

Table of Contents

Volume 1

CHAPTER 1. HISTORICAL PERSPECTIVE

I. LEGISLATION

- § 1:1 Before 1952
- § 1:2 Immigration and Nationality Act of 1952
- § 1:3 Since 1952

II. THE PRACTICE OF IMMIGRATION LAW

- § 1:4 Attorneys
- § 1:5 Nonattorneys
- § 1:6 Entry of appearance
- § 1:7 Interviewing the immigration client
- § 1:8 Administrative law considerations
- § 1:9 Immigration law library

CHAPTER 2. THE BASIC STRUCTURE OF THE IMMIGRATION LAW

I. THE AGENCIES

A. SECRETARY OF HOMELAND SECURITY

- § 2:1 Statutory duties
- § 2:2 U.S. Citizenship and Immigration Services
- § 2:3 U.S. Immigration and Customs Enforcement
- § 2:4 U.S. Customs and Border Protection

B. EXECUTIVE OFFICE OF IMMIGRATION REVIEW

- § 2:5 Board of Immigration Appeals—Organization
- § 2:6 —Jurisdiction
- § 2:7 —Practice before the Board
- § 2:8 Chief Immigration Judge

C. DEPARTMENT OF STATE

- § 2:9 Secretary of State
- § 2:10 Bureau of Consular Affairs—Visa Office
- § 2:11 American consuls

D. DEPARTMENT OF LABOR

- § 2:12 Department of Labor
- § 2:13 Central office
- § 2:14 Certifying officers

- § 2:15 State workforce agencies
- § 2:16 Board of Alien Labor Certification Appeals

E. OTHER AGENCIES

- § 2:17 Public Health Service
- § 2:18 Department of Health and Human Services
- § 2:19 Passport Office
- § 2:20 Office of Chief Administrative Hearing Officer
- § 2:21 Office of Special Counsel

II. STRUCTURE OF THE IMMIGRATION AND NATIONALITY ACT

- § 2:22 Generally
- § 2:23 Immigrants
- § 2:24 —Eligibility
- § 2:25 —Quotas
- § 2:26 —Grounds of inadmissibility
- § 2:27 —Waivers
- § 2:28 Nonimmigrants
- § 2:29 The admission concept
- § 2:30 Admission procedure
- § 2:31 Overlapping agency jurisdiction
- § 2:32 Removal
- § 2:33 Judicial review
- § 2:34 Criminal and civil penalties
- § 2:35 Citizenship and nationality

CHAPTER 3. NONIMMIGRANTS

I. CLASSIFICATIONS

- § 3:1 Definitions
- § 3:2 Application of inadmissibility grounds
- § 3:3 Diplomats and NATO personnel
- § 3:4 —Other persons eligible for diplomatic visas
- § 3:5 Temporary visitor for business
- § 3:6 Temporary visitor for pleasure
- § 3:7 Aliens in transit
- § 3:8 Crewmen
- § 3:9 Treaty traders
- § 3:10 Treaty investors
- § 3:11 Reciprocal visas for nationals of Australia
- § 3:12 Academic students
- § 3:13 International organization representatives
- § 3:14 Temporary workers—H-1B, H-1C and TN status
- § 3:15 —H-2 status
- § 3:16 —H-3 trainee status
- § 3:17 Media representatives
- § 3:18 Exchange visitors
- § 3:19 —Doctors
- § 3:20 —Two-year foreign residence requirement
- § 3:21 Fiancées, fiancés and certain spouses of United States citizens

TABLE OF CONTENTS

- § 3:22 Intracompany transferees
- § 3:23 Non-academic students
- § 3:24 Parents and children of certain special immigrants
- § 3:25 Persons of extraordinary ability or achievements—O-1 status
- § 3:26 Other entertainers or athletes
- § 3:27 International cultural exchange and certain Irish nonimmigrants
- § 3:28 Religious workers
- § 3:29 Defense-related research
- § 3:30 Special education nonimmigrants
- § 3:31 Alien witnesses
- § 3:32 Spouses and children of permanent residents
- § 3:33 Protection for victims of trafficking
- § 3:34 Abused persons

II. PROCEDURES

- § 3:35 Petition cases
- § 3:36 Change of nonimmigrant status
- § 3:37 Consular nonimmigrant visa—Procedure
- § 3:38 —Revalidation
- § 3:39 —Revocation
- § 3:40 —Exemptions
- § 3:41 —Grounds of inadmissibility and waivers
- § 3:42 Admission procedures
- § 3:43 Extensions

