

SUBJECT-MATTER INDEX

A

Absent client and communication, 28

Abused women and children. *See*

Domestic violence victims;

Violence Against Women Act
(VAWA)

Accommodation

denials, challenging, 393–394

examples, 391–392

physically or mentally disabled
applicants, 390–395

practice pointers, 395

requests for, 393

Adjudicator's Field Manual, 161, 163,
207*n*3

Adjustment of status (AOS)

consular processing abroad vs., 7

death of petitioner, 341

employment-based petitions, 361–368
application of INA §245(k), 364–
368

beneficiaries of petitions, 363

excused vs. not excused violations,
362–363

failure to maintain lawful status,
366–368

historical background, 361–362

less than 180 days of status

violations following

admission, 364–368

presence in U.S. pursuant to lawful
admission, 364

scope of INA §245(k), 362–363

technical violations, 368

unauthorized employment, 365–366

LPRs and bar due to aggravated

felony bar and continuous

residence requirement, 126–129

misrepresentation or fraud in, 61, 62

nunc pro tunc waiver, 46–47, 122–
125

prior removal or deportation, waiver
after, 150–151

unlawful presence waiver and INA
§245(i) protection, 99–100

Administrative Procedure Act (APA),
358

**Admissibility Review Information
System (ARIS)**, 157

Admissibility Review Office (ARO)

Canadian visas, 157

consular posts, waiver requests
submitted to, 155–162

Admission

background history, 6–7

lawful admission, 215

LPRs, after admission in any status,
216

misrepresentation or fraud at time of,
322

"otherwise admissible," 167

status violations within 180-day
period following, 364–368

unlawful presence waiver for foreign
national seeking, 98–99

VAWA waivers, 322

AEDPA. *See* Antiterrorism and
Effective Death Penalty Act

Affidavits

exceptional and extremely unusual
hardship, 240–241

public charge inadmissibility, 317

VAWA unlawful presence exception,
319

Aggravated felonies

bars to INA §212(h) waiver, 125

bars under IMMACT90, 258

smuggling, 201–203

Alcohol-related offenses, re-

examination of applicants for,
85–86

Alien smuggling. *See* Smuggling

Anti-Americanism, 387

Anti Drug-Abuse Act of 1986, 3, 263

Antiterrorism and Effective Death Penalty Act (AEDPA)

bar for aggravated felonies, 258

INA §212(c) relief, 211–213, 260

legislative changes of, 3, 260

AOS. *See* Adjustment of status

APA (Administrative Procedure Act), 358

Appeals

administrative denial to waiver, 108–109

consular waiver, 160

J visa waiver application process, 186

refiling and updating evidence during, 107–109

retention of status during, 256

unlawful presence waiver, 107–109

ARO. *See* Admissibility Review Office

Asylees. *See* Refugees and asylees

Attorney-client relationship, 50

B

Bars

to INA §212(h) waiver, 125–130

permanent bar under INA

§212(a)(9)(C), 320–322

three- and ten-year bars, 11, 17, 93, 317–319

Battered women. *See* Domestic

violence victims; Violence

Against Women Act (VAWA)

Benefits adjudication, Adjudicator's Field Manual, 163

Border Crossing Cards (BCCs), 191, 193

BridgeUSA, 171

C

Canadians

Admissibility Review Office role, 157

Form DS-2019, 172

Form I-192, 150, 157

Form I-212 waiver application, 150

inadmissibility, 150

nonimmigrant waivers, 150

port of entry waiver requests, 155

two-year residence requirement, 173

Cancellation of removal

generally, 18–21

grounds for relief, 258–260

for LPRs, 19–20, 211–227. *See also*

Lawful permanent residents

for non-LPRs, 229–243

abused women and children, 237–238

continuous presence, 230–232

convictions, 234–235, 240

exceptional and extreme hardship to citizen or LPR spouse, parent, or child, 235–237, 240–241

extreme hardship, 20–21, 35, 37

good moral character, 232–234, 239–240

procedural matters, 242

procedural strategy, 241

sample fact pattern, 242–243

stop-time rule, 212, 230–232, 239

waivers, 238–239

prior removal or deportation, waiver after, 151

VAWA, 35, 237–238, 327–329

CCD (Consular Consolidated Database), 159

Centers for Disease Control. *See*

Health-related grounds

Change of status (COS)

Anti-Americanism, 387

INA §212(d)(3) waiver, 161–162

late-filed requests, 383–388

lawful status and, 367

Checklists, refugees and asylees,

documents for waivers, 277–278

Chevron deference, 127n119

Child abductors, international

inadmissibility, 11

no waiver, 18

Child clients

- abused. *See* Domestic violence
- victims; Violence Against Women Act (VAWA)
 - communication, 30
- SIJS. *See* Special Immigrant Juvenile Status
- Special Immigrant Juvenile Status (SIJS), 152

Child Status Protection Act of 2002 (CSPA), 4–5, 340**Child support**

- extreme hardship, 104
- good moral character, 239
- record requests in LPR cancellation, 220–222
- VAWA waivers, 313

Chinese Exclusion Act of 1882, 2**CIMTs. *See* Crimes involving moral turpitude****Citizenship, false claims to, 15****Civics test waiver, 395–396****Civil Rights Education and Enforcement Center (CREEC), 399****CLAIMS (Computer-Linked Application Information Management System), 343****Combining relief, 43–47****Communicable diseases**

- exclusion based on, 2
- as health-related grounds, 70–75
- list of diseases, 70–71, 82
- Public Health Emergencies of International Concern (PHEICs), 71
- qualifying stages, 80–81
- vaccinations against. *See* Vaccinations
- VAWA waivers, 13, 76–77, 315
- waiver of inadmissibility, 13, 76–78

Communication

- absent client, 28
- child clients, 30
- with clients and witnesses, 23–33
- cultural concerns, 29
- emotional displays, 27–28

- gender concerns, 29
- interview process, 26
- legal strategy, 25
- listening, 26
- mental health professional's role, 31–33
- nonverbal, 27
- omissions or lying by clients, 30–31
- overview, 23–24
- physical space, 24–25
- silence, 27
- staff interaction, 25
- welcoming environment, 24–25

