

# GUIDE OF INADMISSIBILITIES



THIS DOCUMENT CONTAINS INFORMATION ABOUT SOME REASONS OF  
INADMISSIBILITIES, WHICH PREVENT PEOPLE FROM ENTERING THE UNITED STATES  
ACCORDING TO THE LAWS OF THE AMERICAN GOVERNMENT.

# WHAT IS INADMISSIBILITY?

Individuals who are inadmissible are not permitted by law to enter or remain in the United States. The Immigration and Nationality Act sets forth grounds for inadmissibility. The general categories of inadmissibility include health, criminal activity, national security, public charge, lack of labor certification (if required), fraud and misrepresentation, prior removals, unlawful presence in the United States, and several miscellaneous categories. For certain grounds of inadmissibility, it may be possible for a person to obtain a waiver of that inadmissibility. In some cases, exceptions are written into the law and no waiver is required to overcome the inadmissibility because the inadmissibility does not apply if the individual meets the exception. Examples include exceptions for aliens who have been battered, abused or subjected to extreme cruelty, who are victims of severe forms of trafficking, and who are minors.

## The categories are:



**Inadmissibility due to health reasons**



**Inadmissibility due to criminal reasons**



**Inadmissibility due to national security reasons**



**Inadmissibility due to likelihood of becoming a public charge**



**Inadmissibility due to lack of labor certification**



**Inadmissibility due to fraud or misrepresentation**



**Inadmissibility due to prior removals and/or unlawful presence**



**Miscellaneous grounds of inadmissibility**

# INADMISSIBILITY DUE TO HEALTH REASONS



**The inadmissibility due to health concerns covers a range of situations. In general, they are:**

- ✘ Those who have an inadmissible disease of public health significance. The Government defines diseases that fall into this category. The following conditions are considered inadmissible diseases of public health significance: chancroids; gonorrhea; granuloma inguinale; infectious leprosy; lymphogranuloma venereum; infectious syphilis; and active tuberculosis.
- ✘ Those seeking immigrant status who has failed to receive necessary vaccinations against vaccine-preventable diseases. The law makes a person inadmissible if he or she fails to present evidence of vaccination against vaccine-preventable diseases. Some of the vaccines are specifically required by statute; the statute also gives the Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), Advisory Committee for Immunization Practices, the authority to require additional vaccinations. For a list of vaccinations that are currently required, please consult the CDC's Technical Instructions regarding Vaccinations on the CDC's website at <http://www.cdc.gov/immigrantrefugeehealth/exams/ti/civil/vaccination-civil-technical-instructions.html>.
- ✘ Those who have or have had a physical or mental disorder with associated harmful behavior or harmful behavior that is likely to reoccur. Harmful behavior is behavior that poses or has posed a threat to the property. The law doesn't provide specific examples of any conditions. A person is inadmissible if they have a physical or mental disorder and the behavior associated with the disorder may pose (or has posed and is likely to reoccur) a threat to the property, safety or welfare of the person or others. In the United States, a civil surgeon must make the assessment as outlined in the Technical Instructions for Physical or Mental Disorders with Associated Harmful Behaviors and Substance-related Disorders for Civil Surgeons posted by the CDC on its website and available at the following link:

<http://www.cdc.gov/immigrantrefugeehealth/exams/ti/civil/vaccination-civil-technical-instructions.html>.

Please note that the physical or mental disorder alone – without the associated harmful behavior – does not make an individual inadmissible.

- ✘ Those who are drug abusers or addicts. Drug (substance) abuse of or addiction (medically called dependence) to any of the substances listed in Section 202 of the Controlled Substances Act may render an individual inadmissible. A civil surgeon must make the assessment whether an individual is a drug abuser or a drug addict. A new assessment by a civil surgeon is also needed to determine whether the individual's substance abuse or addiction is in remission which is relevant to an admissibility assessment. A civil surgeon must make the assessment as outlined in the Technical Instructions for Physical or Mental Disorders with Associated Harmful Behaviors and Substance-related Disorders for Civil Surgeons posted by CDC on its website and available at the following link:

<http://www.cdc.gov/immigrantrefugeehealth/exams/ti/civil/mental-civil-technical-instructions.html>.

# INADMISSIBILITY DUE TO CRIMINAL REASONS



## The following are grounds for inadmissibility due to criminal reasons:

- ✘ Crimes involving “moral turpitude.” The term moral turpitude is not defined under federal law. However, courts in the United States have defined it generally as an act that is inherently base, vile, or depraved, and contrary to the accepted rules of morality and the duties owed between persons or to society in general. Due to the term’s complicated meaning and the various laws that must be reviewed to determine if an individual has committed a crime involving moral turpitude, consultation with an experienced inadmissible attorney is recommended for any person to whom this section may apply.
- ✘ Violation of any controlled substance law. Any violation of any laws, foreign or domestic, relating to illegal drugs can be a ground of inadmissibility.
- ✘ Multiple Criminal Convictions. Any person convicted of two or more crimes is inadmissible if the person was sentenced to five or more total years in prison (counting the sentences in the aggregate). This applies regardless of whether the crimes involved moral turpitude, or the multiple convictions arose from a single trial or scheme of misconduct.
- ✘ Drug trafficking. If any inadmissible officer “knows or has reason to believe” that a person has been involved in trafficking in controlled substances, that person is inadmissible to the United States. This includes individuals who aid, abet, conspire, or collude with others in illicit drug trafficking.
- ✘ Prostitution. Any person coming to the United States to engage in prostitution, or any person who has engaged in prostitution within ten years of his or her application for a visa, adjustment of status, or entry into the United States, is inadmissible. This section also applies to those who have made a profit from prostitution.

