit code from the table above corresponding to the topic of interest.

*If you need legal services relating to immigration or other legal issues and would like to schedule a consultation...*

**Call us for an appointment**

**651.917.0020**

**Paschal Nwokocha  
Law Offices, LLC**

2469 University Avenue West  
St. Paul, MN 55114

*Visit us on the Web:*

**[www.Paschal-Law.com](http://www.Paschal-Law.com)**

***We solve Immigration  
Problems!***

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