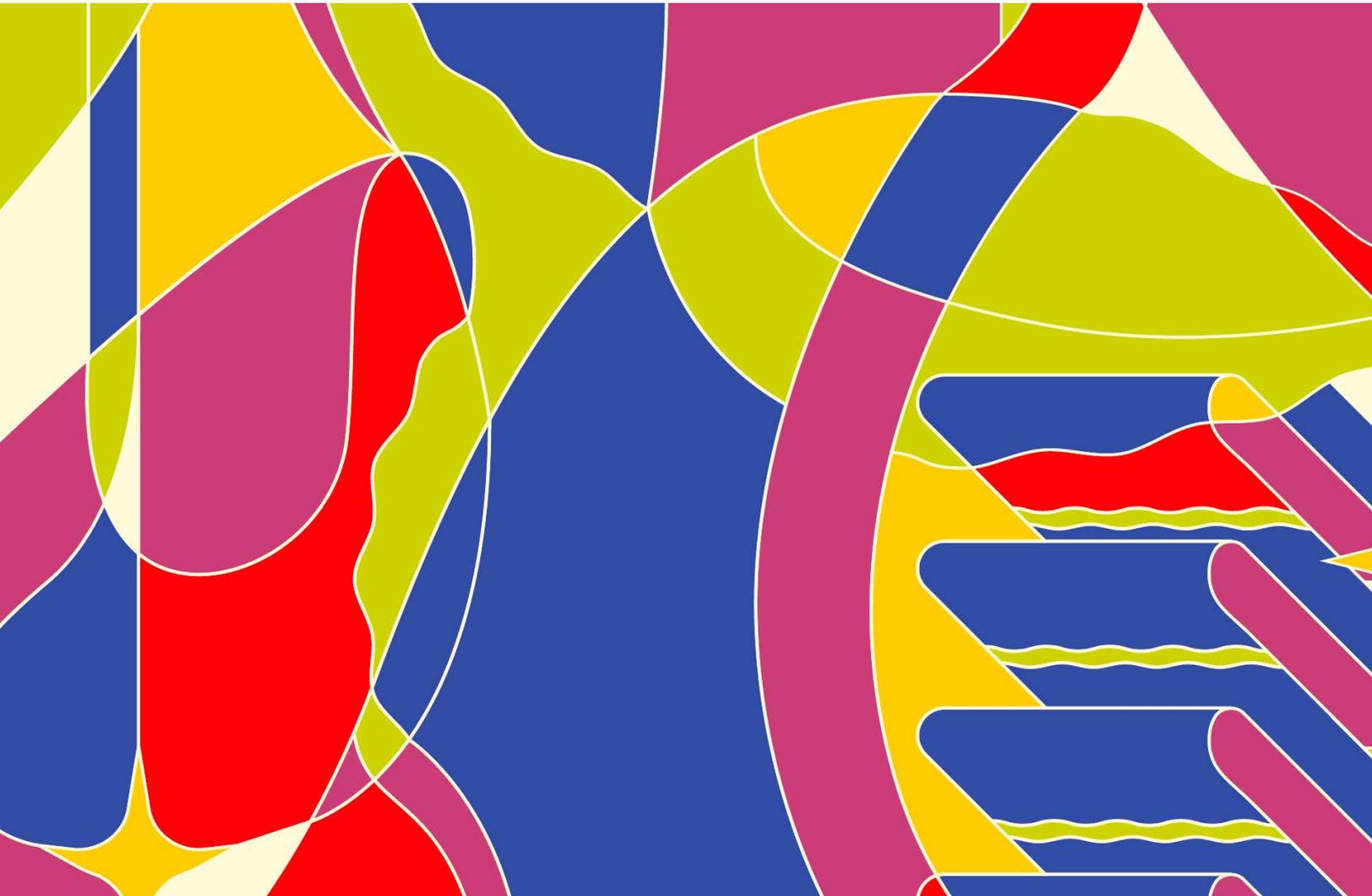


DEFINE
AMERICAN

Creativity is Boundless

**An Inclusive Guide for Supporting
Immigrant, Migrant, and Undocumented
Artists with Fellowships, Grants,
and Residencies**