- ✘ Commercialized Vice. Any person coming to the United States to engage in any unlawful commercialized vice is inadmissible.
- ✘ Commission of a serious crime in the United States where a person has asserted immunity from prosecution. Any person who has committed a serious criminal offense and is granted immunity from criminal prosecution is inadmissible if he or she leaves the United States and fails to return and submit him or herself to the jurisdiction of the federal court overseeing the criminal case.
- ✘ Violations of Religious Freedom. Any person who, while serving as a foreign government official, was responsible for or directly carried out particularly severe violations of religious freedom is inadmissible.
- ✘ Human Trafficking. Any person who commits or conspires to commit human trafficking, or aids, abets, or colludes with an individual who is a trafficker in the United States or outside the United States is inadmissible.
- ✘ Money Laundering. Any person who is engaged, is engaging, or seeks to enter the United States to engage in an offense relating to laundering of financial instruments is inadmissible.

# INADMISSIBILITY DUE TO NATIONAL SECURITY REASONS



**The following are grounds for inadmissibility due to national security reasons:**

- ✘ Any person who a Department of State consular officer, DHS immigration officer, or DOJ immigration judge, knows or has reasonable ground to believe that the non-citizen seeks to enter the United States to engage in espionage or sabotage, to attempt to overthrow the U.S. government, or to engage in any unlawful activity that person, is inadmissible.
- ✘ Any person who a Department of State consular officer, DHS immigration officer, or DOJ immigration judge, knows or has reasonable ground to believe that the non-citizen has participated in any terrorist activities or has any association with terrorist organizations, governments or individuals, is inadmissible.
- ✘ Any person who a Department of State consular officer, DHS immigration officer, or DOJ immigration judge, knows or has reasonable ground to believe that the person presents a threat to foreign policy or has membership in any totalitarian party that person may be inadmissible.
- ✘ Any person who has participated in Nazi persecutions or genocide is inadmissible.

# INADMISSIBILITY DUE TO LIKELIHOOD OF BECOMING A PUBLIC CHARGE



- ✘ A person is inadmissible if he or she is likely to become a public charge. A public charge is a person who is primarily dependent on the government for subsistence. Whether or not a person is likely to become a public charge is determined by examining several factors. At a minimum, the factors that must be considered are health, family status, age, assets, employment history, and education. If after considering the totality of the individual's circumstances, the officer determines that the person is likely to become primarily dependent on the government for subsistence, that person is inadmissible as a public charge.



# INADMISSIBILITY DUE TO LACK OF LABOR CERTIFICATION



**✘** This ground makes certain aliens who seek to enter permanently (as immigrants) into the United States and to work inadmissible unless the Secretary of Labor certifies that:

- Employment of the person will not adversely affect the wages and working conditions of U.S. workers similarly employed; and
- There are not enough U.S. workers willing, qualified, and able to do the same work.

# INADMISSIBILITY DUE TO FRAUD OR MISREPRESENTATION



- ✘ Any person who seeks admission to the United States, a visa or other immigration travel or entry document, or any immigration benefit by fraud or willfully misrepresenting a material fact is inadmissible.

# INADMISSIBILITY DUE TO PRIOR REMOVALS AND/OR UNLAWFUL PRESENCE



- ✘ Individuals who are barred from returning to the United States because they have been in the United States for a period in excess of 180 days, during a single stay, and then departed the United States.
- ✘ Individuals who are barred from returning to the United States because they had either been removed (or excluded or deported) from the United States or departed the United States on their own volition while a final order of removal was outstanding.
- ✘ Individuals who were unlawfully in the United States for a total of one year (whether accrued during a single stay or multiple stays) AND then, illegally (without being inspected and admitted or inspected and paroled) reentered the United States.

# MISCELLANEOUS GROUNDS OF INADMISSIBILITY



The following are other grounds of inadmissibility:

- ✘ Persons who entered the country illegally (without being inspected and admitted or paroled)
- ✘ Persons who failed to attend immigration and/or removal hearings
- ✘ Smugglers
- ✘ Student visa abusers
- ✘ Former U.S. citizens who renounced citizenship to avoid taxation
- ✘ Practicing polygamists
- ✘ Unlawful voters
- ✘ International child abductors and relatives of such abductors



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