CHAPTER 4. PERMANENT RESIDENT STATUS— SUMMARY OF ELIGIBILITY AND LIMITATIONS

I. WHO CAN QUALIFY

- § 4:1 Generally
- § 4:2 Relatives of United States citizens or permanent residents
- § 4:3 Job-related basis
- § 4:4 Diversity immigrants
- § 4:5 Employment creation (investor) category
- § 4:6 Special immigrants
- § 4:7 Other persons who may qualify
- § 4:8 Procedures

II. GROUNDS OF INADMISSIBILITY

- § 4:9 Generally
- § 4:10 Waivers

III. QUOTAS AND CHARGEABILITY

- § 4:11 To whom applicable
- § 4:12 Country of chargeability/cross-chargeability
- § 4:13 Worldwide quota
- § 4:14 Basic country limitation
- § 4:15 Per category (preference)
- § 4:16 Section 202(e) of Immigration and Nationality Act

- § 4:17 Priority date—Waiting list
- § 4:18 Visa Bulletin

CHAPTER 5. IMMIGRATING AS RELATIVE OF UNITED STATES CITIZEN OR PERMANENT RESIDENT

I. FAMILY DEFINITIONS

- § 5:1 Generally
- § 5:2 Foreign and state law
- § 5:3 Child—Generally
- § 5:4 —Children born in wedlock
- § 5:5 —Children considered to be born in wedlock
- § 5:6 —Stepchildren
- § 5:7 —Children born out of wedlock
- § 5:8 —Adopted
- § 5:9 —Orphan—To be adopted
- § 5:10 —Amerasian children
- § 5:11 —For citizenship and naturalization
- § 5:12 —Battered child
- § 5:13 Son and daughter
- § 5:14 Parent
- § 5:15 Brother and sister
- § 5:16 Spouse
- § 5:17 Marriage
- § 5:18 Divorce

II. QUALIFYING RELATIONSHIPS

- § 5:19 Immediate relative—Spouse of United States citizen
- § 5:20 —Child of United States citizen and certain children of lawful permanent residents
- § 5:21 —Parent of United States citizen
- § 5:22 —No derivatives
- § 5:23 First category—Unmarried son or daughter of United States citizen
- § 5:24 Second category petition—Spouse of permanent resident
- § 5:25 —Unmarried son or daughter of permanent resident
- § 5:26 Third category—Married son or daughter of United States citizen
- § 5:27 Fourth category—Brother or sister of United States citizen
- § 5:28 Derivative spouses or children
- § 5:29 Conditional permanent resident status

III. VISA PETITION

- § 5:30 Who must file
- § 5:31 Where filed
- § 5:32 Form and fee
- § 5:33 With adjustment of status
- § 5:34 Documentation
- § 5:35 —Status
- § 5:36 —Relationship
- § 5:37 —Names

TABLE OF CONTENTS

- § 5:38 —Documents
- § 5:39 —Orphan petitions
- § 5:40 —Amerasian children
- § 5:41 —Adjudication process—Burden of proof
- § 5:42 Approval—Effect
- § 5:43 Denial—Appeal and judicial review
- § 5:44 Validity, conversion, and revocation
- § 5:45 Final application for permanent residence

CHAPTER 6. IMMIGRATING ON A JOB-RELATED BASIS

I. GENERALLY

- § 6:1 Prior preference system and transition
- § 6:2 Structure under the Act of 1990—Categories
- § 6:3 Priority workers
- § 6:4 Exceptional ability and advanced degrees
- § 6:5 Professionals, skilled, and unskilled workers
- § 6:6 Ministers and religious workers
- § 6:7 Registered nurses

II. LABOR CERTIFICATION PROCESS

- § 6:8 What the certification process is
- § 6:9 —Unavailability of United States workers
- § 6:10 —Adverse effect on similarly employed American workers—Prevailing wage
- § 6:11 Who does not need certification—Statute
- § 6:12 —Regulations
- § 6:13 —Nurses
- § 6:14 —Other specified shortage occupations
- § 6:15 —Aliens of exceptional merit and ability
- § 6:16 How to prepare labor certification applications
- § 6:17 How not to prepare labor certification applications
- § 6:18 Pre-PERM applications
- § 6:19 Pre-filing procedures
- § 6:20 Filing procedures
- § 6:21 Post-filing procedures
- § 6:22 College and university teachers
- § 6:23 Sheepherders
- § 6:24 Validity and duration of labor certification
- § 6:25 Appeal to BALCA of denial of labor certification
- § 6:26 Judicial review