Contents

03 Introduction



04 Why the Need for this Guide?



03 Eligibility Policies



07 Further Steps for Inclusion



08 Honorarium and Grant Payments



09 Appendix: Understanding Immigration Status



13 Conclusion



14 About and Contact



15 Credits and Disclaimer



Introduction

As a writer-producer-director who happens to be an immigrant, I know how difficult it can be to navigate the arts ecosystem and find support and resources for your projects—more so if you're undocumented. (Many funding sources are not open to applicants with certain immigration statuses.) While I was preparing to “come out” as undocumented in early 2011, I consulted lawyers who warned me about the economic implications of my decision. Once you're public about your undocumented status, you can no longer be hired, they warned. So after more than a decade of being an employee in newsrooms, I had to become my own boss—an entrepreneur. I used the money I earned from writing and speaking engagements to fund *Documented*, a feature documentary that helped give birth to Define American. The risks I was privileged enough to take attracted funders, who helped me get *Documented* to the finish line. But artists should not have to rely on their own bank accounts or the luck of knowing or meeting the right people in order to tell authentic stories.

Creative industries—from theatre to film to art fairs—are more interested than ever in correcting the systemic marginalization of underrepresented communities. Yet there remains a glaring lack of awareness—whether intentional or unintentional—of the unique challenges facing artists who are immigrants and how to best support them in their creative and professional development. There is an opportunity for the artist support

community to intentionally and fully include artists and storytellers who have been long overlooked. Storytellers inform our perspectives and have the power to create meaningful change through art; more than ever, we need storytellers from immigrant backgrounds to do just that.

With feedback from Define American Fellows (and other immigrant artists who have been advocating for more access to creative and professional opportunities), we created this guide to help arts funders and program managers of fellowships, residencies, and grant programs support all artists, regardless of citizenship or immigration status. Together, we can grow momentum and collaboration towards a systemic change of how arts funders and supporters include and value all artists.

In solidarity,



Jose Antonio Vargas
Founder and President, Define American

Why the Need for This Guide?

Interest in the stories of immigrants, migrants, and undocumented individuals continues to grow in the U.S. art and media landscape. Unfortunately, artist support organizations have often overlooked the needs of artists and storytellers from these communities. Immigrant artists, especially those who are undocumented, have far less access to both paid and unpaid fellowships, residencies, and project funding due to unnecessary eligibility requirements.

In “[Key findings about U.S. immigrants](#),” Pew Research Center reports that roughly 14% of the U.S. population was born outside of the U.S. Of those 45 million people, less than half are naturalized U.S. citizens. That leaves about 25 million people with various immigration statuses. Some are legal residents, some have temporary legal statuses, and some are undocumented.

Despite being a sizable portion of the U.S. population, all too often, immigrant, migrant, and undocumented artists, storytellers, and other creatives are excluded from the

opportunity to contribute to our artistic landscape due to their immigration status. Immigration status should not define an individual, their career, or their success.

Organizations that support the arts—both funders and programs—already believe deeply in the impact that artists and storytellers have on culture and society. In recent years, artist support organizations have made an effort to improve support for historically underserved communities including BIPOC artists and LGBTQ+ artists, but unfortunately the systemic inequities impacting immigrant artists and storytellers continue to be overlooked.

It is reductive to allow current immigration status to determine an artist’s eligibility for support. The reality is, an individual can hold a range of immigration statuses over the course of their journey in the United States. These are our recommendations for making artist support opportunities like fellowships, grants, and residencies more inclusive and accessible to all.





Eligibility Policies

While U.S. immigration policy may appear complex, organizations have the ability to adjust internal policies to make fellowships, grants, and residencies accessible to immigrant, migrant, and undocumented applicants. **With rare exceptions, it is legally permissible for funders and grantmaking organizations to award grants, residencies, and fellowships to immigrant artists regardless of if those artists have work authorization and/or a Social Security Number.**

Organizations can adjust funding eligibility policies to explicitly state that the artist support opportunity is open to all applicants living in the U.S., regardless of citizenship or immigration status.

