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2
3 **8 U.S.C. § 1182, INA § 212**

4 (a) Classes of aliens ineligible for visas or admission.

5 Except as otherwise provided in this chapter, aliens who are inadmissible under
6 the following paragraphs are ineligible to receive visas and ineligible to be admitted to
7 the United States:

8 (1) Health-related grounds

9 (A) In general.

10 Any alien--

11 (i) who is determined (in accordance with regulations
12 prescribed by the Secretary of Health and Human Services) to have
13 a communicable disease of public health significance, which shall
14 include infection with the etiologic agent for acquired immune
15 deficiency syndrome,

16 (ii) except as provided in subparagraph (C), who seeks
17 admission as an immigrant, or who seeks adjustment of status to
18 the status of an alien lawfully admitted for permanent residence,
19 and who has failed to present documentation of having received
20 vaccination against vaccine-preventable diseases, which shall
21 include at least the following diseases: mumps, measles, rubella,
22 polio, tetanus and diphtheria toxoids, pertussis, influenza type B
23 and hepatitis B, and any other vaccinations against vaccine-
24 preventable diseases recommended by the Advisory Committee for
25 Immunization Practices,

26 (iii) who is determined (in accordance with regulations
27 prescribed by the Secretary of Health and Human Services in
28 consultation with the Attorney General)--

29 (I) to have a physical or mental disorder and
30 behavior associated with the disorder that may pose, or has
31 posed, a threat to the property, safety, or welfare of the
32 alien or others, or

33 (II) to have had a physical or mental disorder and a
34 history of behavior associated with the disorder, which
35 behavior has posed a threat to the property, safety, or
36 welfare of the alien or others and which behavior is likely
37 to recur or to lead to other harmful behavior, or

38 (iv) who is determined (in accordance with regulations
39 prescribed by the Secretary of Health and Human Services) to be a
40 drug abuser or addict, is inadmissible.

41 (B) Waiver authorized

42 For provision authorizing waiver of certain clauses of
43 subparagraph (A), see subsection (g) of this section.

44 (C) Exception from immunization requirement for adopted children 10
45 years of age or younger Clause (ii) of subparagraph (A) shall not apply to a child
46 who--

(i) is 10 years of age or younger,

1 (ii) is described in section 1101(b)(1)(F) of this title, and
2 (iii) is seeking an immigrant visa as an immediate relative under
3 section 1151(b) of this title, if, prior to the admission of the child, an
4 adoptive parent or prospective adoptive parent of the child, who has
5 sponsored the child for admission as an immediate relative, has executed
6 an affidavit stating that the parent is aware of the provisions of
7 subparagraph (A)(ii) and will ensure that, within 30 days of the child's
8 admission, or at the earliest time that is medically appropriate, the child
9 will receive the vaccinations identified in such subparagraph.

10 (2) Criminal and related grounds.

11 (A) Conviction of certain crimes

12 (i) In general. Except as provided in clause (ii), any alien
13 convicted of, or who admits having committed, or who admits committing
14 acts which constitute the essential elements of--

15 (I) a crime involving moral turpitude (other than a purely
16 political offense) or an attempt or conspiracy to commit such a
17 crime, or

18 (II) a violation of (or a conspiracy or attempt to violate) any
19 law or regulation of a State, the United States, or a foreign country
20 relating to a controlled substance (as defined in section 802 of Title
21 21), is inadmissible.

22 (ii) Exception. Clause (i)(I) shall not apply to an alien who
23 committed only one crime if--

24 (I) the crime was committed when the alien was under 18
25 years of age, and the crime was committed (and the alien released
26 from any confinement to a prison or correctional institution
27 imposed for the crime) more than 5 years before the date of
28 application for a visa or other documentation and the date of
29 application for admission to the United States, or

30 (II) the maximum penalty possible for the crime of which
31 the alien was convicted (or which the alien admits having
32 committed or of which the acts that the alien admits having
33 committed constituted the essential elements) did not exceed
34 imprisonment for one year and, if the alien was convicted of such
35 crime, the alien was not sentenced to a term of imprisonment in
36 excess of 6 months (regardless of the extent to which the sentence
37 was ultimately executed).

38 (B) Multiple criminal convictions. Any alien convicted of 2 or more
39 offenses (other than purely political offenses), regardless of whether the
40 conviction was in a single trial or whether the offenses arose from a single scheme
41 of misconduct and regardless of whether the offenses involved moral turpitude,
42 for which the aggregate sentences to confinement were 5 years or more is
43 inadmissible.

44 (C) Controlled substance traffickers. Any alien who the consular officer
45 or the Attorney General knows or has reason to believe--

1 (i) is or has been an illicit trafficker in any controlled substance or
2 in any listed chemical (as defined in section 802 of title 21), or is or has
3 been a knowing aider, abettor, assister, conspirator, or colluder with others
4 in the illicit trafficking in any such controlled or listed substance or
5 chemical, or endeavored to do so; or

6 (ii) is the spouse, son, or daughter of an alien inadmissible under
7 clause (i), has, within the previous 5 years, obtained any financial or other
8 benefit from the illicit activity of that alien, and knew or reasonably
9 should have known that the financial or other benefit was the product of
10 such illicit activity, is inadmissible.