III. VISA PETITION

- § 6:27 Who must file
- § 6:28 Where filed
- § 6:29 Form and fee
- § 6:30 Labor certification or no labor certification
- § 6:31 Documentation
- § 6:32 Adjudication process—Burden of proof
- § 6:33 Doctors and dentists
- § 6:34 Approval—Effect

- § 6:35 Denial—Appeal and judicial review
- § 6:36 Validity
- § 6:37 Revocation
- § 6:38 Final application for permanent residence

CHAPTER 7. PERMANENT RESIDENCE STATUS— FINAL APPLICATION

I. ADJUSTMENT OF STATUS

A. BASES OF ELIGIBILITY

- § 7:1 In United States
- § 7:2 Inspected and admitted or paroled
- § 7:3 Submitting application
- § 7:4 Eligibility to receive visa
- § 7:5 Admissibility of alien
- § 7:6 Immigrant (quota) visa immediately available
- § 7:7 Favorable exercise of discretion—Generally
- § 7:8 —Preconceived intent
- § 7:9 Temporary suspension of certain provisions

B. BASES OF INELIGIBILITY

- § 7:10 Not inspected and admitted or paroled
- § 7:11 Crewmen
- § 7:12 Unauthorized employment or unlawful status
- § 7:13 Conditional permanent residents and marriages during proceedings
- § 7:14 Entry on visa waiver
- § 7:15 —In transit without visa
- § 7:16 Inadmissibility
- § 7:17 —Concurrent waivers
- § 7:18 Immigrant (quota) visa not available
- § 7:19 Alien terrorists
- § 7:20 Failure to depart
- § 7:21 Exceptions

C. PROCEDURE

- § 7:22 Where filed
- § 7:23 What filed
- § 7:24 Concurrent visa petition procedures
- § 7:25 Special classes—Fiancees
- § 7:26 —Refugees
- § 7:27 —Aliens granted asylum
- § 7:28 Interview
- § 7:29 After interview
- § 7:30 —Advance parole
- § 7:31 Adjudication
- § 7:32 Review
- § 7:33 Rescission

II. CONSULAR PROCESSING

- § 7:34 Who

TABLE OF CONTENTS

- § 7:35 Where
- § 7:36 Procedure—Preliminary
- § 7:37 —Necessary documents
- § 7:38 Appointment and interview
- § 7:39 Grant—Effect
- § 7:40 Denial—Curable
- § 7:41 —Review
- § 7:42 Revocation
- § 7:43 Waiting in the United States
- § 7:44 Admission procedure

CHAPTER 8. REFUGEES AND ASYLEES AND HUMANITARIAN PAROLE

- § 8:1 Historical perspective
- § 8:2 Definition of refugee
- § 8:3 Presidential determinations
- § 8:4 Refugee admissions—Procedures
- § 8:5 —Exclusion
- § 8:6 Loss of status
- § 8:7 Adjustment of status
- § 8:8 Asylum—Standards
- § 8:9 —Procedure
- § 8:10 Bases of ineligibility
- § 8:11 Effect of approval
- § 8:12 Review of denial
- § 8:13 Loss of status
- § 8:14 Adjustment of status—In general
- § 8:15 Withholding of removal
- § 8:16 Temporary protected status
- § 8:17 Humanitarian parole

CHAPTER 9. MISCELLANEOUS BASES TO QUALIFY FOR PERMANENT RESIDENT STATUS

- § 9:1 Employment creation immigrants (investors)
- § 9:2 Special immigrants—Returning residents
- § 9:3 —Certain former citizens
- § 9:4 —Certain ministers and religious workers
- § 9:5 —Certain former United States employees (including Panamanians)
- § 9:6 —Certain foreign medical graduates
- § 9:7 —Certain relatives of G visa holders
- § 9:8 —Dependent juveniles
- § 9:9 —Certain former members of U.S. military
- § 9:10 —Child of permanent resident
- § 9:11 —Former NATO employees
- § 9:12 —International broadcasters
- § 9:13 —Terrorism-related provision
- § 9:14 Civilian translators
- § 9:15 Registry
- § 9:16 Certain former diplomats and families
- § 9:17 Children of foreign diplomats

