



The Non-Minister Special Immigrant Religious Worker Visa Program

Background

The Religious Worker Visa Program (RWVP) allows U.S. religious denominations to fill critical religious worker positions—for which there are no available candidates in the U.S.—with qualified religious workers from abroad.

The program provides for two types of visas:

1. The *Special Immigrant Religious Worker (EB-4) Visa*, which allows qualified religious workers to immigrate to the U.S. permanently and later become citizens if they desire and meet the requirements.
2. The *Temporary Nonimmigrant Religious Worker (R-1) Visa*, which allows qualified religious workers to enter temporarily and perform services in the U.S. for up to five years.

Religious worker visas (both the special immigrant and the non-immigrant visas) may be granted to both minister and non-minister religious workers:

- **Ministers.** Ministers covered by the program are those who are authorized by a recognized religious denomination to conduct religious worship and perform other duties usually reserved for members of the clergy or otherwise ordained persons, such as administering the sacraments or their equivalent. The provision of the Immigration and Nationality Act (INA) that provides for the admission of ministers to the United States is a permanent part of U.S. immigration law.
- **Non-Ministers.** Non-minister religious workers are those who work for a religious denomination's bona fide nonprofit, religious organization in a professional capacity as part of a religious vocation or occupation. Examples of those working as part of a vocation include nuns, monks, brothers, and sisters. Examples of those in a professional occupation include missionaries, counselors, translators, religious instructors, cantors, and other pastoral care providers. The statutory provision that provides for non-minister special immigrant religious workers is not currently a permanent part of U.S. immigration law but sunsets at given intervals.

A Description of the Non-Minister Special Immigrant Religious Worker Visa Program

The non-minister special immigrant portion of the Religious Worker Visa Program is a subset of the broader RWVP. It is found in section 101(a)(27)(C) of the INA. It was first enacted as part of P.L. 101-649, the Immigration Act of 1990. Its chief sponsors in Congress at that time were Representative Lamar Smith (R-TX) and Senator Edward Kennedy (D-MA).

The purpose of the non-minister Religious Worker Visa Program is to allow religious organizations to sponsor non-minister religious workers from abroad to perform services in the United States in a religious vocation or occupation.

The program provides for up to 5,000 non-minister special immigrant religious worker visas per year. Once granted, this type of visa allows religious workers to immigrate permanently to the United States, subject to certain requirements.

When first enacted, this program was set to expire in three years. It has been continuously and periodically reauthorized since then. Under current law, unless Congress acts to prevent it, the non-minister special immigrant portion of the Religious Worker Visa Program will expire on February 18, 2022, leaving many religious denominations with no effective way of filling their need for religious workers.

Examples of Work Performed by Non-Minister Religious Worker Visa Recipients

Religious organizations and the communities they serve will suffer if the provision is not extended. Among the important tasks non-minister religious workers perform are:

- Providing human services to the needy, including shelter and nutrition;
- Caring for and ministering to the sick, aged, and dying in hospitals and special facilities (e.g., nurses, hospice care, and other support);
- Working with adolescents and young adults (e.g., youth and young adult ministry);
- Assisting religious leaders as they lead their congregations and communities in worship;
- Counseling those who have suffered severe trauma and/or hardship;
- Supporting families, particularly when they are in crisis;
- Offering religious instruction, including to new members of religious denominations (e.g., religious education in parishes and faith-based primary and secondary schools);
- Helping refugees and immigrants in the United States adjust to a new way of life;
- Providing child care and after-school support for communities, which is essential for working parents; and
- Serving as principals and school teachers often in schools located in economically disadvantaged areas—where they provided full-time, in-person instruction during the pandemic.

Burdens Faced by Religious Organizations Prior to Enactment of the Program

Prior to enactment of the Immigration Act of 1990, nonprofit U.S.-based religious organizations that needed the services of foreign-born non-minister religious workers were forced to undergo a burdensome labor certification process and/or fit their needs into the business, student, and missionary visa categories. These visa categories were mainly designed for the needs of profit-making businesses and other employers or non-employment purposes and not the specific needs of religious organizations.

Religious organizations faced sometimes insurmountable obstacles in using traditional employment immigration categories, which did not fit their unique situations. The resulting consequences were that religious entities found that they could not sponsor workers at all or could not do so within a timeframe that corresponded to their needs.

By enacting the non-minister special immigrant portion of the Religious Worker Visa Program, Congress recognized both the problems with asking non-minister religious workers to fit the requirements of the employment-based immigration categories *and* the genuine and critical need for foreign non-minister religious workers to perform pastoral and other services in the United States.

Permanent Extension of the Non-Minister Special Immigrant Religious Worker Visa Program

Since its initial enactment in 1990, the non-minister special immigrant portion of the RWVP has been reauthorized many times—first in 1994, again in 1997, 2000, 2003, 2008, 2009, 2012, and then annually from 2015 to 2022. While up to now, the program has been extended each time it has faced expiration, the lack of permanence and varied periods of reauthorization have often created uncertainty within the U.S. Department of State and U.S. Department of Homeland Security, the agencies that administer the program. The year-to-year uncertainty has also wrought havoc as religious organizations find themselves unsure about whether or not they will have the workers needed to carry out critical functions. And the uncertainty has caused local communities to worry about losing vital services that religious organizations provide.

A permanent legislative extension would provide relief to religious organizations and a measure of stability that would allow both religious organizations and federal agencies to plan ahead. With an overall decrease in the number of Americans pursuing religious vocations, religious organizations are experiencing an acute shortage of non-minister religious workers in the United States. In these times of uncertainty, it is more important than ever that faith-based organizations be able to serve communities through the essential services provided by religious workers. The 117th Congress can make this possible by permanently extending the non-minister special immigrant Religious Worker Visa Program.