11 (D) Prostitution and commercialized vice. Any alien who--

12 (i) is coming to the United States solely, principally, or incidentally
13 to engage in prostitution, or has engaged in prostitution within 10 years of
14 the date of application for a visa, admission, or adjustment of status,

15 (ii) directly or indirectly procures or attempts to procure, or (within
16 10 years of the date of application for a visa, admission, or adjustment of
17 status) procured or attempted to procure or to import, prostitutes or
18 persons for the purpose of prostitution, or receives or (within such 10-year
19 period) received, in whole or in part, the proceeds of prostitution, or

20 (iii) is coming to the United States to engage in any other unlawful
21 commercialized vice, whether or not related to prostitution, is
22 inadmissible.

23 (E) Certain aliens involved in serious criminal activity who have asserted
24 immunity from prosecution. Any alien--

25 (i) who has committed in the United States at any time a serious
26 criminal offense (as defined in section 1101(h) of this title),

27 (ii) for whom immunity from criminal jurisdiction was exercised
28 with respect to that offense,

29 (iii) who as a consequence of the offense and exercise of immunity
30 has departed from the United States, and

31 (iv) who has not subsequently submitted fully to the jurisdiction of
32 the court in the United States having jurisdiction with respect to that
33 offense, is inadmissible.

34 (F) Waiver authorized. For provision authorizing waiver of certain
35 subparagraphs of this paragraph, see subsection (h) of this section.

36 (G) Foreign Government officials who have committed particularly severe
37 violations of religious freedom. Any alien who, while serving as a foreign
38 government official, was responsible for or directly carried out, at any time,
39 particularly severe violations of religious freedom, as defined in section 6402 of
40 Title 22, is inadmissible.

41 (H) Significant traffickers in persons.

42 (i) In general. Any alien who is listed in a report submitted
43 pursuant to section 7108(b) of Title 22, or who the consular officer or the
44 Attorney General knows or has reason to believe is or has been a knowing
45 aider, abettor, assister, conspirator, or colluder with such a trafficker in

1 severe forms of trafficking in persons, as defined in the section 7102 of
2 Title 22, is inadmissible.

3 (ii) Beneficiaries of trafficking. Except as provided in clause (iii),
4 any alien who the consular officer or the Attorney General knows or has
5 reason to believe is the spouse, son, or daughter of an alien inadmissible
6 under clause (i), has, within the previous 5 years, obtained any financial or
7 other benefit from the illicit activity of that alien, and knew or reasonably
8 should have known that the financial or other benefit was the product of
9 such illicit activity, is inadmissible.

10 (iii) Exception for certain sons and daughters. Clause (ii) shall not
11 apply to a son or daughter who was a child at the time he or she received
12 the benefit described in such clause.

13 (I) Money laundering. Any alien--

14 (i) who a consular officer or the Attorney General knows, or has
15 reason to believe, has engaged, is engaging, or seeks to enter the United
16 States to engage, in an offense which is described in section 1956 or 1957
17 of Title 18 (relating to laundering of monetary instruments); or

18 (ii) who a consular officer or the Attorney General knows is, or has
19 been, a knowing aider, abettor, assister, conspirator, or colluder with
20 others in an offense which is described in such section;

21 is inadmissible.

22 (3) Security and related grounds.--

23 (A) In general. Any alien who a consular officer or the Attorney General
24 knows, or has reasonable ground to believe, seeks to enter the United States to
25 engage solely, principally, or incidentally in--

26 (i) any activity (I) to violate any law of the United States relating
27 to espionage or sabotage or (II) to violate or evade any law prohibiting the
28 export from the United States of goods, technology, or sensitive
29 information,

30 (ii) any other unlawful activity, or

31 (iii) any activity a purpose of which is the opposition to, or the
32 control or overthrow of, the Government of the United States by force,
33 violence, or other unlawful means,

34 is inadmissible.

35 (B) Terrorist activities.

36 (i) In general. Any alien who--

37 (I) has engaged in a terrorist activity;

38 (II) a consular officer, the Attorney General, or the
39 Secretary of Homeland Security knows, or has reasonable ground
40 to believe, is engaged in or is likely to engage after entry in any
41 terrorist activity (as defined in clause (iv));

42 (III) has, under circumstances indicating an intention to
43 cause death or serious bodily harm, incited terrorist activity;

44 (IV) is a representative (as defined in clause (v)) of--

45 (aa) a terrorist organization (as defined in clause

46 (vi)); or

(bb) a political, social, or other group that endorses or espouses terrorist activity;

(V) is a member of a terrorist organization described in subclause (I) or (II) of clause (vi);

(VI) is a member of a terrorist organization described in clause (vi) (III), unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a terrorist organization;

(VII) endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization;

(VIII) has received military-type training (as defined in section 2339D(c)(1) of Title 18) from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in clause (vi)); or

(IX) is the spouse or child of an alien who is inadmissible under this subparagraph, if the activity causing the alien to be found inadmissible occurred within the last 5 years, is inadmissible.

An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity.

