

Waivable Conduct Contained in the Statutory Bars to Establishing Good Moral Character
(Attachment 1)

<u>Provision of INA</u>	<u>Conduct Prohibiting Finding of Good Moral Character</u>	<u>Conduct Waivable?</u>	<u>Waiver provision</u>	<u>Criteria for waiver</u>
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 § 212(a)(2)(D) ground of inadmissibility.	Alien qualifies as battered spouse or child under clause (iii), (iv), or (v) of INA § 204(a)(1)(A) or (ii), (iii), or (iv) of 204(a)(1)(B) AND Sec. of DHS must consent to the waiver (i.e. exercise favorable discretion).
INA § 101(f)(3)	Someone who has ever knowingly encouraged, induced, assisted, abetted, or abided another alien 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 § 212(a)(6)(E) ground of inadmissibility.	Aliens seeking adjustment of status as an immediate relative or immigrant under INA § 203(a) may qualify for a waiver only if the alien encouraged, induced, assisted, abetted, or aided only an individual who at the time of such action was the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.
INA § 101(f)(3)	Aliens previously removed from the United States [INA § 212(a)(9)(A) ground of inadmissibility]	No		
INA § 101(f)(3)	Someone who committed or was convicted of either a crime involving moral turpitude or a crime relating to a controlled	Yes for CIMT Waiver for drug offense only available for single	INA § 212(h)(1)(C) provides for a waiver of the 212(a)(2)(A)(i)(I) and (i)(II) grounds of	Alien qualifies as battered spouse or child under clause (iii), (iv), or (v) of INA § 204(a)(1)(A) or (ii), (iii), or

	substance that doesn't fall within one of the exceptions set forth at INA § 212(a)(2)(A)(ii). [INA § 212(a)(2)(A) ground of inadmissibility]	offense of simple possession of 30 grams or less of marijuana.	inadmissibility.	(iv) of 204(a)(1)(B) AND Sec. of DHS must consent to the waiver (i.e. exercise favorable discretion).
INA § 101(f)(3)	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. [INA § 212(a)(2)(B) ground of inadmissibility]	Yes	INA § 212(h)(1)(C) provides for a waiver of the 212(a)(2)(B) ground of inadmissibility.	Alien qualifies as battered spouse or child under clause (iii), (iv), or (v) of INA § 204(a)(1)(A) or (ii), (iii), or (iv) of 204(a)(1)(B) AND Sec. of DHS must consent to the waiver (i.e. exercise favorable discretion).
INA § 101(f)(3)	Someone who DHS knows or has reason to believe is, or has been an illicit trafficker in any controlled substance. [INA § 212(a)(2)(C) ground of inadmissibility]	No		
INA § 101(f)(4)	Someone whose present income is derived principally from illegal gambling activities.	No		
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 that was material for the purpose of obtaining any benefits under the INA. [INA § 212 (a)(6)(C)(i) ground of inadmissibility]	NOTE: Though there is no specific waiver for false testimony, an alien who gives false testimony may come within the ambit of INA § 212(a)(6)(C)(i)	INA §§ 212(i)(1) and 237 (a)(1)(H)(ii) provide for a waiver of the § 212 (a)(6)(C)(i) ground of inadmissibility.	Alien must qualify as battered spouse or child under clause (iii), (iv), or (v) of INA § 204(a)(1)(A) or (ii), (iii), or (iv) of 204(a)(1)(B) and show that refusal of admission would result in extreme

		<p>which bars aliens who procure (or seek to procure) by fraud or willful misrepresentation, a visa, admission, other documentation or benefit under the INA.</p> <p>False testimony that is NOT material does not render an alien 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 – i.e., such an “act or conviction” is not “waivable” for purposes of INA § 204(a)(1)(C). Therefore, adjudicators will need to determine two things: 1) whether the self-petitioner has ever given “false testimony”; and 2) if so, whether such testimony was “material.” Attached to this chart is guidance to assist in making these determinations.</p>		<p>hardship to the alien or the alien’s USC, LPR or qualified alien parent or child [INA § 212(i)(1)]</p> <p>Alien must qualify as battered spouse or child under clause (ii), (iv), or (v) of INA § 204(a)(1)(A) or (ii), (iii), or (iv) of 204(a)(1)(B). 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)]</p>
INA § 101(f)(7)	Someone who, during the period for which good moral character must be established, has been confined, as a result of	No		

	conviction, to a penal institution for an aggregate period of 180 days or more, regardless of whether the offense, or offenses, for which she has been confined were committed within or without such period.			
INA § 101(f)(8)	Someone who at any time has been convicted of an aggravated felony, where the conviction was entered on or after 11/29/90 (date of enactment of IMMACT 90).	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:

- 1) each natural parent is or was a USC;
- 2) the person permanently resided in the U.S. prior to attaining age 16; and
- 3) the person reasonably believed at the time of the statement, claim, or violation that he/she was a USC.

This exception was created by the Child Citizenship Act of 2000 (CCA), Pub. L. 106-395, and is retroactively applied as if included in IIRIRA on September 30, 1996. Please refer to a memorandum entitled, "Procedures for Handling Naturalization Applications of Aliens Who Voted Unlawfully or Falsely Represented Themselves as U.S. Citizens by Voting or Registering to Vote," and dated May 7, 2002, for a detailed explanation of the exception described above.