“

I have gotten so used to seeing applications closed to me that I have stopped looking for opportunities. It's demoralizing."

—Anonymous artist

→ DO

These are some examples of eligibility requirements on artist support applications that would include immigrants regardless of status:

- **“Applicants must be U.S. based.”**
- **“Applicants must currently be living in the U.S.”**
- **“Applicants must be residing in the U.S.”**

→ DON'T

These are some examples of eligibility requirements on artist support applications that exclude many immigrant applicants and should not be used:

- **“Applicants must be U.S. citizens.”**
- **“Applicants must be U.S. citizens or legal permanent residents.”**
- **“Applicants must possess and present evidence of identity and U.S. employment eligibility.”**

Eligibility Policies (continued)

The language of some other eligibility requirements can be confusing and require immigrant applicants to ask for further clarification; some may simply opt out of applying, assuming they are not eligible. Because those working in the U.S. can apply for an Individual Taxpayer Identification Number (ITIN) or work as an independent contractor, these eligibility requirements are confusing:

- “Applicants must have work authorization in the U.S.”
- “Applicants must be authorized to work legally in the U.S.”
- “Applicants must be eligible to be employed in the U.S.”

➔ **An Individual Taxpayer Identification Number (ITIN) is a tax processing number issued by the IRS that can be applied for by anyone ineligible for a Social Security Number, regardless of immigration status.**

RARE CASES

In the rare cases where there is a justifiable reason why an artist support program could not fund projects by immigrants in the U.S., include the reason for that exclusion in the eligibility requirement. This demonstrates that an organization has taken the steps to consider their eligibility policies for immigrant applicants and has no choice but to exclude them.



Further Steps for Inclusion

Artist support organizations can ensure that all applicants know they are welcome by including language that mentions specific immigration statuses to signal that this opportunity truly is open to everyone. Examples of inclusive language used by artist support applications include:

- **“Open to all. Immigrant, migrant, and undocumented applicants welcome.”**
- **“Open to all residents of the U.S. regardless of immigration/citizenship status.”**
- **“We welcome applications from U.S. citizens, legal permanent residents, undocumented immigrants, refugees, people seeking asylum, temporary visa holders, stateless people, and those with all other citizenship and immigration statuses.”**

This is similar to the trend in job applications where employers specifically invite individuals who identify as BIPOC, LGBTQ+ people, people with disabilities, and other historically marginalized individuals to apply for the position.

It’s important to note that the language around immigrant, migrant, and undocumented identities is expanding. For more on the spectrum of Undoc+language, please reference the work of [Erika Hirugami](#).

For more on supporting undocumented storytellers, check out [American Dreaming: The Roadmap to Resilience for Undocumented Storytellers](#) from Define American.

“

This application was the first time I have been able to select “refugee” as a demographic option! I immediately knew this was the fellowship for me.”

– Fellowship applicant

Also, due to the systemic exclusion of people with fluid or undocumented immigration status from these kinds of opportunities, some may be newer to application and portfolio assembly protocol. Consider posting application tips, portfolio examples, and Frequently Asked Questions to the application website. Consider hosting “How to Apply” webinars and question-and-answer sessions to ensure all applicants are aware of selection criteria and expectations and selection processes.



Honorarium and Grant Payments

Some fellowship and residency programs provide stipends or honoraria. Similarly, many artist support opportunities provide project and/or artist grant funding. There is a misconception that immigrant, migrant, or undocumented artists cannot be paid stipends or receive grants, which is why some opportunities have excluded certain applicants.

However, almost all of these artist support opportunities are not considered full-time employment and the artist would not be required to fill out a Form I-9, Employment Eligibility Verification or Form W-4, Employee's Withholding Certificate. In most situations, only a Form W-9, Request for Taxpayer Identification Number and/or Certification or Form 1099 is required, and individuals without

a Social Security Number can complete these documents with an Individual Taxpayer Identification Number (ITIN).