(ii) Exception. Subclause (VII) of clause (i) does not apply to a spouse or child--

(I) who did not know or should not reasonably have known of the activity causing the alien to be found inadmissible under this section; or

(II) whom the consular officer or Attorney General has reasonable grounds to believe has renounced the activity causing the alien to be found inadmissible under this section.

(iii) "Terrorist activity" defined. As used in this chapter, the term "terrorist activity" means any activity which is unlawful under the laws of the place where it is committed (or which, if it had been committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:

(I) The hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

(II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.

(III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of Title 18) or upon the liberty of such a person.

1 (IV) An assassination.

2 (V) The use of any--

3 (a) biological agent, chemical agent, or nuclear
4 weapon or device, or

5 (b) explosive, firearm, or other weapon or
6 dangerous device (other than for mere personal monetary
7 gain), with intent to endanger, directly or indirectly, the
8 safety of one or more individuals or to cause substantial
9 damage to property.

10 (VI) A threat, attempt, or conspiracy to do any of the
11 foregoing.

12 (iv) Engage in terrorist activity defined. As used in this chapter,
13 the term "engage in terrorist activity" means, in an individual capacity or
14 as a member of an organization--

15 (I) to commit or to incite to commit, under circumstances
16 indicating an intention to cause death or serious bodily injury, a
17 terrorist activity;

18 (II) to prepare or plan a terrorist activity;

19 (III) to gather information on potential targets for terrorist
20 activity;

21 (IV) to solicit funds or other things of value for--

22 (aa) a terrorist activity;

23 (bb) a terrorist organization described in clause
24 (vi)(I) or (vi)(II); or

25 (cc) a terrorist organization described in clause
26 (vi)(III), unless the solicitor can demonstrate by clear and
27 convincing evidence that he did not know, and should not
28 reasonably have known, that the organization was a
29 terrorist organization;

30 (V) to solicit any individual--

31 (aa) to engage in conduct otherwise described in
32 this subsection;

33 (bb) for membership in a terrorist organization
34 described in clause (vi)(I) or (vi)(II); or

35 (cc) for membership in a terrorist organization
36 described in clause (vi)(III) unless the solicitor can
37 demonstrate by clear and convincing evidence that he did
38 not know, and should not reasonably have known, that the
39 organization was a terrorist organization; or

40 (VI) to commit an act that the actor knows, or reasonably
41 should know, affords material support, including a safe house,
42 transportation, communications, funds, transfer of funds or other
43 material financial benefit, false documentation or identification,
44 weapons (including chemical, biological, or radiological weapons),
45 explosives, or training--

46 (aa) for the commission of a terrorist activity;

1 (bb) to any individual who the actor knows, or
2 reasonably should know, has committed or plans to commit
3 a terrorist activity;

4 (cc) to a terrorist organization described in
5 subclause (I) or (II) of clause (vi) or to any member of such
6 an organization; or

7 (dd) to a terrorist organization described in clause
8 (vi)(III), or to any member of such an organization, unless
9 the actor can demonstrate by clear and convincing evidence
10 that the actor did not know, and should not reasonably have
11 known, that the organization was a terrorist organization.

12 (v) "Representative" defined. As used in this paragraph, the term
13 "representative" includes an officer, official, or spokesman of an
14 organization, and any person who directs, counsels, commands, or induces
15 an organization or its members to engage in terrorist activity.

16 (vi) Terrorist organization defined. As used in this section, the
17 term "terrorist organization" means an organization--

18 (I) designated under section 1189 of this title;

19 (II) otherwise designated, upon publication in the Federal
20 Register, by the Secretary of State in consultation with or upon the
21 request of the Attorney General or the Secretary of Homeland
22 Security, as a terrorist organization, after finding that the
23 organization engages in the activities described in subclauses (I)
24 through (VI) of clause (iv); or

25 (III) that is a group of two or more individuals, whether
26 organized or not, which engages in, or has a subgroup which
27 engages in, the activities described in subclauses (I) through (VI)
28 of clause (iv).

29 (C) Foreign policy

30 (i) In general. An alien whose entry or proposed activities in the
31 United States the Secretary of State has reasonable ground to believe
32 would have potentially serious adverse foreign policy consequences for
33 the United States is inadmissible.

34 (ii) Exception for officials. An alien who is an official of a foreign
35 government or a purported government, or who is a candidate for election
36 to a foreign government office during the period immediately preceding
37 the election for that office, shall not be excludable or subject to restrictions
38 or conditions on entry into the United States under clause (i) solely
39 because of the alien's past, current, or expected beliefs, statements, or
40 associations, if such beliefs, statements, or associations would be lawful
41 within the United States.

42 (iii) Exception for other aliens. An alien, not described in clause
43 (ii), shall not be excludable or subject to restrictions or conditions on entry
44 into the United States under clause (i) because of the alien's past, current,
45 or expected beliefs, statements, or associations, if such beliefs, statements,
46 or associations would be lawful within the United States, unless the

1 Secretary of State personally determines that the alien's admission would
2 compromise a compelling United States foreign policy interest.

