

# Shunneson Law Offices

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## §212(a) Immigration Inadmissibility Grounds and Waivers

The various immigration inadmissibility grounds found under the Immigration & Nationality Act (INA), Section 212 can bar foreign nationals, or aliens, who are visa applicants that seek entry to the United States. Please note that, pursuant to current law, anyone who is in the country, but was not inspected at entry, will also have to prove that they are not inadmissible in removal proceedings. Below are the various grounds of inadmissibility for potential immigrants. I have also included a reference to the section that discusses waivers, if available. There is also a provision for “exceptions” to inadmissibility. These sections of the INA are similar to waivers and can overlap, but also provide a basis for an argument that a waiver is not needed because, in these circumstances, the “ground” for inadmissibility is “excepted” and, therefore, there is no inadmissibility issue. Be careful using exceptions as, very often, you must make sure the law would otherwise apply and you may end up doing a lot of work for nothing. While I have attempted to provide a complete list, please be advised that you should read each of these sections carefully to fully understand the grounds, waivers, exceptions. For example, although 212(d)(3) is generally available as a waiver for non-immigrants, the likelihood of it being available in reality could be drastically limited based upon the ground for inadmissibility and your particular circumstances. There is no substitute for speaking with a knowledgeable [attorney](#) to help analyze your case.

As you can clearly see, there are many related categories and the ten most common are provided below. There are also some miscellaneous grounds for inadmissibility relating to students, etc. that are not discussed.

<b>INA §212(a) Inadmissibility Section</b>	<b>Ground</b>	<b>Waiver for Immigrant Visas</b>	<b>Waiver for Non-Immigrant Visas</b>	<b>Exception</b>
<b>212(a)(1)</b>	<b>Communicable Diseases</b>	<b>212(g)</b>	<b>212(g);212(d)(3)</b>	<b>NA</b>
<b>212(a)(1)(A)(ii)</b>	<b>Lacking Vaccinations</b>	<b>212(g)</b>	<b>212(g);212(d)(3)</b>	<b>212(a)(1)(C)</b>
<b>212(a)(1)(A)(iii)</b>	<b>Physical or Mental Disorder</b>	<b>212(g)</b>	<b>212(g);212(d)(3)</b>	<b>NA</b>
<b>212(a)(1)(A)(iv)</b>	<b>Drug Abuser/Drug Addict</b>	<b>NA</b>	<b>212(d)(3)</b>	<b>NA</b>
<b>212(a)(2)(A)(i)(I)</b>	<b>Crimes Involving Moral Turpitude</b>	<b>212(h)</b>	<b>212(h);212(d)(3)</b>	<b>212(a)(2)(A)(ii)</b>
<b>212(a)(2)(A)(i)(II)</b>	<b>Drug Crimes</b>	<b>212(h) – Marijuana</b>	<b>212(h);212(d)(3)</b>	<b>NA</b>
<b>212(a)(2)(B)</b>	<b>Multiple Criminal Convictions</b>	<b>212(h)</b>	<b>212(d)(3)</b>	<b>NA</b>
<b>212(a)(2)(C)</b>	<b>Controlled Substance Traffickers and Their Families</b>	<b>NA</b>	<b>212(d)(3)</b>	<b>NA</b>
<b>212(a)(2)(D)</b>	<b>Prostitution</b>	<b>212(h)</b>	<b>212(d)(3)</b>	
<b>212(a)(2)(E)</b>	<b>Asserted Immunity from Prosecution</b>	<b>212(h)</b>	<b>212(d)(3)</b>	
<b>212(a)(2)(G)</b>	<b>Foreign Government Officials Committing Severe Violent Crimes</b>	<b>NA</b>	<b>212(d)(3)</b>	
<b>212(a)(2)(H)</b>	<b>Significant Traffickers and Their Families</b>	<b>NA</b>	<b>212(d)(3)</b>	<b>212(a)(2)(H)(iii)</b>
<b>212(a)(2)(I)</b>	<b>Money Launderer</b>	<b>NA</b>	<b>212(d)(3)</b>	
<b>212(a)(3)(A)(i)</b>	<b>Espionage, Sabotage, Prohibited Export Law Violators</b>	<b>NA</b>	<b>NA</b>	<b>NA</b>
<b>212(a)(3)(A)(ii)</b>	<b>Unlawful Activity Related to Security</b>	<b>NA</b>	<b>NA</b>	<b>NA</b>
<b>212(a)(3)(A)(iii)</b>	<b>Overthrow of the</b>	<b>NA</b>	<b>NA</b>	<b>NA</b>