Some artists choose to establish a Limited Liability Company (LLC) or other business entity, in which case they can receive payments to that business instead of as an individual. There are no laws, immigration or otherwise, that prevent an undocumented immigrant from lawfully forming and owning a business in any state. In other words, owning a business is legal and being paid for work done by this business is also legal.

Immigrants Rising has a helpful [resource](#) on the definition of a grant vs. employment.



Understanding Immigration Status

When supporting immigrant artists, it can be helpful to have some understanding of the admittedly confusing U.S. immigration system. Below, we offer a quick primer about certain immigration status categories.

- **Unauthorized Immigrants**
- **Refugees**
- **Asylum Seekers**
- **“Non-Immigrant” Visa Holders**
- **Legal Permanent Residents**
- **Naturalized U.S. Citizens**

For more about the various immigration statuses and the ways they can affect things like eligibility for a Social Security Number, work authorization, or pathway to citizenship, see other sources such as [Immigrant Legal Resource Center](#).

→ Unauthorized Immigrants

Otherwise known as “undocumented,” unauthorized immigrants do not have legal authorization to live in the U.S. Generally, they are not eligible to apply for a work permit (employment authorization document) or obtain a Social Security Number, unless they are enrolled in certain federal programs or application processes. They can, however, obtain an ITIN for tax purposes and, in certain states, access a driver’s license.

Some undocumented immigrants are protected temporarily from deportation by certain government programs. These include Deferred Action for Childhood Arrivals commonly known as DACA, Temporary Protected Status (TPS), and Deferred Enforced Departure (DED). Also, asylum seekers in the U.S. may apply for work authorization after their cases have been pending for 150 days (or longer in some circumstances).

Generally, people with DACA, TPS, DED, and other temporary immigration protection are eligible to apply for an employment authorization document, Social Security Number and, in some cases, a driver’s license. They live in a sort of limbo where they are no longer considered to be fully undocumented, but they also do not have a permanent immigration status.

Roughly 600,000 immigrants who came to the U.S. as children are protected under DACA, but the future of this policy remains tenuous, as it is currently being litigated in the federal court system.

***Please note that the rights and privileges afforded to immigrants can vary from state to state, and are subject to change. For example, some states provide access to driver’s licenses and state identification documents for undocumented individuals, while other states do not. This guide offers general information but does not constitute legal advice. Consult a qualified attorney with questions.**

For more information about various undocumented statuses, reference "[Defining Undocumented](#)" from Immigrants Rising.

→ Refugees

A refugee is an individual outside their country of nationality who is unable or unwilling to return to their country of nationality due to persecution or a well-founded fear of persecution because of their race, religion, nationality, membership in a particular social group, or political opinion. If it appears unlikely they will be able to return to their homes due to this persecution or violence, the United Nations High Commissioner for Refugees (UNHCR) may select them for permanent relocation to a safe country. Refugees undergo an extensive application process, and the UNHCR works with host countries to determine where they will move. Many countries around the world provide refugees with a fresh start, including the U.S. It is part of our international humanitarian commitment.

A refugee is granted refugee status while still outside the U.S. and is resettled to the U.S. through the U.S. resettlement program. **When a refugee enters the U.S., they are issued a Form I-94, Arrival-Departure Record, stamped to indicate they are authorized to work.** Besides being able to work, refugees can also apply for a Social Security Number and obtain a driver's license. Refugees are required by law to apply for lawful permanent resident status 1 year after being admitted to the United States as a refugee. After waiting a specified number of years, refugees may apply for citizenship.

→ Asylum Seekers

An asylum seeker is a person who meets the definition of refugee and is physically present in the U.S. or is seeking admission at a port of entry. The primary difference between a refugee and an asylum seeker is that a refugee is granted refugee status while still outside the U.S.; an asylum seeker is granted asylee status after entering the country or while seeking admission at a port of entry. **Asylum seekers must apply for asylum within one year of their last arrival to the U.S. (unless they can establish that an exception to the one-year rule applies), and they may apply for work authorization after their cases have been pending for 150 days (or longer in some circumstances).**

Asylees may apply for a legal permanent residency one year after the approval of their application for asylum (if they have maintained residence the entire time), and may apply for citizenship four years after being a permanent resident.