3 (iv) Notification of determinations. If a determination is made
4 under clause (iii) with respect to an alien, the Secretary of State must
5 notify on a timely basis the chairmen of the Committees on the Judiciary
6 and Foreign Affairs of the House of Representatives and of the
7 Committees on the Judiciary and Foreign Relations of the Senate of the
8 identity of the alien and the reasons for the determination.

9 (D) Immigrant membership in totalitarian party

10 (i) In general. Any immigrant who is or has been a member of or
11 affiliated with the Communist or any other totalitarian party (or
12 subdivision or affiliate thereof), domestic or foreign, is inadmissible.

13 (ii) Exception for involuntary membership. Clause (i) shall not
14 apply to an alien because of membership or affiliation if the alien
15 establishes to the satisfaction of the consular officer when applying for a
16 visa (or to the satisfaction of the Attorney General when applying for
17 admission) that the membership or affiliation is or was involuntary, or is
18 or was solely when under 16 years of age, by operation of law, or for
19 purposes of obtaining employment, food rations, or other essentials of
20 living and whether necessary for such purposes.

21 (iii) Exception for past membership. Clause (i) shall not apply to
22 an alien because of membership or affiliation if the alien establishes to the
23 satisfaction of the consular officer when applying for a visa (or to the
24 satisfaction of the Attorney General when applying for admission) that--

25 (I) the membership or affiliation terminated at least--

26 (a) 2 years before the date of such application, or

27 (b) 5 years before the date of such application, in

28 the case of an alien whose membership or affiliation was
29 with the party controlling the government of a foreign state
30 that is a totalitarian dictatorship as of such date, and

31 (II) the alien is not a threat to the security of the United

32 States.

33 (iv) Exception for close family members. The Attorney General
34 may, in the Attorney General's discretion, waive the application of clause
35 (i) in the case of an immigrant who is the parent, spouse, son, daughter,
36 brother, or sister of a citizen of the United States or a spouse, son, or
37 daughter of an alien lawfully admitted for permanent residence for
38 humanitarian purposes, to assure family unity, or when it is otherwise in
39 the public interest if the immigrant is not a threat to the security of the
40 United States.

41 (E) Participants in Nazi persecution, genocide, or the commission of any
42 act of torture or extrajudicial killing.

43 (i) Participation in Nazi persecutions. Any alien who, during the
44 period beginning on March 23, 1933, and ending on May 8, 1945, under
45 the direction of, or in association with--

46 (I) the Nazi government of Germany,

1 (II) any government in any area occupied by the military
2 forces of the Nazi government of Germany,

3 (III) any government established with the assistance or
4 cooperation of the Nazi government of Germany, or

5 (IV) any government which was an ally of the Nazi
6 government of Germany, ordered, incited, assisted, or otherwise
7 participated in the persecution of any person because of race,
8 religion, national origin, or political opinion is inadmissible.

9 (ii) Participation in genocide. Any alien who ordered, incited,
10 assisted, or otherwise participated in conduct outside the United States that
11 would, if committed in the United States or by a United States national, be
12 genocide, as defined in section 1091(a) of Title 18, is inadmissible.

13 (iii) Commission of acts of torture or extrajudicial killings. Any
14 alien who, outside the United States, has committed, ordered, incited,
15 assisted, or otherwise participated in the commission of--

16 (I) any act of torture, as defined in section 2340 of Title 18;

17 or

18 (II) under color of law of any foreign nation, any
19 extrajudicial killing, as defined in section 3(a) of the Torture
20 Victim Protection Act of 1991 (28 U.S.C. 1350 note),

21 is inadmissible.

22 (F) Association with terrorist organizations. Any alien who the Secretary
23 of State, after consultation with the Attorney General, or the Attorney General,
24 after consultation with the Secretary of State, determines has been associated with
25 a terrorist organization and intends while in the United States to engage solely,
26 principally, or incidentally in activities that could endanger the welfare, safety, or
27 security of the United
28 States is inadmissible.

29 (4) Public charge.

30 (A) In general. Any alien who, in the opinion of the consular officer at the
31 time of application for a visa, or in the opinion of the Attorney General at the time
32 of application for admission or adjustment of status, is likely at any time to
33 become a public charge is inadmissible.

34 (B) Factors to be taken into account

35 (i) In determining whether an alien is inadmissible under this
36 paragraph, the consular officer or the Attorney General shall at a minimum
37 consider the alien's--

38 (I) age;

39 (II) health;

40 (III) family status;

41 (IV) assets, resources, and financial status; and

42 (V) education and skills.

43 (ii) In addition to the factors under clause (i), the consular officer
44 or the Attorney General may also consider any affidavit of support under
45 section 1183a of this title for purposes of exclusion under this paragraph.
46

1 (C) Family-sponsored immigrants. Any alien who seeks admission or
2 adjustment of status under a visa number issued under section 1151(b)(2) or
3 1153(a) of this title is inadmissible under this paragraph unless--

4 (i) the alien has obtained--

5 (I) status as a spouse or a child of a United States citizen
6 pursuant to clause (ii), (iii), or (iv) of section 1154(a)(1)(A) of this
7 title or

8 (II) classification pursuant to clause (ii) or (iii) of section
9 1154(a)(1)(B) of this title; or

10 (ii) the person petitioning for the alien's admission (and any
11 additional sponsor required under section 1183a(f) of this title or any
12 alternative sponsor permitted under paragraph (5)(B) of such section) has
13 executed an affidavit of support described in section 1183a of this title
14 with respect to such alien.

