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A U.S. IMMIGRATION LAW FIRM

Immigration Law Overview

Deportation and Removal Proceedings

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Immigrants face removal from the United States if they are charged with a crime or are caught living or working in the United States illegally.

Retaining a knowledgeable and experienced lawyer is necessary if you want to remain in the United States. At the Law Office of Amira Al-Alami, we offer quality representation for immigrants who want to avoid deportation or immigration removal proceedings, as well as the possibility of losing their families. We provide advice and guidance in obtaining visas so people can remain in the U.S. legally.

Removal Hearings

Formally called deportation proceedings in immigration courts, removal proceedings determine whether an immigrant should be removed from the United States. During these proceedings, an immigration judge must decide whether a foreign national qualifies for removal or is eligible for relief under special circumstances, including:

• **Voluntary departure:** Accused immigrants choose to leave the country of their own accord.
• **Cancellation of removal:** Some people may be eligible for a cancellation of removal if they meet the specified requirements involving a specific number of years of residence in the United States, having good moral character and proving that the foreign national's removal would result in extreme and unusual hardship to qualifying relatives.
• **Asylum:** There are immigrants that are in the United States to escape political, religious, or cultural pressure and may be in danger if they return to their home country.
• **Adjustment of status:** We can help you lawfully change your status to a permanent resident, which may cancel the removal proceedings. An experienced immigration attorney can be extremely helpful when trying to avoid removal proceedings. Because we focus exclusively on immigration services, our Los Angeles based practice is a solid choice for legal representation. We can defend you in removal hearings. We handle all removal proceedings for foreign nationals and their families. Contact us to discuss your situation with attorney Amira Al-Alami. Your first consultation is free.

Lawful Permanent Residence

Adjustment of Status
Adjustment of status within the U.S. is available for immediate relatives of spouses or parents of U.S. citizens provided the alien entered with a visa, even though the alien's authorized stay has expired. It is also available to alien applicants who have obtained a labor certification indicating that there are no qualified or available Americans who are capable of performing the services the appli

cant does, and provided the alien applicant is in authorized status. Also for aliens of exceptional ability in the sciences or arts, they may apply for adjustment of status, if they are in authorized stay and they can prove that they possess current widespread acclaim and international recognition requiring exceptional ability.

Consular Processing Permanent Residence:

To qualify for permanent residence, an applicant must have or be one of the following:
• A spouse or minor child of a U.S. citizen;
• A parent, adult child or sibling of an adult U.S. citizen;
• A spouse or minor child of a legal permanent resident;
• An employee that a U.S. employer has received approval from the Department of Labor to hire;
• A person of extraordinary or exceptional ability;
• A refugee or asylee fleeing persecution; or
• An approved application in the visa lottery.

A personal interview for permanent residence is normally required before a U.S. Consul who will examine eligibility as well as confirming that the applicant is not inadmissible for an aggravated felony, or a prior order of deportation or for public health reasons, or for suspected terrorism.

Temporary Entries-Non-Immigrant Visas

Admissions on a temporary basis are usually referred to by letters and numerals such as B-2 (tourists), E-1 and E-2 (treaty traders and treaty investors), F-1 (students), H-1B (temporary professionals), J-1 (cultural exchange visitors), K-1 (fiancés of citizens), L-1 (intra-company transferees), etc. These non-immigrants must satisfy a Consul that they wish to enter the U.S. for a limited time and for a specific purpose. All non-immigrant applicants except (H-1) workers, intracompany transferees (L-1) and (V) family members must show that they are not coming to live here permanently. Usually personal interviews are required.

Visa Waivers

Aliens coming as visitors from 27 countries such as Australia, France, Germany, Italy, Japan, New Zealand and Switzerland, are not required to obtain a visa from a U.S. Consulate abroad. These entrants are allowed entry for 3 months; extensions or change of status are not permitted unless the alien marries a U.S. citizen.

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Categories for Adjustment of Status/Consular Processing for Lawful Permanent Residence

Employment Based Petitions

• EB-1 Multinational Executives/ Researchers & Extraordinary Abilities
• EB-2 Advanced Degreed Professionals
• EB-3 Skilled Workers, Professionals holding basic degrees, and "other workers." Schedule-A Nurses and Physical Therapists
• EB-4 Religious Workers
• EB-5 Investment
• PERM Labor Certification

Family Based Petitions

• **Spouses/Children/and Parents of U.S. Citizens**
This visa category permits the immediate relatives of United States citizens to immigrate without waiting in a quota or preference line. Mere marriage to a United States citizen or permanent resident does not automatically create resident status in the United States. The United States relative must file a petition on behalf of the foreign relative, and the foreign relative must undergo an interview by the United States government for admissibility to the United States as an immigrant.