Computer-Linked Application Information Management System (CLAIMS), 343**Conrad State 30 Program, 181–184, 186****Consular Consolidated Database (CCD), 159****Consular processing**

- adjudication, 160–161
- adjustment of status vs., 7
- expedite requests, 157–159
- Form I-601, 149–150
- health-related inadmissibility, 89, 92
- misrepresentation or fraud in, 61, 64
- nonimmigrant waiver, 155–162
- prior removal or deportation, waiver after, 149–150
- timing, 157–159

Continuous presence and cancellation of removal for non-LPRs, 230–232**Continuous residence of seven years**

- bars to INA §212(h) waiver, 126
- cancellation of removal for LPRs, 19–20

Continuous residence of ten years and cancellation of removal for non-LPRs, 20**Controlled Substances Act, 84, 87****Convention Against Torture, 280**

Convictions

- of aggravated felonies as bars to INA §212(h) waiver, 125
- cancellation of removal for LPRs, 19–20
 - cancellation of removal for non-LPRs, 20, 234–235, 240
- defined, 234
- juvenile delinquency decisions as, 234
- in LPR cancellation involving, 220
- smuggling, no conviction necessary, 199–200
- temporary protected status waivers, 207
- VAWA waivers, 315–316

COVID-19

- extended stays abroad, 189–191
- health-related grounds, 71
- inadmissibility, 9
- late-filed requests, 384–385
- quarantine order, 82
- vaccinations, 76

CRAA (Cuban Refugee Adjustment Act), 329–330**CREEC (Civil Rights Education and Enforcement Center), 399****Crimes involving moral turpitude (CIMTs)**

- exclusion based on, 2
- INA §212(h) waiver for, 111–133
- non-LPRs, cancellation of removal, 233
- smuggling, no moral turpitude, 201
- U visas, 301–302
- waiver for, 15, 111–133, 208

Criminal and related grounds

See also Convictions

- aggravated felonies. *See* Aggravated felonies
- crimes more than 15 years old
 - INA §212(h) waiver for, 112–113
 - waiver for, 111–133
- disclosure, 302–303
- exclusion based on, 2
- IIRAIRA changes to laws, 15–16
- inadmissibility, 8

- U visas, 300–303
 - heightened standard for, 295–298
- violent or dangerous crimes. *See* Violent and dangerous crimes
- waivers of inadmissibility, 15–16

CSPA (Child Status Protection Act of 2002), 4–5**Cuban Refugee Adjustment Act (CRAA), 329–330****Cultural concerns**

- in communication with clients, 29
- extreme hardship, 14–15, 104–107
- material support for terrorist organizations, 288

D**DACA (Deferred Action for Childhood Arrivals), 4–5****Death of petitioner**

- adjustment of status eligibility, 341
- affidavit of support, 338–339
- benefit approval, 339
- best filing practices, 344
- best practices, 349
- CSPA considerations, 340
- discretion, 341–342
- Employment Authorization Document (EAD) cards, 349
- filing procedure, 342–343
- humanitarian reinstatement of revoked I-130, 345–348
 - approval criteria, 346
 - documentation, 346
 - eligibility, 345
 - family unity considerations, 348
 - I-360 auto-conversion vs., 345
 - substitute sponsors, 347
 - timeline, 345–348
- nonimmigrant dependent status, 349
- relief, 333–349
- remarriage, 342
- residence requirement, 340
- waivers of inadmissibility, 341
- while petition pending, 339

Deferred Action for Childhood

Arrivals (DACA), 4–5

***Department of State v. Muñoz (2024)*, 249**

Deportation. *See* Removal **DGMQ**

(Global Migration and

Quarantine), 89–91

Diagnostic and Statistical Manual for Mental Disorders (DSM)

medical examination for mental disorders, 84

substance abuse criteria, 85–87

Disability

See also Mental disorders; Physical disorders

as Class B condition, 69, 87

extreme hardship, 36, 104–107, 275

learning disabilities, 30

naturalization applications, 389–399

English and civics test waiver, 395–396

Form N-648, 395–396, 398

oath, waiver of, 396–397

overview, 389–390

power of attorney, 398–399

practice pointers, 398

reasonable accommodations, 390–395

resources, 399

public charge grounds, 10

Discretionary review

in benefits adjudication, 163

death of petitioner, 341–342

extreme hardship decision under INA §212(a)(9)(A)(iii) & (9)(C)(ii), 144–146

Hranka factors. *See Hranka* test

INA §212(h) waiver, 119–122

INA §212(k) waiver, 167–168

lawful permanent residents (LPRs), 211

misrepresentation or fraud, 64, 247–248

Diseases. *See* Communicable diseases;

Health-related grounds

Documentation

See also Evidence

general document requirements, 193

hardship, 35–41

immigrant visas, 385–386

J visas, 178

lost, stolen, or expired documents, 191–192

nonimmigrant visas, 193–195, 385–386

proper entry documents, lack of, 191–192

refugees and asylees, documents for waivers, 277–278

undocumented facts or unsupported assertions, 64

Domestic violence victims

See also Violence Against Women Act (VAWA)

cancellation of removal of abused women and children, 237–238

Cuban Refugee Adjustment Act (CRAA), 329–330

Haitian Refugee Immigrant Fairness Act (HRIFA), 329–330

Nicaraguan and Central American Relief Act (NACARA), 329–330

T petitions and waivers, 325–326

U petitions and waivers, 293–309

Drug possession

See also Substance use/abuse

good moral character, 233

waiver for marijuana, 15, 18, 116–118

DSM. *See Diagnostic and Statistical Manual for Mental Disorders*

Duress exception. *See* Terrorism

E

EAD (Employment Authorization Document) cards, 349

Electronic Secured Adjudication

Forms Environment (E-SAFE)