15 (D) Certain employment-based immigrants. Any alien who seeks
16 admission or adjustment of status under a visa number issued under section
17 1153(b) of this title by virtue of a classification petition filed by a relative of the
18 alien (or by an entity in which such relative has a significant ownership interest) is
19 inadmissible under this paragraph unless such relative has executed an affidavit of
20 support described in section 1183a of this title with respect to such alien.

21 (5) Labor certification and qualifications for certain immigrants

22 (A) Labor certification

23 (i) In general. Any alien who seeks to enter the United States for
24 the purpose of performing skilled or unskilled labor is inadmissible, unless
25 the Secretary of Labor has determined and certified to the Secretary of
26 State and the Attorney General that--

27 (I) there are not sufficient workers who are able, willing,
28 qualified (or equally qualified in the case of an alien described in
29 clause (ii)) and available at the time of application for a visa and
30 admission to the United States and at the place where the alien is to
31 perform such skilled or unskilled labor, and

32 (II) the employment of such alien will not adversely affect
33 the wages and working conditions of workers in the United States
34 similarly employed.

35 (ii) Certain aliens subject to special rule. For purposes of clause
36 (i)(I), an alien described in this clause is an alien who--

37 (I) is a member of the teaching profession, or

38 (II) has exceptional ability in the sciences or the arts.

39
40 (iii) Professional athletes

41 (I) In general. A certification made under clause (i) with
42 respect to a professional athlete shall remain valid with respect to
43 the athlete after the athlete changes employer, if the new employer
44 is a team in the same sport as the team which employed the athlete
45 when the athlete first applied for the certification.
46

1 (II) Definition. For purposes of subclause (I), the term
2 "professional athlete" means an individual who is employed as an
3 athlete by--

4 (aa) a team that is a member of an association of 6
5 or more professional sports teams whose total combined
6 revenues exceed \$10,000,000 per year, if the association
7 governs the conduct of its members and regulates the
8 contests and exhibitions in which its member teams
9 regularly engage; or

10 (bb) any minor league team that is affiliated with
11 such an association.

12 (iv) Long delayed adjustment applicants. A certification made
13 under clause (i) with respect to an individual whose petition is covered by
14 section 1154(j) of this title shall remain valid with respect to a new job
15 accepted by the individual after the individual changes jobs or employers
16 if the new job is in the same or a similar occupational classification as the
17 job for which the certification was issued.

18 (B) Unqualified physicians. An alien who is a graduate of a medical
19 school not accredited by a body or bodies approved for the purpose by the
20 Secretary of Education (regardless of whether such school of medicine is in the
21 United States) and who is coming to the United States principally to perform
22 services as a member of the medical profession is inadmissible, unless the alien (i)
23 has passed parts I and II of the National Board of Medical Examiners
24 Examination (or an equivalent examination as determined by the Secretary of
25 Health and Human Services) and (ii) is competent in oral and written English. For
26 purposes of the previous sentence, an alien who is a graduate of a medical school
27 shall be considered to have passed parts I and II of the National Board of Medical
28 Examiners if the alien was fully and permanently licensed to practice medicine in
29 a State on January 9, 1978, and was practicing medicine in a State on that date.

30 (C) Uncertified foreign health-care workers. Subject to subsection (r), any
31 alien who seeks to enter the United States for the purpose of performing labor as a
32 health-care worker, other than a physician, is inadmissible unless the alien
33 presents to the consular officer, or, in the case of an adjustment of status, the
34 Attorney General, a certificate from the Commission on Graduates of Foreign
35 Nursing Schools, or a certificate from an equivalent independent credentialing
36 organization approved by the Attorney General in consultation with the Secretary
37 of Health and Human Services, verifying that--

38 (i) the alien's education, training, license, and experience--

39 (I) meet all applicable statutory and regulatory
40 requirements for entry into the United States under the
41 classification specified in the application;

42 (II) are comparable with that required for an American
43 health-care worker of the same type; and

44 (III) are authentic and, in the case of a license,
45 unencumbered;

1 (ii) the alien has the level of competence in oral and written
2 English considered by the Secretary of Health and Human Services, in
3 consultation with the Secretary of Education, to be appropriate for health
4 care work of the kind in which the alien will be engaged, as shown by an
5 appropriate score on one or more nationally recognized, commercially
6 available, standardized assessments of the applicant's ability to speak and
7 write; and

8 (iii) if a majority of States licensing the profession in which the
9 alien intends to work recognize a test predicting the success on the
10 profession's licensing or certification examination, the alien has passed
11 such a test or has passed such an examination.

12 For purposes of clause (ii), determination of the standardized tests required and of the
13 minimum scores that are appropriate are within the sole discretion of the Secretary of
14 Health and Human Services and are not subject to further administrative or judicial
15 review.

16 (D) Application of grounds. The grounds for inadmissibility of aliens
17 under subparagraphs (A) and (B) shall apply to immigrants seeking admission or
18 adjustment of status under paragraph (2) or (3) of section 1153(b) of this title.

