

INDEX

A

- ABC class membership, 308**
- Abused women and children. *See* Cancellation of removal; Traffickers in persons; Violence Against Women Act**
- Adjustment of status, 187–218**
 arriving aliens, 189–190
 Cambodian nationals, 213–215
 conditional residence. *See* Conditional permanent residence
 Cuban nationals, 215–218
 family-based adjustment, generally, 191–192
 HRIFA, 205–208
 INA §245(i) benefits, 192–203
 filing the application, 200–202
 ICE memo, 196–199
 merits hearing, 202–203
 motions to continue, 195–196
 procedure, 194–200
 submitting proof of eligibility, 200–202
 when to assert, 195
 Laotian nationals, 213–215
 modes of adjustment, 187–188
 NACARA §202, 187–188
 readjustment of status, 187–190
 registry, 209–212
 termination of proceedings to adjust before USCIS, 190–191
 Vietnamese nationals, 213–215
- Administrative closure**
 Johnson memo, 182–183, 199–200
Matter of Avelisyan, 181, 199
 Morton memo, 182, 199–200
- Administrative removal orders, 52**
- Administrative review, 423–449**
 appeals to BIA, 423–429
 motions to remand, 428–429
 removal proceedings, 48–49
 standard of review, 427–428
in absentia removal orders, motions to rescind and reopen, 437–445
 motions to reopen or reconsider, 429–437
 content, format, and filing requirements, 434–437
 equitable tolling, 433–434
 purpose, 429–430
 time and numerical limits, 431–433
 where to file, 430–431
 post-departure bar, 448–449
 stays of removal, 445–448, 662
- BIA, 446–447
 Immigration Court, 447–448, 662
- Admissibility. *See* Grounds of inadmissibility; Inadmissibility**
- Admission of criminal activity, 106–107**
- Aggravated felons**
 deportability, 77–84
 inadmissibility, 115–116
 naturalization, effect on, 411–412
- Alien smuggling**
 as deportability ground, 63–64
 as inadmissibility ground, 132–133
- Anti-Drug Abuse Act of 1988, 78**
- Antiterrorism and Effective Death Penalty Act of 1996, 76, 262**
- Appeals to BIA, 423–429**
 motions to remand, 428–429
 removal proceedings, 48–49
 standard of review, 427–428
 voluntary departure, effect on, 402–403
- Appeals to federal court. *See* Judicial review**
- Arriving aliens**
 adjustment of status, 189–190
 asylum and withholding of removal, 320
 credible fear of persecution, 319–322, 332–333
 ineligibility for bond, 29–30
- Asylum and withholding of removal, 319–392. *See also* Convention Against Torture**
 arriving aliens, 320
 burden of proof, 330, 351
 corroborative evidence, 391–392
 credibility determinations, 389–391
 credible fear process, 51–52, 319–322, 332–333
 detention during, 324
 differences between asylum and withholding, 319, 377–379
 discretion of attorney general, 351–352
 employment authorization document, 358–360
 evidentiary requirements, 389–392
 filing deadline, 352–356
 changed circumstances exception, 354–355
 extraordinary circumstances exception, 353–354
 firm resettlement in another country, 375–377
 humanitarian asylum, 348–350
 INA §241(b)(3) withholding, 360–362
 ineligibility grounds
- frivolous applications, 357–358
 safe third country available, 356–357
 untimely filing, 352–356
 judicial review, 456–458
 membership in particular social group, 341–347
 nationality, as protected ground, 337
 “particularly serious crime” as bar to asylum and withholding, 365–369
 particular social group, as protected ground, 341–347
 past persecution, 329–332
 fundamental change in circumstances, 330–331
 internal relocation, 331–332
 persecution, 326–329
 credible fear of persecution, 319–322, 332–333
 elements of persecution, 326–329
 ineligibility of those who persecuted others, 363–365
 motivation of persecutor, 334–336
 persons who have participated in persecution of others, 363–365
 political opinion, as protected ground, 338–341, 617–627
 protected grounds, 334–347
 nationality, 337
 particular social group, 341–347
 political opinion, 338–341, 617–627
 race, 336–337
 religion, 337–338, 606–616
 race, as protected ground, 336–337
 REAL ID Act, 372–373
 reasonable fear process, 319–321, 322–324
 detention during, 324
 religion, as protected ground, 337–338, 606–616
 sample asylum table of contents, 569–590
 serious nonpolitical crimes, statutory bars, 369–375
 standard of proof, 330
 statutory bars, 362–381
 firm resettlement in another country, 375–377
 particularly serious crimes, conviction for, 365–369
 persons who have participated in