system, 157
Emotional displays and communication with clients, 27–28

Employment Authorization Document (EAD) cards, 349

Employment-based petitions

adjustment of status, 361–368
See also Adjustment of status

English and civics test waiver, 395–396

Equal Protection Clause, bar to §212(h) waiver, 125

E-SAFE (Electronic Secured

Adjudication Forms

Environment) system, 157

Evidence

See also Documentation; Witnesses

expert witnesses

extreme hardship, 38–39

forensic experts, 38–39

health-related issues, 89

on misrepresentation or fraud as grounds of inadmissibility, 65

extreme hardship, 37–38

hardship, 35–41

factors, 35–36

forensic experts, 38–39

nontraditional evidence, 37–38

prior suffering or grief, 39–40

psychological reports, 38–39

totality of the circumstances, 40–41

visual aids, 40

power of persuasion, 107–108

unlawful presence waiver, 107–108

Exceptional hardship, 36, 185–186, 274–276

See also Extreme hardship

Exchange visitor program. *See* J visas

Expert witnesses

See also Witnesses

extreme hardship, 38–39

forensic experts, 38–39

health-related issues, 89

on misrepresentation or fraud as grounds of inadmissibility, 65

Expired documents, 191–192

Extended stays abroad, LPRs

returning after, 189–191

Extension of stay (EOS)

INA §212(d)(3) waiver, 161–162

late-filed requests, 383–388

lawful status and, 367

Extreme hardship

See also Exceptional hardship;

Hardship

cancellation of removal for non-LPRs, 20–21, 35, 37, 235–237, 240–241

child support, 104

cultural concerns, 14–15, 105–106

definition, 35

disability, 36, 104–106, 275

discretionary decision under INA

§212(a)(9)(A)(iii) & (9)(C)(ii), 144–146

evidence, nontraditional, 37–38

factors, 35–36

forensic experts, 38–39

gender concerns, 105–106

INA §212(h) waiver, 114–116

joint petition I-751 waivers, 356

misrepresentation or fraud, 35

prior suffering or grief, 39–40

psychological reports, 38–39

refugees and asylees, 16, 274–276

reinstatement of F-1 status, 378–379

three- and ten-year bars, 35, 37

totality of the circumstances, 40–41

unlawful presence, 35

unlawful presence waiver, 102–107

VAWA waiver, 35, 317

visual aids, 40

F**F-1 visas**

- duration of F-1 student status, 370
- reinstatement, 369–381
 - alternatives to, 380–381
 - approval, 380
 - background, 369–371
 - denial, 380
 - deportability, 377
 - extreme hardship, 378–379
 - full course of study, 375
 - graduation while pending, 379–380
 - maintenance of F-1 student status, 371
 - repeat or willful violations of status, 375
 - SEVIS, 370–374, 378–381
 - SEVP, 369
 - sponsorship, 370
 - substantive violations, 371–372
 - technical violations, 371
 - unauthorized employment, 375–377
- student status, 369–381
- violation of status
 - generally, 371–372
 - beyond student's control, 377
 - not more than five months prior, 374

False claims to U.S. citizenship, 15**Family-based visas, qualifying relative, unlawful presence waiver, 102****Family relationship**

- cancellation of removal
 - evidence, 240–241
 - for LPRs, 19
 - for non-LPRs, 235–237
- hardship to children or spouse. *See* Extreme hardship; Hardship
- misrepresentation or fraud in procuring visa or entry based on, 57–58, 245
- smuggling, 205

Family Unity program, 126**Family unity/reunification**

- affidavits, 277–278
- death of petitioner, 348
- lawful residence, time spent under Family Unity Program, 126
- permanent bar under INA §212(a)(9)(C), 146
- prior removal or deportation, waiver after, 146
- refugees and asylees, 152
- smuggling, 203–205
- Special Immigrant Juvenile, 152
- temporary protected status, 152
- unlawful presence waiver for, 17–18, 95
- vaccine waiver, 79

Federal Bureau of Investigation (FBI) and requests in LPR cancellation, 221**Felonies. See** Aggravated felonies; Criminal and related grounds**FLEX 10 program, 182****FOIA. See** Freedom of Information Act**Foreign nationals**

- cancellation of removal. *See* Cancellation of removal
- unlawful presence waiver, 97–98

Foreign residence

- inadmissibility, 8
- J visas, 16–17

Foreign Terrorist Organizations (FTOs), 280**Forensic experts, 38–39****Form 3025, 79****Form DS-117, 190****Form DS-160, 381****Form DS-2019, 172, 173, 174, 177, 179, 181, 186****Form DS-2053, 79****Form DS-3035, 177, 179, 185****Form EOIR-42A, 218–219****Form G-28, 180, 181, 277****Form I-20, 58, 374, 380, 381****Form I-90, 353****Form I-94, 195, 370, 374, 380**

Form I-129, 385

Form I-129F, 335

Form I-130, 335, 339, 342–343, 348

Form I-140, 173, 343

Form I-192

Canadians filing, 150

INA §212(d)(3) waiver, 161

U visas, 304–306

Form I-193, 189–192, 305

Form I-212

Canadian visitors needing to file, 150
relief from INA §212(a)(9)(A) or
(9)(C), 108, 148–149

Form I-290B, 109, 343

Form I-360, 334–335, 338–339, 342,
345

Form I-407, 190

Form I-485, 317, 342–343

Form I-539, 372–375, 380, 385

Form I-601

application for waiver of grounds of
inadmissibility, 61–63
communicable disease waiver, 77, 79
consular processing, 149–150
death of petitioner, 335, 341
mental disorder waiver, 89–90
refiling and updating evidence during
appeal, 108–109
Special Immigrant Juvenile Status
(SIJS) supporting documents,
152
temporary protected status waiver,
210
VAWA self-petitioners, 315, 321
waiver process, 100–102

Form I-601A

death of petitioner, 341
refiling and updating evidence during
appeal, 108–109
waiver process, 100–102

Form I-602

adjustment of status, 270, 277–278
communicable disease waiver for
refugees, 78, 79

Form I-612, 185–186

Form I-693, 69, 79

Form I-751, 326–327

See also Joint petition I-751 waivers

Form I-797, 380

Form I-864, 338–339

Form I-864W, 338–339

Form I-877, 51

Form I-918, 303, 305–306

Form IAP-66, 173, 177, 179, 181, 186

Form N-648

health-related grounds, 395–396, 398
Medical Certification for Disability
Exceptions, 395–396