19 (6) Illegal entrants and immigration violators

20 (A) Aliens present without admission or parole

21 (i) In general. An alien present in the United States without being
22 admitted or paroled, or who arrives in the United States at any time or
23 place other than as designated by the Attorney General, is inadmissible.

24 (ii) Exception for certain battered women and children. Clause (i)
25 shall not apply to an alien who demonstrates that--

26 (I) the alien qualifies for immigrant status under
27 subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section
28 1134(a)(1) of this title,

29 (II) (a) the alien has been battered or subjected to extreme
30 cruelty by a spouse or parent, or by a member of the spouse's or
31 parent's family residing in the same household as the alien and the
32 spouse or parent consented or acquiesced to such battery or
33 cruelty, or (b) the alien's child has been battered or subjected to
34 extreme cruelty by a spouse or parent of the alien (without the
35 active participation of the alien in the battery or cruelty) or by a
36 member of the spouse's or parent's family residing in the same
37 household as the alien when the spouse or parent consented to or
38 acquiesced in such battery or cruelty and the alien did not actively
39 participate in such battery or cruelty, and

40 (III) there was a substantial connection between the battery
41 or cruelty described in subclause (I) or (II) and the alien's unlawful
42 entry into the United States.

43 (B) Failure to attend removal proceeding. Any alien who without
44 reasonable cause fails or refuses to attend or remain in attendance at a proceeding
45 to determine the alien's inadmissibility or deportability and who seeks admission

1 to the United States within 5 years of such alien's subsequent departure or
2 removal is inadmissible.

3 (C) Misrepresentation

4 (i) In general. Any alien who, by fraud or willfully
5 misrepresenting a material fact, seeks to procure (or has sought to procure
6 or has procured) a visa, other documentation, or admission into the United
7 States or other benefit provided under this chapter is inadmissible.

8 (ii) Falsely claiming citizenship.

9 (I) In general. Any alien who falsely represents, or has
10 falsely represented, himself or herself to be a citizen of the United
11 States for any purpose or benefit under this chapter (including
12 section 1324a of this title) or any other Federal or State law is
13 inadmissible.

14 (II) Exception. In the case of an alien making a
15 representation described in subclass (I), if each natural parent of
16 the alien (or, in the case of an adopted alien, each adoptive parent
17 of the alien) is or was a citizen (whether by birth or naturalization),
18 the alien permanently resided in the United States prior to attaining
19 the age of 16, and the alien reasonably believed at the time of
20 making such representation that he or she was a citizen, the alien
21 shall not be considered to be inadmissible under any provision of
22 this subsection based on such representation.

23 (iii) Waiver authorized. For provision authorizing waiver of clause
24 (i), see subsection (i) of this section.

25 (D) Stowaways. Any alien who is a stowaway is inadmissible.

26 (E) Smugglers

27 (i) In general. Any alien who at any time knowingly has
28 encouraged, induced, assisted, abetted, or aided any other alien to enter or
29 to try to enter the United States in violation of law is inadmissible.

30 (ii) Special rule in the case of family reunification. Clause (i) shall
31 not apply in the case of alien who is an eligible immigrant (as defined in
32 section 301(b)(1) of the Immigration Act of 1990), was physically present
33 in the United States on May 5, 1988, and is seeking admission as an
34 immediate relative or under section 1153(a)(2) of this title (including
35 under section 112 of the Immigration Act of 1990) or benefits under
36 section 301(a) of the Immigration Act of 1990 if the alien, before May 5,
37 1988, has encouraged, induced, assisted, abetted, or aided only the alien's
38 spouse, parent, son, or daughter (and no other individual) to enter the
39 United States in violation of law.

40 (iii) Waiver authorized. For provision authorizing waiver of clause
41 (i), see subsection (d)(11) of this section.

42 (F) Subject of civil penalty

43 (i) In general. An alien who is the subject of a final order for
44 violation of section 1324c of this title is inadmissible.

45 (ii) Waiver authorized. For provision authorizing waiver of clause
46 (i), see subsection (d)(12) of this section.

1
2 (G) Student visa abusers. An alien who obtains the status of a
3 nonimmigrant under section 1101(a)(15)(F)(i) of this title and who violates a term
4 or condition of such status under section 1184(l) of this title is inadmissible until
5 the alien has been outside the United States for a continuous period of 5 years
6 after the date of the violation.

7 (7) Documentation requirements

8 (A) Immigrants

9 (i) In general. Except as otherwise specifically provided in this
10 chapter, any immigrant at the time of application for admission--

11 (I) who is not in possession of a valid unexpired immigrant
12 visa, reentry permit, border crossing identification card, or other
13 valid entry document required by this chapter, and a valid
14 unexpired passport, or other suitable travel document, or document
15 of identity and nationality if such document is required under the
16 regulations issued by the Attorney General under section 1181(a)
17 of this title, or

18 (II) whose visa has been issued without compliance with
19 the provisions of section 1153 of this title, is inadmissible.

20 (ii) Waiver authorized. For provision authorizing waiver of clause
21 (i), see subsection (k) of this section.