- § 9:18 Presumption of lawful admission to permanent resident status
- § 9:19 Suspension of deportation
- § 9:20 Former Virgin Islands Adjustment Act
- § 9:21 Former adjustment of status of certain Cuban-Haitian entrants and other Cuban adjustments
- § 9:22 Amnesty or legalization
- § 9:23 Agricultural workers
- § 9:24 Persons from certain specified countries
- § 9:25 Diversity immigrants
- § 9:26 Displaced Tibetans
- § 9:27 Alien witnesses
- § 9:28 Registration of lawful permanent resident status

CHAPTER 10. PRESERVATION OR LOSS OF PERMANENT RESIDENT STATUS—RIGHTS AND OBLIGATIONS

- § 10:1 Generally
- § 10:2 Absences from United States—Re-entry permit
- § 10:3 —Loss of permanent resident status through abandonment
- § 10:4 —Commuters
- § 10:5 Rescission
- § 10:6 Removal
- § 10:7 Obligations of permanent residents
- § 10:8 Rights of permanent residents

CHAPTER 11. GROUNDS OF INADMISSIBILITY

- § 11:1 Introduction
- § 11:2 —Entry without inspection
- § 11:3 Mental or physical grounds
- § 11:4 —Waivers
- § 11:5 Criminal grounds—Definition of conviction
- § 11:6 —Crimes involving moral turpitude
- § 11:7 —Multiple convictions
- § 11:8 —Controlled substances
- § 11:9 —Miscellaneous
- § 11:10 —Religious persecutors
- § 11:11 —Waivers
- § 11:12 Inadmissibility based on diplomatic immunity
- § 11:13 Moral grounds
- § 11:14 Political or security grounds: terrorists and foreign policy
- § 11:15 Communists or former communists
- § 11:16 Nazi provision
- § 11:17 Public charge
- § 11:18 Labor certifications
- § 11:19 —Athletes
- § 11:20 —Health care workers
- § 11:21 Lack of legal admission
- § 11:22 Failure to attend removal proceedings
- § 11:23 Fraud or willful misrepresentation—Generally
- § 11:24 —Willfulness

TABLE OF CONTENTS

- § 11:25 —Materiality
- § 11:26 —Particular documents
- § 11:27 —Marriage fraud cases
- § 11:28 —Waiver
- § 11:29 Document fraud
- § 11:30 Stowaways
- § 11:31 Alien smugglers
- § 11:32 Student visa abusers
- § 11:33 Documentary grounds
- § 11:34 Ineligibility for citizenship
- § 11:35 Aliens previously removed
- § 11:36 Alien physicians
- § 11:37 Aliens unlawfully present
- § 11:38 Former exchange visitors
- § 11:39 Departure to avoid military service
- § 11:40 Miscellaneous

CHAPTER 12. ADMISSION AND EXCLUSION PROCEDURES

- § 12:1 Introduction and prior law
- § 12:2 Passport requirement
- § 12:3 Visa requirement
- § 12:4 Inspection
- § 12:5 Removal
- § 12:6 —Asylum seekers
- § 12:7 —Security and related grounds
- § 12:8 Admission determinations
- § 12:9 Detention and release
- § 12:10 Review

CHAPTER 13. REMOVAL GROUNDS

- § 13:1 Introduction and old law
- § 13:2 Inadmissibility at prior entry
- § 13:3 —Marriage fraud
- § 13:4 —Fraud waiver
- § 13:5 Present in violation of law
- § 13:6 Failure to maintain nonimmigrant status or condition of entry
- § 13:7 Termination of conditional resident status
- § 13:8 Smuggling
- § 13:9 Criminal offenses—Conviction of crime or crimes involving moral turpitude
- § 13:10 —Crime, conviction, and sentence requirements
- § 13:11 —Moral turpitude construed
- § 13:12 —Two crimes, not single scheme
- § 13:13 —Sex offender registry
- § 13:14 —Effect of pardon and other post-conviction actions
- § 13:15 Controlled substances
- § 13:16 Aggravated felons
- § 13:17 Firearms offenses
- § 13:18 Miscellaneous crimes
- § 13:19 Domestic violence and related offenses