	<b>U.S. Government</b>			
<b>212(a)(3)(B)</b>	<b>Terrorist Activities</b>	<b>212(d)(3)(B)</b>	<b>212(d)(3)</b>	<b>212(a)(3)(B)(ii)</b>
<b>212(a)(3)(C)</b>	<b>Adverse Foreign Policy Consequences</b>	<b>NA</b>	<b>NA</b>	<b>212(a)(3)(C)(ii) and (iii)</b>
<b>212(a)(3)(D)</b>	<b>Membership in Totalitarian Party</b>	<b>212(a)(3)(D)(ii) and (iii)</b>	<b>212(d)(3)</b>	<b>212 (a)(3)(D)(ii) and (iii)</b>
<b>212(a)(3)(E)(i)</b>	<b>Nazi Party Member</b>	<b>NA</b>	<b>NA</b>	<b>NA</b>
<b>212(a)(3)(E)(ii)</b>	<b>Genocide</b>	<b>NA</b>	<b>NA</b>	<b>NA</b>
<b>212(a)(4)</b>	<b>Public Charge</b>	<b>213 and 221(g)</b>	<b>212(d)(3) and 221(g)</b>	<b>See 212(S)</b>
<b>212(a)(5)(A)</b>	<b>Labor Certification</b>	<b>212(k)/NA</b>	<b>212(d)(3)/N/A</b>	<b>212(a)(5)(A)(i)</b>
<b>212(a)(5)(B)</b>	<b>Unqualified Physicians</b>	<b>NA</b>	<b>NA</b>	<b>212(a)(5)(B)</b>
<b>212(a)(5)(C)</b>	<b>Uncertified Health Care Workers</b>	<b>212(r)</b>	<b>212(d)(3)</b>	<b>212(a)(5)(C)</b>
<b>212(a)(6)(A)</b>	<b>Aliens Present without Admission or Parole (EWI) – Note – ONLY APPLIES WHILE IN THE USA</b>	<b>NA</b>	<b>NA</b>	<b>VAWA (Note – VAWA Applies in Many, Many Cases and is Referenced As an Aside Due to Its Importance for These Cases</b>
<b>212(a)(6)(B)</b>	<b>Failure to Attend Removal Proceedings</b>	<b>NA</b>	<b>212(d)(3)</b>	<b>NA</b>
<b>212(a)(6)(C)</b>	<b>Misrepresentation</b>	<b>212(a)(i); 237(a)(1)(H)</b>	<b>212(d)(3)</b>	<b>NA</b>
<b>212(a)(6)(C)(ii)</b>	<b>False Claims to US Citizenship – Watch Out for I-9s</b>	<b>NA</b>	<b>212(d)(3)</b>	<b>212(a)(6)(C)(ii)</b>
<b>212(a)(6)(D)</b>	<b>Stowaways</b>	<b>208: Asylum</b>	<b>NA</b>	<b>NA</b>
<b>212(a)(6)(E)</b>	<b>Smugglers</b>	<b>212(d)(11)</b>	<b>212(d)(11)</b>	<b>212(a)(6)(E)(ii)</b>
<b>212(a)(6)(F)</b>	<b>Civil Penalty under INA 247C</b>	<b>212(d)(12)</b>	<b>212(d)(3)</b>	<b>NA</b>
<b>212(a)(6)(G)</b>	<b>Student Visa Abusers</b>	<b>NA</b>	<b>212(d)(3)</b>	<b>NA</b>
<b>212(a)(7)(A)</b>	<b>Documentation</b>	<b>211</b>	<b>NA</b>	

	<b>Requirement for Immigrants</b>			
<b>212(a)(7)(B)</b>	<b>Documentation Requirements for Nonimmigrants</b>	<b>NA</b>	<b>212(d)(4)</b>	
<b>212(a)(8)(A)</b>	<b>Ineligible for citizenship under INA 314 or 315</b>	<b>NA</b>	<b>NA</b>	<b>NA</b>
<b>212(a)(8)(B)</b>	<b>Draft Evaders</b>	<b>Pardons</b>	<b>212(d)(3)</b>	<b>212(a)(8)(B)</b>
<b>(a)(9)(A)(i) and (ii)</b>	<b>Ordered Removed Upon Arrival</b>	<b>NA</b>	<b>212(d)(3)</b>	<b>212(a)(9)(A)(iii)</b>
<b>212(a)(9)(B)</b>	<b>Unlawful Presence</b>	<b>See Exceptions – Waivers are Available</b>	<b>212(d)(3)</b>	<b>212(a)(9)(B)(iii), (iv) and (v) (see v for waiver)</b>
<b>212(a)(9)(C)</b>	<b>Unlawful Presence after Prior Immigration Violation</b>	<b>See Exception</b>	<b>212(d)(3)</b>	<b>(a)(9)(C)(ii) and (iii)</b>
<b>212(a)(10)(A)</b>	<b>Immigrant Polygamists</b>	<b>NA</b>	<b>NA</b>	<b>NA</b>
<b>212(a)(10)(B)</b>	<b>Guardian Accompanying Inadmissible Helpless Child</b>	<b>NA</b>	<b>NA</b>	<b>NA</b>
<b>212(a)(10)(C)</b>	<b>International Child Abduction</b>	<b>Exceptions</b>	<b>212(d)(3)</b>	<b>212(a)(10)(c)(iii)</b>

**Anyone reading this is also well-advised to review the basis for Asylum (INA §208), Cancellation of Removal (INA §240), and Adjustment of Status (INA 245). Just because you are inadmissible does not mean there is no relief available to you. Anyone reading this is also well-advised to review the basis for Asylum (INA §208), Cancellation of Removal (INA §240), and Adjustment of Status (INA §245). Just because you are inadmissible does not mean there is no relief available to you.**

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