Attorneys. See Counsel

persecution of
others, 363–365
security grounds, inadmissibility
on, 370–371
serious nonpolitical crimes,
commission of,
369–375
terrorism, 371–375
termination of, 379–381
terrorists, 371–375
unable or unwilling to control perse-
cutor, 347–348
unable or unwilling to return or avail
oneself of protection,
325–326
waivers for refugees and asylees
[INA §209(c)], 239
well-founded fear of persecution,
332–334

Attorneys. See Counsel
Avetisyan, Matter of
administrative closure, 181, 199–200

B

**Battered Immigrant Women Protection
Act of 2000, 88**
Biometrics, 42–43, 260
Board of Immigration Appeals (BIA)
appeals, 423–429
briefing, 638–661
motions to remand, 428–429
motions to rescind and reopen on
behalf of unac-
companied mi-
nor, 638–661
standard of review, 427–428
extension request briefing, 635–637
removal proceedings, 48–49
stays of removal, administrative
review, 446–447, 662
voluntary departure, effect of appeal
to BIA, 402–403

Bond
arriving aliens, ineligibility for, 29–
30
availability of, 25, 125
eligibility, 30
hearings, 30–33
sample, 488

Burden of proof
admissibility, 98–99
asylum, 330, 351
CAT, 386–387
NACARA §203, 317
in removal proceedings, 12–13, 153–
155

C

Cambodian nationals
adjustment of status, 213–215

Cancellation of removal
for abused women and children, 288–
303
annual cap, 302
battery or extreme cruelty, 292–
295
child applicants, 291–292
continuous presence, 295
evidence, 301–302
extreme hardship, 299–301
foreign laws, 301
good moral character, 296–297
inadmissible/deportable appli-
cants, 297–299
marital relationship, 290–291
self-petitioners, 302–303
for lawful permanent residents
(LPRs), 247–260
bars to eligibility, 253–257
discretionary factors, 257–260
filing procedure, 259–260
NACARA §203. *See* NACARA
for non-LPRs, 275–287
annual cap, 287
continuous residence or physical
presence, 277–
280
eligibility, 277–287
good moral character, 280–281
hardship requirement, 281–287
ineligibility grounds, 287

CAT. See Convention Against Torture

Center for Gender and Refugee Studies
sample asylum table of contents,
569–590
sample client declaration, 591–605

**Centers for Disease Control and Preven-
tion (CDC), 100–101**

Change of address requirement
failure to comply as deportability
ground, 91

**Child abuse, as deportability ground,
90–91**

**Child Citizenship Act of 2000, 93, 96,
147**

Children. See Minors

Citizenship
false claim to
as deportability ground, 92–93
as inadmissibility ground, 130–
132
ineligibility, as basis for inadmissi-
bility, 134
U.S. citizenship, determination of,
145–149

Commercialized vice
as inadmissibility ground, 112

Communicable diseases
as inadmissibility ground, 101

waivers, 104–105, 226

Communist/totalitarian party members
inadmissibility, 121–122

Conditional permanent residence
jurisdiction of immigration court,
204–205
removal of condition, 203–208
failure to comply with procedur-
al requirements,
203–204
termination of as deportability
ground, 63
termination upon of joint petition or
waiver application,
204

Congressional power to deport, 3

Constitutional violations
right to remain silent, 177–178
search and seizure. *See* Search and
seizure

Consulates
detainee's right to contact, 17

Continuous residence/physical presence
for cancellation of removal for LPRs,
248–253
NACARA §203 suspen-
sion/cancellation,
309–310
types of evidence, 317–318
for non-LPR cancellation of removal,
277–280
for suspension of deportation, 269–
270
for VAWA cancellation of removal,
295