→ “Non-Immigrant” Visa Holders

People in this category are in the country lawfully on a temporary basis. Some non-immigrant visa holders are eligible to work lawfully in the United States, but others are restricted from being employed. Each visa has its own regulations.

For example, an O-1 visa is for individuals of “extraordinary ability” and is sometimes referred to as an “artist visa.” **People with O-1 visas are eligible to obtain a work permit, but are only authorized to work for the employer who sponsors them for their particular visa. They are also eligible to obtain a Social Security Number, and a driver’s license.**

Another non-immigrant visa is an F-1 or student visa, for individuals enrolled full-time at a U.S. college or university. **People with student visas are generally eligible to apply for employment authorization, a Social Security Number, and a driver’s license.** While a student visa allows individuals to work in the U.S., there are restrictions regarding employers and the number of hours they can work.

→ Legal Permanent Residents

Legal Permanent Residents are those who are granted a permanent resident card, commonly called a “green card” by U.S. immigration authorities. **A person who is a green card holder, referred to as an LPR in legal circles, can lawfully live and work without restriction in the United States on a permanent basis.** They may also apply to become U.S. citizens if they meet certain eligibility requirements. However, LPRs can be deported if they commit certain crimes.

→ Naturalized U.S. Citizens

Naturalized U.S. Citizens are individuals born outside of the U.S. who have applied for and been granted U.S. citizenship. **They carry all the rights and privileges of U.S. citizenship, including the ability to work permanently without restriction in the U.S., but are excluded from one job: the U.S. presidency.**

There are many types of visas and immigration statuses not mentioned here. For more definitions and suggested language, check out [“Telling Authentic Immigrant Stories: A Reference Guide for The Entertainment Industry”](#) from Define American.



Conclusion

Artist support should be accessible to all. This guide means to provide practical next steps for fellowship, grant, and residency programs to become more inclusive of immigrant artists and storytellers. We also acknowledge that immigration law is dynamic and encourage organizations to consult with an attorney as they implement changes.

For further information on topics related to immigrant artist support, check out these great resources:

- [Best practices for supporting immigrant artists in Los Angeles specifically](#)
- [Addressing authorization restrictions in California](#)
- [The rights of immigrant workers](#)
- [How-to guides for immigrant creatives and entrepreneurs](#)

About and Contact

Define American

Define American is a narrative change organization that uses the power of storytelling to humanize conversations about immigrants. We conduct original, cutting-edge research to identify narratives that inspire people to action. Our advocacy within entertainment, digital media, and the arts is creating an America where everyone belongs. Define American was founded in 2011 by Pulitzer Prize-winning journalist Jose Antonio Vargas and has been named one of the world's most innovative companies by *Fast Company*. For more information about our programmatic work, visit defineamerican.com.

Partner Organizations

[Undocumented Filmmakers Collective](#)

We center the film expertise of undocumented people not only as sources of stories, but also as creators, artist, and primary audiences.

[UNDOC+Collective](#)

The UNDOC+Collective seeks to build knowledge and visibility regarding the undoc+ spectrum, as guided by the cultural competency, expertise, wisdom, and vision of undocreatives working in the arts today.

Through exhibitions, publications, residencies, digital resources, and convenings, we construct collective knowledge together, while generating visibility for undocreatives in order to spotlight historically excluded practices, to reclaim agency over our collective experiences, celebrate our aesthetics achievements, and shape the futurity of undocumentedness.

Contact

Define American cannot offer legal advice, but we can offer practical advice and consult with programs seeking to be more inclusive of immigrant artists and storytellers.

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Disclaimer

The information provided in this document does not, and is not intended to, constitute legal advice; instead, all information, content, and materials available in this document are for general informational purposes only. Readers of this document should consult legal counsel to obtain advice with respect to any particular legal matter.

Explore Define American's original research

[American Dreaming: The Roadmap to Resilience for Undocumented Storytellers](#)

[Change the Narrative, Change the World 2022: The Power of Immigrant Representation on Television](#)