22 (B) Nonimmigrants

23 (i) In general. Any nonimmigrant who--

24 (I) is not in possession of a passport valid for a minimum of
25 six months from the date of the expiration of the initial period of
26 the alien's admission or contemplated initial period of stay
27 authorizing the alien to return to the country from which the alien
28 came or to proceed to and enter some other country during such
29 period, or

30 (II) is not in possession of a valid nonimmigrant visa or
31 border crossing identification card at the time of application for
32 admission, is inadmissible.

33 (ii) General waiver authorized. For provision authorizing waiver
34 of clause (i), see subsection (d)(4) of this section.

35 (iii) Guam visa waiver. For provision authorizing waiver of clause
36 (i) in the case of visitors to Guam, see subsection (l).

37 (iv) Visa waiver program. For authority to waive the requirement
38 of clause (i) under a program, see section 1187 of this title.

39 (8) Ineligible for citizenship

40 (A) In general. Any immigrant who is permanently ineligible to
41 citizenship is inadmissible.

42 (B) Draft evaders. Any person who has departed from or who has
43 remained outside the United States to avoid or evade training or service in the
44 armed forces in time of war or a period declared by the President to be a national
45 emergency is inadmissible, except that this subparagraph shall not apply to an

1 alien who at the time of such departure was a nonimmigrant and who is seeking to
2 reenter the United States as a nonimmigrant.

3 (9) Aliens previously removed

4 (A) Certain aliens previously removed

5 (i) Arriving aliens. Any alien who has been ordered removed
6 under section 1225(b)(1) of this title or at the end of proceedings under
7 section 1229a of this title initiated upon the alien's arrival in the United
8 States and who again seeks admission within 5 years of the date of such
9 removal (or within 20 years in the case of a second or subsequent removal
10 or at any time in the case of an alien convicted of an aggravated felony) is
11 inadmissible.

12 (ii) Other aliens. Any alien not described in clause (i) who--

13 (I) has been ordered removed under section 240 or any
14 other provision of law, or

15 (II) departed the United States while an order of removal
16 was outstanding, and who seeks admission within 10 years of the
17 date of such alien's departure or removal (or within 20 years of
18 such date in the case of a second or subsequent removal or at any
19 time in the case of an alien convicted of an aggravated felony) is
20 inadmissible.

21 (iii) Exception. Clauses (i) and (ii) shall not apply to an alien
22 seeking admission within a period if, prior to the date of the alien's
23 reembarkation at a place outside the United States or attempt to be
24 admitted from foreign contiguous territory, the Attorney General has
25 consented to the alien's reapplying for admission.

26 (B) Aliens unlawfully present

27 (i) In general. Any alien (other than an alien lawfully admitted for
28 permanent residence) who--

29 (I) was unlawfully present in the United States for a period
30 of more than 180 days but less than 1 year, voluntarily departed the
31 United States (whether or not pursuant to section 1254a(e) [FN1]
32 of this title) prior to the commencement of proceedings under
33 section 1225(b)(1) or section 1229(a) of this title, and again seeks
34 admission within 3 years of the date of such alien's departure or
35 removal, or

36 (II) has been unlawfully present in the United States for one
37 year or more, and who again seeks admission within 10 years of
38 the date of such alien's departure or removal from the United
39 States, is inadmissible.

40 (ii) Construction of unlawful presence. For purposes of this
41 paragraph, an alien is deemed to be unlawfully present in the United States
42 if the alien is present in the United States after the expiration of the period
43 of stay authorized by the Attorney General or is present in the United
44 States without being admitted or paroled.

45 (iii) Exceptions

1 (I) Minors. No period of time in which an alien is under 18
2 years of age shall be taken into account in determining the period
3 of unlawful presence in the United States under clause (i).

4 (II) Asylees. No period of time in which an alien has a
5 bona fide application for asylum pending under section 1158 of
6 this title shall be taken into account in determining the period of
7 unlawful presence in the United States under clause (i) unless the
8 alien during such period was employed without authorization in
9 the United States.

10 (III) Family unity. No period of time in which the alien is a
11 beneficiary of family unity protection pursuant to section 301 of
12 the Immigration Act of 1990 shall be taken into account in
13 determining the period of unlawful presence in the United States
14 under clause (i).

15 (IV) Battered women and children. Clause (i) shall not
16 apply to an alien who would be described in paragraph (6)(A)(ii) if
17 "violation of the terms of the alien's nonimmigrant visa" were
18 substituted for "unlawful entry into the United States" in subclause
19 (III) of that paragraph.

20 (V) Victims of a severe form of trafficking in persons.
21 Clause (i) shall not apply to an alien who demonstrates that the
22 severe form of trafficking (as that term is defined in section 7102
23 of Title 22) was at least one central reason for the alien's unlawful
24 presence in the United States.

25 (iv) Tolling for good cause. In the case of an alien who--

26 (I) has been lawfully admitted or paroled into the United
27 States,

28 (II) has filed a nonfrivolous application for a change or
29 extension of status before the date of expiration of the period of
30 stay authorized by the Attorney General, and

31 (III) has not been employed without authorization in the
32 United States before or during the pendency of such application,
33 the calculation of the period of time specified in clause (i)(I) shall
34 be tolled during the pendency of such application, but not to
35 exceed 120 days.

