

Appendix: Conditional Bars to Establishing Good Moral Character - Waivable Conduct

Provision of INA	Conduct Prohibiting Finding of Good Moral Character	Conduct Waivable?	Waiver Provision	Criteria for Waiver
INA 101(f)(1)	Someone who is an habitual drunkard.	No		
INA 101(f)(3)	Someone who engaged in prostitution within the past ten years. INA 212(a)(2)(D) ground of inadmissibility	Yes	INA 212(h)(1)(C) provides for a waiver of the INA 212(a)(2)(D) ground of inadmissibility.	Noncitizen qualifies as abused spouse, child or parent under INA 204(a)(1)(A)(iii), (iv), (v), or (vii) or INA 204(a)(1)(B)(ii), (iii), or (iv) and the Secretary of Homeland Security must consent to the waiver (that is, exercise favorable discretion).
INA 101(f)(3)	Someone who has ever knowingly encouraged, induced, assisted, abetted, or aided another person to enter or to try to enter the U.S. in violation of law. INA 212(a)(6)(E) ground of inadmissibility	Yes	INA 212(d)(11) provides for a waiver of the INA 212(a)(6)(E) ground of inadmissibility.	Noncitizen seeking adjustment of status as an immediate relative or preference immigrant under INA 203(a) may qualify for a waiver only if the noncitizen encouraged, induced, assisted, abetted, or aided only a person who at the time of such action was the noncitizen's spouse, parent, son, or daughter (and no other person) to enter the United States in violation of law.
INA 101(f)(3)	Someone coming to the United States to practice polygamy. INA 212(a)(10)(A) ground of inadmissibility	No		

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INA 101(f)(3)	<p>Someone who committed or was convicted of either a crime involving moral turpitude or a crime relating to a controlled substance that does not fall within one of the exceptions set forth at INA 212(a)(2)(A)(ii).</p> <p>INA 212(a)(2)(A) ground of inadmissibility</p>	<p>Yes, for a crime of moral turpitude.</p> <p>Waiver for drug offense only available for single offense of simple possession of 30 grams or less of marijuana.</p>	INA 212(h)(1)(C) provides for a waiver of the INA 212(a)(2)(A)(i)(I) and (II) grounds of inadmissibility.	Noncitizen qualifies as abused spouse, child, or parent under INA 204(a)(1)(A)(iii), (iv), (v), or (vii) or INA 204(a)(1)(B)(ii), (iii), or (iv) and the Secretary of Homeland Security must consent to the waiver (that is, exercise favorable discretion).
INA 101(f)(3)	<p>Someone who was convicted of two or more offenses (other than purely political offenses), regardless of whether they arose from out of a single scheme or the conviction was in a single trial, for which the aggregate sentences to confinement were 5 years or more.</p> <p>INA 212(a)(2)(B) ground of inadmissibility</p>	Yes	INA 212(h)(1)(C) provides for a waiver of the INA 212(a)(2)(B) ground of inadmissibility.	Noncitizen qualifies as abused spouse, child, or parent under INA 204(a)(1)(A)(iii), (iv), (v), or (vii) or INA 204(a)(1)(B)(ii), (iii), or (iv) and the Secretary of Homeland Security must consent to the waiver (that is, exercise favorable discretion).
INA 101(f)(3)	<p>Someone who DHS knows or has reason to believe is or has been an illicit trafficker in any controlled substance.</p> <p>INA 212(a)(2)(C) ground of inadmissibility</p>	No		
INA 101(f)(4)	Someone whose present income is derived principally	No		

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	from illegal gambling activities.			
INA 101(f)(5)	Someone who has been convicted of two or more gambling offenses during the period for which good moral character must be established.	No		
INA 101(f)(6)	Someone who has given false testimony for the purpose of obtaining any benefits under the INA. INA 212(a)(6)(C)(i) ground of inadmissibility	Though there is no specific waiver for false testimony, a noncitizen who gives false testimony may come within the ambit of INA 212(a)(6)(C)(i) which bars noncitizens who procure (or seek to procure) by fraud or willful misrepresentation, a visa, admission, other documentation or benefit under the INA. False testimony that is not material does not render an noncitizen inadmissible under INA 212(a)(6)(C)(i) . However, such non-material false testimony does statutorily bar USCIS from making a finding of good moral character. That is, such an “act or conviction” is not “waivable” for purposes of INA 204(a)(1)(C) . Therefore, officers will need to determine two things: whether the self-petitioner has ever given “false testimony”; and if so, whether such testimony was “material.”	INA 212(i)(1) and INA 237(a)(1)(H)(ii) provide for a waiver of the INA 212(a)(6)(C)(i) ground of inadmissibility.	Noncitizen qualifies as abused spouse, child, or parent under INA 204(a)(1)(A)(iii), (iv), (v), or (vii) or INA 204(a)(1)(B)(ii), (iii), or (iv) and show that refusal of admission would result in extreme hardship to the noncitizen or the noncitizen’s U.S. citizen, lawful permanent resident, or qualified noncitizen parent or child. (INA 212(i)(1)). Noncitizen qualifies as abused spouse, child, or parent under INA 204(a)(1)(A)(iii), (iv), (v), or (vii) or INA 204(a)(1)(B)(ii), (iii), or (iv) . This waiver of removal also operates to waive deportation based on the grounds of inadmissibility directly resulting from such fraud or misrepresentation. (INA 237(a)(1)(H)(ii))

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INA 101(f)(7)	Someone who, during the period for which good moral character must be established, has been confined, as a result of conviction, to a penal institution for an aggregate period of 180 days or more, regardless of whether the offense, or offenses, for which they have been confined were committed within or without such period.	No		

False statement or claim to U.S. citizenship or registering to vote or voting in federal, state or local election in violation of lawful restrictions

A person who falsely claims U.S. citizenship in order to vote, who registers to vote, or who votes in violation of lawful restrictions is not barred from a good moral character finding if:

- Each natural parent is or was a U.S. citizen;
- The person permanently resided in the United States prior to attaining age 16; and
- The person reasonably believed at the time of the statement, claim, or violation that they were a U.S. citizen.

This exception was created by the Child Citizenship Act of 2000 (CCA)¹ and is retroactively applied as if included in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.²

¹ See [Pub. L. 106-395](#), 114 Stat. 1631 (October 30, 2000).

² See [Pub. L. 104-208](#), 110 Stat. 3009 (September 30, 1996). For more information, see Volume 12, Citizenship and Naturalization, Part F, Good Moral Character, Chapter 5, Conditional Bars for Acts in Statutory Period, Section M, Unlawful Acts: False Claim to U.S. Citizenship, Unlawful Voter Registration, and Unlawful Voting [[12 USCIS-PM F.5\(M\)](#)].