**Controlled substances. See Drugs and
drug users**

**Convention Against Torture (CAT),
381–392. See also Asylum and with-
holding of removal**
Art. 3 withholding or deferral of
removal, 387–388
burden of proof, 386–387
definitions, 382–386
diplomatic assurances, 388
eligibility, 387–388
evidentiary requirements, 389–392
procedures, 389

**Convictions. See also specific underlying
crimes**
determination of, 66–68, 106–107,
156–162
multiple convictions as deportability
ground, 76–77

Counsel
access to, 16–17
right to representation in removal
proceedings, 14–17

**Credibility and credible fear determina-
tions**
asylum and withholding of removal,
51–52, 319–322, 332–
333, 389–391

detention during, 324
 persecution, credible fear of, 319–322, 332–333

Crimes. See also specific crimes and concepts
 evidence required, 155–162
 as grounds of deportability, 65–91
 as grounds of inadmissibility, 105–120
 INA §212(h) waivers, 229–234
 immigration consequences, resources for evaluating, 115–116
 “particularly serious crime” as bar to asylum, 365–369

Crimes of moral turpitude (CMTs)
 as deportability ground, 68–76
 as inadmissibility ground, 107
 exceptions, 107–108

Criminal record checks, 36–39
 sample document, 478

Cuban nationals
 adjustment of status, 215–218

Cuban Refugee Adjustment Act of 1966, 215–218

D

Deferred Action for Childhood Arrivals (DACA)
 prosecutorial discretion in removal proceedings, 184

Department of Homeland Security (DHS)
 creation of, 2

Deportability
 grounds of. *See* Grounds of deportability
 inadmissibility vs., 7–10
 suspension. *See* Suspension of deportation

Discovery, 36–39

Documents and documentation
 document fraud. *See* Fraud and misrepresentation
 document-related crimes as deportability ground, 91–93
 possession of immigration document, necessity at time of admission, 134

Domestic violence crimes. See also Violence Against Women Act
 as deportability ground, 88–90
 waivers, 246

Drugs and drug users
 abusers and addicts
 deportability, 86–87
 inadmissibility, 102–104
 controlled-substance convictions
 as deportability ground, 85–86

as inadmissibility ground, 109–110
 traffickers, inadmissibility of, 110–112

Due process
 in removal proceedings, 19–24, 29

E

Eastern Europeans. See NACARA

Eligibility for relief
 right to be advised of, 18–19

Employment authorization document, 358–360

Enforcement priorities, 4–5, 182–183, 199–200

EOIR. See Executive Office for Immigration Review

Espionage
 as deportability ground, 88, 93–94
 as inadmissibility ground, 116–117

Evidence. See also Burden of proof; specific substantive topics
 asylum and withholding of removal, 389–392
 corroborative evidence, 391–392
 cancellation of removal for abused women and children, 301–302
 CAT evidentiary requirements, 389–392
 discovery, 36–39
 examination of evidence, right to, 18
 exclusionary rule, 163–167
 motions to suppress, 162–178

Executive Office for Immigration Review (EOIR). See also Appeals to BIA
 jurisdiction, 49–50
 structure of, 1–2

Expedited removal, 50–52
 judicial review, 463–464
 sample order, 484

Export control violations
 as inadmissibility ground, 116–117

Extreme hardship
 inadmissibility waivers, 221–226
 documenting extreme hardship, 223–226
 NACARA §203 suspension/cancellation, 311–312
 types of evidence, 318
 for non-LPR cancellation of removal, 281–287
 for suspension of deportation, 272–275
 for VAWA cancellation of removal, 299–301

F

Failure to attend removal proceedings
 as inadmissibility ground, 127

Failure to register as foreign agent
 as deportability ground, 92

Falsification of documents
 as deportability ground, 92

Family-based adjustment of status, 191–192

FARRA (Foreign Affairs Reform and Restructuring Act), 381

Felons. See Aggravated felons

Fifth Amendment rights
 removal proceedings, 19–21, 29
 right to remain silent, 177–178
 violations of, 165–166

Firearms violations
 as deportability ground, 87–88

Firm resettlement in another country, 375–377

FOIA requests, 36–39

Foreign Affairs Reform and Restructuring Act (FARRA), 381

Foreign Operations Export Financing, and Related Programs Appropriations Act, 213–215