Fraud. *See* Misrepresentation or fraud

Freedom of Information Act (FOIA)

F-1 visa reinstatement, 377
misrepresentation or fraud
determinations, 51
requests in LPR cancellation, 220

**FTOs (Foreign Terrorist
Organizations)**, 280

Fulbright-Hays Act, 171, 172

G

Gender concerns

in communication with clients, 29
extreme hardship, 105–106

**Global Migration and Quarantine
(DGMQ)**, 89–91

Good moral character

cancellation of removal for LPRs, 19–
20
cancellation of removal for non-LPRs,
20, 232–234, 239–240
defined, 232–233
drug possession, 233
substance use/abuse, 233
tax evasion, 239
VAWA applications, 323–325

Grounds for relief

cancellation of removal, 258–260
INA §212(c), applicability of, 257–
258, 263–266
St. Cyr and impermissible retroactive
application of law, 16, 260–263

H**Haitian Refugee Immigrant Fairness Act (HRIFA), 329–330****Hardship**

See also Exceptional hardship;

Extreme hardship
cancellation of removal for LPRs, 19
documenting, 35–41
evidence, nontraditional, 37–38
factors, 35–36
forensic experts, 38–39
misrepresentation or fraud, 66, 247–248
overview, 35–37
prior suffering or grief, 39–40
psychological reports, 38–39
totality of the
circumstances, 40–41
U visas, 35
VAWA waivers, 35, 312–314
visual aids, 40

Health and Human Services**Department, U.S. (HHS)**

exchange visitor sponsorship, 180–181
HPSAs, 180–182
medical conditions list, 70–71, 315
MUAs, 180–182
research-based waiver sponsorship, 186

Health Professional Shortage Areas (HPSAs), 180–182**Health-related grounds**

communicable diseases, 70–75. *See also* Communicable diseases
COVID-19, 71
disability, waivers, and other
remedies, 389–399. *See also* Disability
Form N-648, 395–396
immigrant visas, waivers for, 13–14
inadmissibility, 8–9
medical examinations, 68–83
nonimmigrants, inadmissibility and
waivers of, 92

physical and mental disorders, 84–91
practice points, 83
qualifying stages, 80–81
quarantine and isolation provisions, 80–83
sexually transmitted diseases, 72–73
substance use/abuse, 8–9, 69
tuberculosis, 73–75
vaccination requirements, 68, 75–76
waiver of inadmissibility, 78–79
waiver of oath, 396–397
waivers, 67–91

Historical background

admission, 6–7
employment-based petitions, 361–362
of immigration laws, 1–5
INA §212(k) waiver, 163

HIV no longer ground of

inadmissibility, 13, 72–73

Homeland Security Department (DHS)

asylum status, 268
enforcement priorities, 248
hardship, 40
inadmissibility findings, 51
nonimmigrant visa waivers, 155
pre-hearing statement for LPR
cancellation, 218
prior removal or deportation, 142
public charge, defined, 10
revocation of waivers, 161
unlawful status, 95
U visas, 297
vaccination guidelines, 13
waivers of inadmissibility, 12, 102

HPSAs (Health Professional Shortage Areas), 180–182**Hranka test**

ARO adjudication, 156
balancing test for determining
eligibility for §212(d)(3)
waiver, 12, 298–299
consulate processing and, 146–147

HRIFA (Haitian Refugee Immigrant Fairness Act), 329–330

Humanitarian reasons for waiver

- affidavits, 277–278
- permanent bar under INA
 - §212(a)(9)(C), 146
- Special Immigrant Juvenile, 152
- temporary protected status, 152
- unlawful presence waiver, 17–18
- vaccine waiver, 79

I

ICE. *See* Immigration and Customs Enforcement, U.S.

Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA)

- deportability for crimes involving
 - moral turpitude, 265
 - exceptional and
 - extremely unusual hardship, 235–237
- INA §212(c) relief, 211–213
- legislative changes of, 3–4, 15–16
- LPR cancellation, 211–213
- non-LPR cancellation, 229
- reinstatement of removal, 147

Illness. *See* Communicable diseases; Health-related grounds; Mental disorders; Physical disorders

Immigrant visas

- See also specific types of visas*
- no waiver available, 18
- unlawful presence waiver, 17–18

Immigration Act of 1990 (IMMACT90)

- aggravated felonies, 262–263
- bar to relief for aggravated felonies, 258
- family reunification, 203
- legislative changes of, 3

Immigration and Customs

Enforcement, U.S. (ICE)

- cancellation of removal for lawful permanent residents, 218–219

- cancellation of removal for non-permanent residents, 239
- CREEC's Guide on Rights of Immigration Detainees with Disabilities, 399

FOIA requests, 304

fraud detection, 248

joint petitions, 352

prosecutorial discretion, 60

SEVIS, 172, 370

sham marriages, 359

VAWA, 321

waiver applications, effects of, 268–269

Immigration and Nationality Act (INA)

See also specific sections at INA

health-related conditions, 67–68

other benefits, 58–59

relief from deportation, 2

structure established by, 2

unlawful presence bar. *See* Unlawful presence; Unlawful presence waiver

Immigration judges, 164, 231, 268, 270, 300, 327, 358–359

Immigration Marriage and Fraud Amendments Act of 1986, 3

Immigration Nursing Relief Act of 1989, 3

Immigration Reform and Control Act of 1986 (IRCA)

misrepresentation in obtaining visa, 59

passage of, 3

INA. *See* Immigration and Nationality Act

INA §209(c) waivers, 267–278

See also Refugees and asylees

INA §211(b) waivers, 44

INA §212(a)(6)(C)(i) waivers

disclosure of facts, 59–60

stacking waivers, 45

INA §212(a)(7)(A)(i)(I) waivers, 45

INA §§212(a)(9)(A) & (9)(C)

- overview, 135–139
- permission to reapply for admission under, 135–153
- reentry trigger, 142–143
- standards for relief, 143–147
- unlawful status not contributing to unlawful presence, 139–141