•Preference System:
However, less immediate ties than a spouse or parent of a United States citizen require that a person apply for his or her visa through a series of categories which may or may not be current at the time the person's application is approved. A United States citizen must be at least 21 years of age in order to immigrate a relative.

There are FOUR basic categories of family preference:
1.Adult sons and daughters of United States citizens
2.Spouses and adult sons and daughters of lawful permanent residents or Green Card holders
3.Married children of United States citizens
4.Brothers and sisters of United States citizens

A U.S. citizen can file the petition on behalf of his/her:
1.Husband, wife, or child under the age of 21
2.An unmarried child over the age of 21
3.Married child of any age
4.Brother or sister if the U.S. citizen is at least 21 years old
5.A parent if the U.S. citizen is at least 21 years

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Under INA 201(b) the U.S. Citizen's spouse, parent or child (under 21) is considered an Immediate Relative, and as such NO preference quota is required. Furthermore, even under the tough new adjustment laws, a United States Citizen may petition for his or her Immediate Relative even if that relative has fallen out of status. The immediate relative must have entered the United States legally however.

A lawful permanent resident can file the petition on behalf of his/her:

1. Husband or wife
2. Unmarried child

A bulletin is issued regularly online by the United States Department of State http://travel.state.gov-/visa/frvi/bulletin/bulletin_1360.html showing the status of the various visa categories in relation to the preferences for the worldwide countries which have not over-subscribed the system as well as a breakdown for those countries which are over-subscribed. There are varying waiting periods in these categories, depending on the backlog of prior applications on a worldwide basis and on a per country basis in the case of certain high demand countries. These waits are unpredictable, and can change from month to month, since the waiting line depends upon the number of people with earlier priority dates on their approved applications who actually complete the process when the time comes that the visa is available.

The Violence Against Women Act (VAWA)

Unfortunately, some U.S. citizens and LPRs misuse their control of this process to abuse their family members, or by threatening to report them to the USCIS. As a result, most battered immigrants are afraid to report the abuse to the police or other authorities.

Under the Violence Against Women Act (VAWA) passed by Congress in 1994, the spouses and children of United States citizens or lawful permanent residents (LPR) may self-petition to obtain lawful permanent residency. The immigration provisions of VAWA allow certain battered immigrants to file for immigration relief without the abuser's assistance or knowledge, in order to obtain lawful permanent residence.

- Citizenship
- Naturalization

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Naturalization is the process by which a permanent resident acquires U.S. citizenship. The general requirements are:

1. Five years continuous residence (three years if married to a US citizen), of which at least half the time must be spent physically in the United States;
2. Residence of 90 days in a particular USCIS District prior to filing;
3. Ability to read, write, and speak English;
4. Knowledge and understanding of U.S. history and government;
5. Good moral character; and
6. Support for the principles of the U.S. Constitution.

The continuous residence, physical presence and good moral character requirements are the most common pitfalls for applicants.

To Derive Citizenship:

The Immigration and Nationality Act enables a child born outside the U.S. to derive or claim U.S. citizenship through his/her parent's birth or naturalization. The Child Citizenship Act of 2000 has made the process easier for both natural-born and adopted children of U.S. citizens. To derive citizenship:

1. At least one parent must be a US citizen, whether by birth or by naturalization;
2. The child must be under 18; and
3. The child must be living in the U.S. in the custody of the citizen parent and be a permanent resi dent. Children who meet these requirements can apply for a U.S. passport and/or Certificate of:

    - Citizenship.
    - Asylum

Immigration status sought by a person either entering the U.S. or already physically in the U.S., who has a reasonable fear of persecution because of race, religion, nationality, membership in a particular social group or political opinion; if forced to return to their country of last residence.

Waivers of Inadmissibility

Certain applicants for immigration benefits may be determined "inadmissible" to the United States based on prior legal violations or administrative decisions entered against them. Based on this inadmissibility, U.S. immigration authorities may deny their applications for visas or to adjust status.

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However, a waiver of inadmissibility may be available, depending on the charges raised against the applicant and the type of visa for which they are applying. Most waivers are adjudicated by DHS and DOS based on loose discretionary standards with a wide berth of judgment left to the examining officer.

Therefore, preparing a compelling waiver brief with supporting evidence, and knowing how to most effectively present this to U.S. immigration authorities, can be absolutely critical to the waiver's success. Other factors that might affect the chances for a waiver's success include the nature and seriousness of the violation, the amount of time that has elapsed since the violation, the applicant's family and business ties to the United States, and any U.S. interests that would be positively affected by the applicant's admission.

Grounds of inadmissibility that may be raised against an applicant by U.S. immigration authorities include: Health-Related Criminal Fraud/Misrepresentation Unlawful Presence Prior Removal/Deportation Other.