Foreign policy
 as basis for deportability, 94
 as basis for inadmissibility, 120

Form EOIR-33, Notice of Address Change, 12

Form I-122, INS Notice to Applicant for Admission Detained for Hearing before IJ, 477

Form I-213, Record of Deportable/Inadmissible Alien (sample), 469

Form I-221, Order to Show Cause charging document, 11
 proper service, 12
 sample order, 475

Form I-222, Notice to Applicant for Admission Detained for Hearing Before Immigration Judge, 11

Form I-601, Waivers of Inadmissibility Grounds in Removal Proceedings, 234–235

Form I-862, Notice to Appear
 challenging the NTA, 151–153
 charging document, 10–11
 proper service, 12
 sample document, 471

Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal (sample), 558–565

Fourth Amendment
 exclusionary rule, 163–165
 search and seizure, 167–175

Fraud and misrepresentation

Fraud and misrepresentation

- document fraud as deportability ground, 92
- INA §212(i) inadmissibility waivers, 232–233
- INA §237(a)(1)(H) deportability waivers, 244–245
- as inadmissibility ground, 127–130, 133

Freedom of Information Act (FOIA)

- requests, 36–39
- sample response, 473

Frivolous applications for asylum, 357–358

G

Genocide or Nazi-sponsored persecution, participation in

- as basis for deportability, 94
- as basis for inadmissibility, 122

Good moral character

- cancellation of removal for abused women and children, 296–297
- cancellation of removal for non-LPRs, 280–281
- NACARA §203 suspension/cancellation, 310–311
- types of evidence, 318
- naturalization, 410–411
- suspension of deportation, 271–272
- VAWA cancellation of removal, 296–297

Grounds of deportability, 59–96. See also specific crimes and concepts

- generally, 59–60
- alien smuggling, 63–64
- citizenship, false claims of, 92
- conditional permanent residence, termination of, 63
- criminal grounds, 65–91
 - evidence and elements, 155–162
- document-related grounds, 91–93
- failure to maintain status, 62–63
- inadmissible aliens, 60–61
- marriage fraud, 64–65
- participation in genocide, 94
- presence in U.S. in violation of law, 61–62
- public-charge grounds, 94–95
- security and related grounds, 93–94
- voting unlawfully, 95–96

Grounds of inadmissibility, 97–144. See also specific crimes and concepts

- criminal grounds, 105–120
 - evidence and elements, 155–162
- INA §212(h) waivers, 229–234
- false claim to citizenship, 130–132
- health-related grounds, 100–105

- illegal entrants and immigration violators, 125–133
- labor protection grounds, 125
- membership in totalitarian or Communist party, 121–122
- miscellaneous grounds, 144
- national security, 116–120
- participation in genocide, 122
- public-charge grounds, 122–125
- unlawful presence and aliens previously removed, 134–142

Guatemalans. See NACARA

H

Haitian Refugee Immigration Fairness Act (HRIFA), 53, 205–208

Hardship. See Extreme hardship

Health-related grounds of inadmissibility, 100–105

- waivers, 104–105, 226–229

Hearings

- individual hearings, 42–46
- master calendar hearings, 39–42

High Commissioner of Refugees (UN), 213

High-speed flight

- as deportability ground, 84

Humanitarian asylum, 348–350

Human trafficking

- as deportability ground, 91
- as inadmissibility ground, 114

I

ICE. See U.S. Immigration and Customs Enforcement

Illegal Immigration Reform and Immigration Responsibility Act (IIRAIRA)

- Act's effect on removal proceedings, 7, 232–233

Immigration Advocates Network (IAN), 17

Immigration Court

- jurisdiction, 49–50, 204–205, 309–312
- practice tips for asylum cases, 566–568
- stays of removal, administrative review, 447–448, 662

Immigration Court Practice Manual, 17, 33, 41–42

Immigration Judge Benchbook, 19

Immunity

- as inadmissibility ground, 112–113

Immunizations, lack of

- as inadmissibility ground, 101
- waivers, 104–105, 227–229

INA §212(c) relief, 260–266

- application for, 265
- eligibility, 260–262
- future of, 266
- repapering. See Repapering