INA §212(c) relief

- generally, 257–266
- combining relief, 43–44, 47
- continuing challenges for practitioners, 263–266
- grounds for relief, 257–258
- legislative changes to, 211–213, 260
- prior to IIRAIRA passage, 257–258
- St. Cyr* and non-LPR relief for cancellation of removal, 260–263
- stacking waivers, 44–45

INA §212(d)(3) waivers

- Hranka* test, 12
- submission to consulate, 157
- validity, length of, 161–162

INA §212(d)(14) waivers, 294–309

- See also* U visas

INA §212(h) waivers

- generally, 111–133
- bars to, 125–130
 - aggravated felonies, 125
 - continuous residence of seven years, 126
 - convictions of aggravated felonies, 125
 - examples, 129–130
- for crimes more than 15 years old, 112–113
- for crimes of moral turpitude, 111–133
- discretion, 119–122
- distinctions between LPRs and non-LPRs, 125–130
- extreme hardship, 114–116
- issues particular to, 113
- for marijuana possession, 116–118

nunc pro tunc waiver, 46–47, 122–125

- for prostitution, 15, 112–113
- sample analysis, 130–133
- stacking waivers, 44, 47
- VAWA and, 114

INA §212(i) waivers

- misrepresentation or fraud, 60–61
- nunc pro tunc* waiver, 46–47
- stacking waivers, 44

INA §212(k) waivers

- generally, 163–169
- case studies, 168–169
- eligibility, 164, 167–168
- federal court jurisdiction, 164
- historical background, 163
- inadmissibility unknown and undeterminable, 165–167
- misrepresentation or fraud, 253
- "otherwise admissible," 167
- presentation and analysis, 165–168
- procedure, 164

INA §237(a)(1)(H) waivers

- generally, 245–256. *See also* Misrepresentation or fraud
- misrepresentation or fraud, 253
- requirements, 247–251
- stacking waivers, 45–46

INA §237(a)(3)(C)(ii) waivers, 245–256**INA §240A(a), 45–46****INA §241(a)(5) waivers, 46–47****INA §241(f) waivers, 44–45****INA §245(k) waivers**

- generally, 361–368. *See also* Adjustment of status (AOS)
- scope, 362–363

INA §246, 254**Inadmissibility (overview)**

- COVID-19, 9
- criminal and related grounds, 8
- foreign residence, 8
- grounds of, 8–11
- health-related grounds, 8–9
- miscellaneous grounds, 11

misrepresentation grounds, 9
 not known and undeterminable
 through reasonable diligence,
 165–167
 public charge grounds, 10
 security and foreign policy grounds,
 10–11
 stowaways and smugglers, 10–11
 technical defects in visas, 163. *See*
 also INA §212(k) waivers
 three- and ten-year bars, 11, 17, 93
 unlawful presence, 11
 waivers of, 12–18

**In-country relief, prior removal, or
 deportation, waiver after, 147–
 148**

Interviews

communication tips, 25
 refugees and asylees, 276
 witnesses, 64

J

J visas

foreign residence requirement for, 16–
 17
 J-1 exchange visitor program, 171–
 177
 advisory opinion process, 177
 dependents, 171
 direct funding, 174
 enabling legislation, 171
 exchange visitors, 171–172
 Form DS-2019, 172, 173, 174
 Form I-140, 173
 government funding, 173
 graduate medical education or
 training, 176
 indirect funding, 174
 SEVIS, 172
 skills list, 174–176
 two-year residence requirement,
 172–177
 J-2 status
 generally, 171
 individual applications, 187

two-year residence requirement,
 186–187
 two-year home residency requirement,
 171–187
 waiver application process, 177–186
 adjudication process, 186
 appeals, 186
 Conrad State 30 Program, 181–184,
 186
 employer changes, 184–185
 FLEX 10 program, 182
 Form DS-2019, 177, 179, 181, 186
 Form DS-3035, 177, 179, 185
 Form G-28, 180, 181, 277
 Form I-612, 185–186
 Form IAP-66, 177, 179, 181, 186
 HHS sponsorship, 180–181
 HPSAs, 180–182
 initial process, 177–178
 interested government agencies,
 179–185
 medical graduates, 179
 missing forms, 186
 MUAs, 180–182
 no objection statements, 178–179,
 186
 persecution and exceptional
 hardship, 185–186
 processing timeline, 186
 SEVIS, 177
 supporting documentation, 178

Jean, Matter of (2002)

heightened standard for criminal and
 security grounds, 295–298,
 306–308
 refugees and asylees, waivers for,
 267, 271–272

Joint petition I-751 waivers, 351–359

APA and mandamus actions, 358
 application preparation tips, 356–358
 battery, 355–356
 commingled assets and liabilities, 357
 conditional resident children, 326
 de novo review, 358–359
 extreme cruelty, 355–356

- extreme hardship, 356
- how and when to file, 351–352
 - immigration judges, 358–359
- joint insurances, 357
- joint residence, 357
- jurisdiction, 358–359
- late filings, 352–353
- marriage termination, 353–355
- mental health challenges, 357
- photos, 357
- sworn statements, 356–357
- VAWA waivers, 326–327
- waivers, 353–358

Jurisdiction

- admission, defined, 98
- domestic violence exceptions, 330
- Form I-192, 304–306
- Form I-601, 77
- Form I-918, 303, 305–306
 - immigration judges, 164, 231, 268, 270, 300, 327
- INA §212(a)(9)(B)(v) waiver, 102
- INA §212(i) waiver, 60
- INA §212(k) waiver, 164
- joint petition I-751 waivers, 358–359
- nonimmigrants lacking entry documents, 195
- TRIG exemptions, 289
- tuberculosis, 77–78

Juvenile delinquency decisions, 234

K

K visas

- prior removal or deportation, waiver after, 150
- vaccination requirements, 76, 83

L

Landed immigrants. *See* Canadians

Late-filed requests, 383–388

Lawful permanent residents (LPRs)

- after admission in any status, 216
- application preparation, 220–225
 - information government already has, 220–222