- § 13:20 Failure to register and related grounds
- § 13:21 False claim to U.S. citizenship and unlawful voting
- § 13:22 Political, subversive, and security grounds
- § 13:23 Public charge
- § 13:24 Section 274C order for civil fraud
- § 13:25 Prior grounds of removal

CHAPTER 14. REMOVAL PROCEDURES AND RELIEF

- § 14:1 Introduction and prior law
- § 14:2 Arrest, search, and interrogation
- § 14:3 Initiation—Notice to appear
- § 14:4 —Removal by judicial order
- § 14:5 —Administrative removal order without hearing
- § 14:6 —Custody and bond
- § 14:7 Venue and adjournment
- § 14:8 Failure to appear
- § 14:9 Prosecutorial discretion and cancellation
- § 14:10 Prosecutorial discretion—DACA and DAPA
- § 14:11 Parties—Immigration judge
- § 14:12 —Respondent
- § 14:13 —Trial attorney
- § 14:14 —Interpreter
- § 14:15 —Counsel or other representative
- § 14:16 Opening hearing—Advice to respondent
- § 14:17 —Rights of respondent
- § 14:18 —Motion practice and discovery
- § 14:19 —Pleading
- § 14:20 Burden of proof
- § 14:21 Evidence
- § 14:22 Application for discretionary relief
- § 14:23 Designation of country
- § 14:24 Decision and order
- § 14:25 Record
- § 14:26 Tactics
- § 14:27 Termination
- § 14:28 Adjustment of status
- § 14:29 Cancellation
- § 14:30 —Former suspension of deportation
- § 14:31 —Former § 212(c) waiver
- § 14:32 Asylum and non-removal
- § 14:33 Voluntary departure
- § 14:34 Other defenses and relief—Registry
- § 14:35 —Waivers
- § 14:36 —Naturalization
- § 14:37 —Private bills
- § 14:38 Board of Immigration Appeals
- § 14:39 Court of appeals
- § 14:40 District court
- § 14:41 Extension of voluntary departure
- § 14:42 Stay of removal
- § 14:43 Deferred action

TABLE OF CONTENTS

- § 14:44 Motion to reopen or reconsider
- § 14:45 Custody
- § 14:46 Execution of removal order
- § 14:47 Effect of removal

CHAPTER 15. CITIZENSHIP AND NATURALIZATION

I. CITIZENSHIP

- § 15:1 Generally
- § 15:2 Who is a citizen—Birth in the United States
- § 15:3 —Birth in other specified places
- § 15:4 —Derivative citizenship: birth or naturalization
- § 15:5 Proof of citizenship—Documents and procedures
- § 15:6 —Nationals of the United States
- § 15:7 Dual nationality

II. NATURALIZATION

- § 15:8 Eligibility—Generally
- § 15:9 —Lawful admission for permanent residence
- § 15:10 —Residence requirements
- § 15:11 — —Special classes
- § 15:12 —Residence preservation
- § 15:13 —Good moral character
- § 15:14 —Attachment to the principles: oath
- § 15:15 Literacy and government tests
- § 15:16 Special classes—Relatives
- § 15:17 —Military service
- § 15:18 —Others
- § 15:19 Procedure—Application and petition
- § 15:20 —Examination and investigation
- § 15:21 —Final hearing
- § 15:22 —Motion to reopen and reconsider
- § 15:23 Review
- § 15:24 Rights and obligations of citizenship

III. LOSS OF CITIZENSHIP

- § 15:25 Generally
- § 15:26 Expatriation
- § 15:27 Denaturalization

CHAPTER 16. CRIMINAL AND CIVIL PENALTIES

- § 16:1 Generally
- § 16:2 Sanctions on employers
- § 16:3 Work authorization
- § 16:4 Unfair immigration-related employment practices
- § 16:5 Fines of transportation companies
- § 16:6 Vehicle forfeiture
- § 16:7 Illegal entry
- § 16:8 Smuggling aliens

- § 16:9 Harboring aliens
- § 16:10 Re-entry after removal
- § 16:11 False statements
- § 16:12 Forged and counterfeit documents
- § 16:13 Civil document fraud
- § 16:14 Miscellaneous

Volume 2

APPENDICES

APPENDIX A. Forms

APPENDIX B. Miscellaneous Documents

Table of Laws and Rules

Table of Cases

Index