36 (v) Waiver. The Attorney General has sole discretion to waive
37 clause (i) in the case of an immigrant who is the spouse or son or daughter
38 of a United States citizen or of an alien lawfully admitted for permanent
39 residence, if it is established to the satisfaction of the Attorney General
40 that the refusal of admission to such immigrant alien would result in
41 extreme hardship to the citizen or lawfully resident spouse or parent of
42 such alien. No court shall have jurisdiction to review a decision or action
43 by the Attorney General regarding a waiver under this clause.

44 (C) Aliens unlawfully present after previous immigration violations
45
46

1 (i) In general. Any alien who--
2 (I) has been unlawfully present in the United States for an
3 aggregate period of more than 1 year, or
4 (II) has been ordered removed under section 1225(b)(1) of
5 this title, section 1229a of this title, or any other provision of law,
6 and who enters or attempts to reenter the United States without
7 being admitted is inadmissible.

8 (ii) Exception. Clause (i) shall not apply to an alien seeking
9 admission more than 10 years after the date of the alien's last departure
10 from the United States if, prior to the alien's reembarkation at a place
11 outside the United States or attempt to be readmitted from a foreign
12 contiguous territory, the Attorney General has consented to the alien's
13 reapplying for admission. The Attorney General in the Attorney General's
14 discretion may waive the provisions of subsection (a)(9)(C)(i) in the case
15 of an alien to whom the Attorney General has granted classification under
16 clause (iii), (iv), or (v) of section 1154(a)(1)(A) of this title, or
17 classification under clause (ii), (iii), or (iv) of section 1154(a)(1)(B) of this
18 title, in any case in which there is a connection between--

19 (1) the alien's having been battered or subjected to extreme
20 cruelty; and

21 (2) the alien's--

22 (A) removal;

23 (B) departure from the United States;

24 (C) reentry or reentries into the United States; or

25 (D) attempted reentry into the United States.

26 (10) Miscellaneous

27 (A) Practicing polygamists. Any immigrant who is coming to the United
28 States to practice polygamy is inadmissible.

29 (B) Guardian required to accompany helpless alien

30 Any alien--

31 (i) who is accompanying another alien who is inadmissible and
32 who is certified to be helpless from sickness, mental or physical disability,
33 or infancy pursuant to section 1222(c) of this title, and

34 (ii) whose protection or guardianship is determined to be required
35 by the alien described in clause (i), is inadmissible.

36 (C) International child abduction.

37 (i) In general. Except as provided in clause (ii), any alien who,
38 after entry of an order by a court in the United States granting custody to a
39 person of a United States citizen child who detains or retains the child, or
40 withholds custody of the child, outside the United States from the person
41 granted custody by that order, is inadmissible until the child is surrendered
42 to the person granted custody by that order.

43 (ii) Aliens supporting abductors and relatives of abductors

44 Any alien who--

45 (I) is known by the Secretary of State to have intentionally
46 assisted an alien in the conduct described in clause (i),

1 (II) is known by the Secretary of State to be intentionally
2 providing material support or safe haven to an alien described in
3 clause (i), or

4 (III) is a spouse (other than the spouse who is the parent of
5 the abducted child), child (other than the abducted child), parent,
6 sibling, or agent of an alien described in clause (i), if such person
7 has been designated by the Secretary of State at the Secretary's sole
8 and unreviewable discretion, is inadmissible until the child
9 described in clause (i) is surrendered to the person granted custody
10 by the order described in that clause, and such person and child are
11 permitted to return to the United States or such person's place of
12 residence.

13 (iii) Exceptions. Clauses (i) and (ii) shall not apply--

14 (I) to a government official of the United States who is
15 acting within the scope of his or her official duties;

16 (II) to a government official of any foreign government if
17 the official has been designated by the Secretary of State at the
18 Secretary's sole and unreviewable discretion; or

19 (III) so long as the child is located in a foreign state that is a
20 party to the Convention on the Civil Aspects of International Child
21 Abduction, done at The Hague on October 25, 1980.

22 (D) Unlawful voters

23 (i) In general. Any alien who has voted in violation of any
24 Federal, State, or local constitutional provision, statute, ordinance, or
25 regulation is inadmissible.

26 (ii) Exception. In the case of an alien who voted in a Federal,
27 State, or local election (including an initiative, recall, or referendum) in
28 violation of a lawful restriction of voting to citizens, if each natural parent
29 of the alien (or, in the case of an adopted alien, each adoptive parent of the
30 alien) is or was a citizen (whether by birth or naturalization), the alien
31 permanently resided in the United States prior to attaining the age of 16,
32 and the alien reasonably believed at the time of such violation that he or
33 she was a citizen, the alien shall not be considered to be inadmissible
34 under any provision of this subsection based on such violation.

35 (E) Former citizens who renounced citizenship to avoid taxation. Any
36 alien who is a former citizen of the United States who officially renounces United
37 States citizenship and who is determined by the Attorney General to have
38 renounced United States citizenship for the purpose of avoiding taxation by the
39 United States is inadmissible.

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