- information nongovernmental sources already have, 223–224
- written evidence, need for client to understand, 225
- application procedure, 218–219
- cancellation of removal, 19–20, 211–227
 - sample cancellation case history, 226–227
 - statutory requirements, 214–218
- continuous residence, 215–216
- COVID-19, 189–191
- discretion, 216
- extended stays abroad, 189–191
- fraud waivers, 245–246
- INA §212(h) waiver, 125–130
- lawful admission, 215
- lost, stolen, or expired documents, 191–192
- proper entry documents, lack of, 191–192
- stop-time rule, 212, 215–216

Lawful presence and employment-based petitions, 364

Lawful status, failure to maintain, employment-based petitions, 366–368

Learning disabilities, 30

***Lee, Matter of (1978)*, 143–144**

Legal Immigration Family Equity Act (LIFE Act), 99–100

***Loper Bright Enterprises v. Raimundo (2024)*, 127n119**

Lost, stolen, or expired documents, 191–192

LPRs. *See* Lawful permanent residents

Lying by clients, 30–31

M

Mandamus actions, 358

Marijuana possession, INA §212(h)
waiver for, 15, 18, 116–118

Material support for terrorist organizations. *See*
Terrorism **McCarran-Walter Act of 1952.** *See* Immigration and Nationality Act (INA)

Medical examinations, 68–83

Medical graduates

Conrad State 30 Program, 181–184
employment in federally-designated
medically underserved area, 17
exchange visitors, 176
no objection statements, 179

Medically Underserved Areas (MUAs), 180–182

Mens rea and smuggling, 202

Mental disorders

harmful behavior, defined, 84–85
health-related grounds, 67–69, 84–85
medical examinations, 68–83
oath, waiver of, 396–397
practice points, 89
problems and pitfalls, 88
review of determinations, 88–89
substance use, 85–87
waivers of inadmissibility, 13, 89–91

Mental health professionals

in communication with clients, 31–33
misrepresentation or fraud as grounds
of inadmissibility, psychological
evaluation of, 64–65

Military service

evasion of, 11
record requests in LPR cancellation,
222

Misrepresentation or fraud

case law, 249–251
conditional residents, 245–246
definition of fraud, 52
detection technologies, 248–249
detention, 252–254
DHS enforcement priorities, 248

discretion, 247–248

evidence of, 57–58

extreme hardship, 35

in family relationship petitions, 57–58

future relief, 254–256

grounds of inadmissibility, 49–66

application of law, 52–59

application preparation for waiver,
61–63

attorney-client relationship, 50

challenge the fraud, 50–60

definition of fraud, 52

disclosure of facts, 59–60

as discretionary factors, 64

engaging adjudicator, 63

expert witness, 65

fact gathering, 50–52

hardship, self-imposed, 66

hardship to children and spouse, 66

material facts, 54–56

miscellaneous, 11

misrepresentation, 9

personalization of case, 64

proper refusal if truth had been
known, 56–58

psychological evaluation, 64–65

public charge grounds, 10

security and foreign policy grounds,
10–11

undocumented facts or unsupported
assertions, 64

unlawful presence, 11

unpersuasive evidence, 66

waiver eligibility, 60–63

willfully misrepresenting material
fact, 52–53

hardship, 66, 247–248

extreme hardship, 35

immigrant visas, waivers for, 14–15

legislative changes, 249–250

naturalization, 254–256

90-day rule, violation of status, 57

in procuring visa or entry, 49–66, 245

readjustment of status, 255–256

three- and ten-year bars, 11
 timely retraction, 57
 travel, 252–254
 VAWA waivers at time of admission,
 61, 245–247
 voluntary departure, 58
 waiver for, 245–256

Moral character.
See Good moral character

MUAs (Medically Underserved Areas), 180–182

Murder as per se bar to good moral character, 18, 111, 130, 316

Mutual Educational and Cultural Exchange Act of 1961, 171, 172

N

NACARA. *See* Nicaraguan and Central American Relief Act

National security

See also Terrorism
 anarchists, exclusion of, 2
 inadmissibility for reasons of, 10–11
 no waiver, 18
 temporary protected status waivers,
 208 U visas, heightened
 standard for, 294–295

Naturalization applications

disability, 389–399
 English and civics test waiver, 395–
 396
 Form N-648, 395–396, 398
 oath, waiver of, 396–397
 overview, 389–390
 power of attorney, 398–399
 practice pointers, 398
 reasonable accommodations, 390–
 395
 resources, 399
 misrepresentation or fraud waiver,
 254–256

Nazi persecutions

no waiver, 18
 temporary protected status waivers,
 208

Nicaraguan and Central American Relief Act (NACARA)

domestic violence victims, 329–330
 stop-time rule, 230

Nonimmigrant visas

generally, 12–13
 applications for waivers, 194
 Canadians, 150
 consular processing, 155–162
 criteria for granting waivers, 194
 documentation, 193–195, 385–386
 entry documents required for
 admission, 193–195
 general document requirements, 193
 general waivers, 155–162
 health-related grounds, 92
 post-decision, 195
 prior removal or deportation, waiver
 after, 150
 substance use/abuse, 92
 waivers of health-related grounds, 92

Nonverbal communication with clients, 27

***Nunc pro tunc* waivers**

adjustment of status (AOS), 46–47
 as equitable remedies, 46–47
 INA §212(h) waiver, 46–47, 122–125
 INA §212(i) waiver, 46–47

O

Oath, waiver of, 396–397

Office of Immigration Litigation, 234

Omissions by clients, 30–31

Omnibus Anti-Drug Abuse Act of 1988, 3

P

Permanent bar under INA

§212(a)(9)(C), 320–322

Persecution waiver, 185–186

See also Exceptional hardship

Persecutor bar. *See* Terrorism

PHEICs (Public Health Emergencies of International Concern), 71

Physical disorders

- exclusion based on, 2
- health-related grounds, 13, 67–69, 84–91
 - medical examinations, 68–83

Physicians

- authorized to perform medical examinations, 69–70
- employment in federally-designated medically underserved area, 17

Police reports, requests in LPR

- cancellation, 220

Polygamists

- inadmissibility, 11
- no waiver, 18

Post-conviction relief in LPR

- cancellation involving criminal conviction, 220–222

Post-traumatic stress disorder (PTSD), clients with, 31**Power of attorney (POA), 398–399****Presence, 364**

- See also* Unlawful presence

Prior removal or deportation

- unlawful presence waiver, 94
- waiver after, 135–153
 - adjustment of status applicants, 150–151
 - asylees and refugees, 151
 - cancellation of removal, 151
 - discretion under *Hranka*, 146–147
 - eligibility, 46–47
 - immigrant visa application at U.S. consulate, 149–150
 - in interest of family unity, humanitarian concerns, and public interest, 146
 - K visa applicants, 150
 - nonimmigrant visa applicants, 150
 - nunc pro tunc*, 46–47, 122–125
 - procedures, 148–149
 - reinstatement's effect on in-country relief, 147–148
 - Special Immigrant Juvenile, 152
 - standards for relief, 143–147
 - S visa, 153

- temporary protected status, 152
- T visa, 152
- U visa, 153
- VAWA provisions, 152

Prostitution

- exclusion based on, 2
- INA §212(h) waiver for, 15, 112–113

Psychologists. *See* Mental health professionals**Public charge grounds**

- disability, 10
- HIV-positive individuals, 72–73
- inadmissibility, 10
- no waiver, 18
- VAWA inadmissibility, 317

Public Health Emergencies of International Concern (PHEICs), 71**Public Health Service Act, 80****Public interest**

- See also* National security
- affidavits, 277–278
- permanent bar under INA §212(a)(9)(C), 146
- Special Immigrant Juvenile, 152
- temporary protected status, 152
- unlawful presence waiver for, 17–18

Q**Quarantine**

- COVID-19 positive, 82
- defined, 81
- enforcement, 82
- health-related grounds, 70, 80–83
- isolation vs., 81
- list of diseases, 82
- racism and, 81, 83

Quota system after World War I, 2**R****Racism and quarantine, 81, 83****Readjustment of status, 255–256****Reasonable accommodation. *See* Accommodation****Reckless disregard and smuggling, 201–203**

Reentry trigger, 142–143
Refugees and asylees

communicable disease waiver, 79
 prior removal or deportation, waiver after, 151
 substance use/abuse, 269
 vaccination requirements, 76
 waivers for, 267–278
 application process, 270–271
 client interview and analysis, 276
 document checklist, 277–278
 eligible applicants, 267–269
 extreme hardship, 16, 274–276
 Form I-602, 270, 277–278
 grounds of inadmissibility, 269
 Matter of Jean (2002), 271–272
 tips for preserving, 276–278
 violent or dangerous crimes, 272–276

Rehabilitation Act of 1973, 390, 394**Reinstatement**

generally, 369–381
 alternatives, 380–381
 approval, 380
 background, 369–371
 denial, 380
 deportability, 377 duration of F-1 student status, 370
 effect on in-country relief, 147–148
 extreme hardship, 378–379
 F-1 student status, 369–381
 full course of study, 375
 graduation while pending, 379–380
 maintenance of F-1 student status, 371
 repeat or willful violations of status, 375
 SEVIS, 370–374, 378–381
 SEVP, 369
 sponsorship, 370
 substantive violations, 371–372
 technical violations, 371
 unauthorized employment, 375–377
 violation of status
 generally, 371–372
 beyond student's control, 377

not more than five months prior, 374

Religious beliefs, vaccination and, 14, 79**Religious workers, INA §245(k), application to, 363****Removal**

See also Cancellation of removal
 generally, 18–21
 misrepresentation or fraud in proceedings, 61
 waivers of, 21

Retroactive application of law, 16, 260–263**S****S visas**

prior removal or deportation, waiver after, 153
 witnesses, 153

St. Cyr, 16, 260–263**Security and foreign policy grounds for inadmissibility, 10–11****Security issues. *See* National security****September 11, 2001, terrorist attacks, legislation subsequent to, 4****Severe Acute Respiratory Syndrome (SARS) quarantine order, 82****SEVIS. *See* Student and Exchange Visitor Information System****SEVP (Student and Exchange Visitor Program), 369****Sexually transmitted diseases, 72–73****SIJS. *See* Special Immigrant Juvenile Status****Silence**

of clients, 27
 not misrepresentation, 56

Skills list for J-1 exchange visitor program, 174–176**Smallpox quarantine order, 82**

Smuggling

- alien smuggling, 197–203
 - aggravated felony, 201–203
 - family reunification, 203–205
 - no conviction necessary, 199–200
 - no moral turpitude, 201
 - waiver, 203–205
- inadmissibility, 10–11

Special Immigrant Juvenile Status (SIJS)

- child clients, 152
- procedure, 152
- waiver
 - after prior removal or deportation, 152
 - inadmissibility, 152

Stacking waivers, 44–46**Stare decisis in assessment of waiver eligibility, 156****Status violations within 180-day period following admission, 364–368****Stolen documents, 191–192****Stop-time rule**

- cancellation of removal for LPRs, 212, 215–216
- cancellation of removal for non-LPRs, 230–232, 239

Stowaways, 10–11

Student and Exchange Visitor Information System (SEVIS), 172, 177, 370–374, 378–381

Student and Exchange Visitor Program (SEVP), 369

Students. See F-1 visas; Reinstatement**Substance use/abuse**

- See also* Drug possession; Marijuana possession
- cancellation of removal for non-LPRs, 20
- drug paraphernalia, 117–118
- good moral character, 233
- health-related grounds, 8–9, 13, 69
- identifying and classifying applicants for, 85–87
- nonimmigrants, 92

- practice points, 89
- refugees and asylees, 269
- review of determinations, 88–89
- testing, 88–89, 221
- U visas, 301
- waivers of inadmissibility, 43, 89–91

T**T visas**

- prior removal or deportation, waiver after, 152
- VAWA, 325–326

Tax evasion

- good moral character, 239
- inadmissibility, 11
- no waiver, 18
- renunciation of citizenship, 18, 325

Tax returns

- dependents, 398
- foreign nationals, filing by, 189–190
- requests in LPR cancellation, 222

Technical defects

- employment-based petitions, 368
- waiver of technical defects in visas, 163–169. *See also* INA §212(k) waiver

TEL (Terrorist Exclusion List), 280**Temporary protected status (TPS)**

- CIMTs, 208
- prior removal or deportation, waiver after, 152
- waivers, 207–210

Terrorism

- See also* National security
- Convention Against Torture, 280
- duress exception, 283–284, 290–291
- FTOs, 280
- group-based exemptions, 285–286
- informal duress exception, 283–284
- material support for terrorist organizations, 280–283
- overview, 279–280
- persecutor bar, 290–291
- situational exemptions, 285, 286–287

sub-duress exemptions, 288

TEL, 280

temporary protected status waivers,
208

TRIG exemptions, 279–291

Terrorist Exclusion List (TEL), 280

**Terrorist-Related Inadmissibility
Grounds (TRIG) exemptions.**

See Terrorism

Three- and ten-year bars

extreme hardship, 35, 37

inadmissibility, 11, 17, 317–319

U visas and, 35

***Tin, Matter of* (1973), 143–144**

TPS. *See* Temporary protected status

**Track 3 processing, LPR cancellation
involving prior removal, 220**

**TRIG (Terrorist-Related
Inadmissibility Grounds)
exemptions.** *See* Terrorism

***Trump v. CASA* (2025), 249**

Tuberculosis

exclusion based on, 2

health-related grounds for
inadmissibility, 73–75

practice points, 83

quarantine order, 80

waiver of inadmissibility, 77–78

**Two-year residence requirement,
171–187**

See also J visas

advisory opinion process, 177

applicability determinations, 175–176

bases for application, 173–176
 Canadians, 173

direct funding, 174

government funding, 173

graduate medical education or
training, 176

indirect funding, 174

J-1 exchange visitor program, 172–
177

skills list, 174–176

U

U visas

criminal grounds of inadmissibility,
300–303

hardship, 35

misrepresentation or fraud in
obtaining, 295

petitions and waivers, 293–309

prior removal or deportation, waiver
after, 153

substance use/abuse, 301

waiver, 293–309

 cross-application of standards, 300

 heightened standard for criminal
 and security grounds, 295–
298

 under INA §212(d)(3), 298–299

 under INA §212(d)(14), 294–309

 legal standards, 294–298

 petitions and, 325–326

 practice tips for applying, 304–308

 public or national interest, 294–295

 supporting evidence, 306–308

witnesses, 153

Unaccompanied minors. *See* Special
Immigrant Juvenile Status (SIJS)

**Unauthorized employment and
adjustment of status, 365–366**

Unlawful presence

See also Unlawful presence waiver

defined, 94–96

extreme hardship, 35

inadmissibility, 11

VAWA exception, 317–319

Unlawful presence waiver

generally, 93–109

admission sought by foreign national,
98–99

appeal of denial, 108

application process, 102–107

decision on application for, 108–109

evidence, 107–108

extreme hardship, 103–107

immigrant visas, 17–18

INA §245(i) protection, 99–100
 power of persuasion, 107–108
 previously removed person, 94
 process, 100–107
 qualifying relative, 102
 statutory framework and scope, 94–96
 unlawful presence, 94–96
 voluntary departure of foreign
 national, 96–97

Unlawful status and unlawful presence, 139–141

V

Vaccinations

COVID-19, 76
 religious beliefs and, 79
 requirements, 67, 68, 75–76
 waiver of inadmissibility, 14, 78–79

Victims of Trafficking and Violence Protection Act of 2000, 293

See also U visas

Violence Against Women Act (VAWA)

cancellation of removal, 35, 237–238, 327–329
 good moral character, 323–325
 INA §212(h) waiver and, 114
 prior removal or deportation, waiver after, 152
 public charge inadmissibility, 317
 T petitions and waivers, 325–326
 unlawful presence exception, 317–319
 U petitions and waivers, 293
 waivers, 311–331
 communicable diseases, 13, 76–77, 315
 criminal convictions, 315–316
 domestic violence, 322–323
 fraud and
 misrepresentation at time of admission, 61, 245–247
 hardship factors, 312–314
 joint petition I-751 waivers, 326–327
 permanent bar under INA
 §212(a)(9)(C), 320–322

Unlawful status and unlawful presence

procedure, 314–323
 visa fraud, 317

Violent and dangerous crimes

higher standard of proof for §212(h)
 waiver, 119–122
 list of, 308
 refugees and asylees, waivers for, 272–276

Visa fraud

generally, 49–66
 relationship to qualifying family
 member, 245
 VAWA waivers, 317

Visas

See also specific types
 eligibility, generally, 6–7
 fraud or misrepresentation in
 procuring. *See*
 Misrepresentation or fraud
 waiver of technical defects, 163–169.
See also INA §212(k) waiver

Visual aids, 40

Voluntary departure

of foreign national for unlawful
 presence, 96–97
 misrepresentation or fraud, 58

Voting, unlawful

inadmissibility, 11
 no waiver, 18

W

Waivers of inadmissibility

generally, 12–18
 death of petitioner, 341
 immigrant visas, 13–18. *See also*
 specific types of visas
 criminal and related grounds, 15–16
 documentation requirements, 385–386
 false claims to U.S. citizenship, 15
 foreign residence requirement for J-
 visa holders, 16–17
 fraudulent misrepresentation, 14–15

- health-related grounds, 13–14
- misrepresentation and fraud, 14–15
- no waiver available, 18
- unlawful presence, 17–18
- nonimmigrant visas, 155–162
 - generally, 12–13
 - documentation requirements, 385–386
- health-related grounds, 92
- nunc pro tunc*, 46–47, 122–125
- stacking, 44–46

Willfully misrepresenting material fact, 52–53

Witnesses

- affidavits, 66
- communication with, 23–33
- exceptional and extremely unusual hardship, 240–241
- experts
 - extreme hardship, 38–39
 - forensic experts, 38–39
 - health-related issues, 89
 - on misrepresentation or fraud as grounds of inadmissibility, 65
- interviews, 64
- S visas, 153
- sworn statements, 66
- U visas, 153