In absentia orders, 46–48

- motions to rescind or reopen, 437–445, 628
- questions to ask client, 630–634

Inadmissibility

- as basis for deportability, 60–61
- burden of proof, 98–99
- deportability vs., 7–10
- evaluating charges of inadmissibility, 99
- grounds of. See Grounds of inadmissibility
- overview, 97–99

Individual hearings, 42–46

Intensive Supervision Appearance Program (ISAP), 31

Internal relocation, 331–332

International Religious Freedom Act of 1998, 113

J

Joseph hearings, 28–33

Judicial removal orders, 52–53

Judicial review, 451–466

- of administrative removal orders, 465
- AG decisions to begin proceedings, adjudicate cases, or execute removal orders, 459
- asylum cases, 456–458
- court of appeals review, 454–465
- criminal aliens, 458–459
- discretionary relief, 455–457
- of expedited removal of inadmissible aliens, 463–464
- habeas* review in district court, 453–454
- of judicial removal orders, 465
- mandamus* petitions, 465
- of nationality claims, 464
- REAL ID Act, effect of, 452–456
- of removal orders in criminal proceedings, 464
- rules of procedure, 459–463

Jurisdiction of EOIR/immigration court, 49–50, 204–205, 309–312

Juveniles. See Minors

L

Labor protection

basis for inadmissibility, 125

Laotian nationals

adjustment of status, 213–215

Lawful permanent residents (LPRs)

adjustment. *See* Adjustment of status
relief from removal. *See specific types of relief*

Legal services

right to receive list of available services, 17

LPRs. *See* Lawful permanent residents

M

Mandamus petitions, 465**Mandatory detention**

Joseph hearings, 28–33
persons subject to, 25–28

Marriage fraud

as deportability ground, 64–65

Master calendar hearings, 39–42**Mental disorders**

as inadmissibility ground, 101–102
waivers, 104–105, 226–227
special rules for mentally incompetent persons in removal proceedings, 23–24

Military Selective Service Act, 88**Minors**

BIA appeals, motion to rescind and reopen on behalf of unaccompanied minor, 638–661
cancellation of removal for abused children, 288–303
child abuse as deportability ground, 90–91
CMT convictions, exceptions for, 107–108
Cuban Refugee Adjustment Act of 1966, 217
Deferred Action for Childhood Arrivals (DACA), 184
juvenile delinquency as deportability grounds, 67–68
NACARA relief, 306
removal proceedings, 21–23
waivers of inadmissibility, 240–241

Misrepresentation. *See* Fraud and misrepresentation**Money laundering**

as inadmissibility ground, 114–115

Moral character. *See* Good moral character**Motions**

to continue in adjustment cases, 195–196
to dismiss, 178–180, 544–557
in limine, 176, 527–540
pre-hearing motions, 33–36
for prosecutorial discretion, sample, 503–507
to remand on BIA appeals, 428–429
to reopen/reconsider, 429–445
 in absentia orders, 437–445, 628
 on behalf of unaccompanied minor, 638–661
 under CAT, 388
 effect on period of voluntary departure, 403–405
 equitable tolling, 433–434
 INA §212(c) relief, 265
 NACARA, 316–317
 procedure and content, 434–437
 purpose, 429–430
 time and numerical limits, 431–433
for subpoena, 541–543
to suppress evidence, 162–178
 preparation of, 175–177
 samples, 508–526
to terminate
 prosecutorial discretion, 178–180
 samples, 508–526

Multiple criminal convictions
as deportability ground, 76–77
as inadmissibility ground, 109

N

NACARA (Nicaraguan and Central American Relief Act)

in absentia removal orders, questions to ask, 630–634
NACARA §202 adjustment, 187–188
NACARA §203 suspension/cancellation, 303–318
 ABC class membership, 308
 application process, 315–317
 bars to NACARA cancellation relief
 failure to comply with immigration proceedings, 314–315
 immigration violations, 313–314
bars to NACARA suspension

relief
failure to comply with immigration proceedings, 314–315
immigration violations, 312–313
burden of proof, 317
continuous physical presence, 309–310
 types of evidence, 317–318
deadline for applications, 318
departures, 310
dependent spouses and children, 306
Eastern Europeans (former Soviet bloc), eligibility, 303–304, 305–306
extreme hardship, 311–312
 types of evidence, 318
good moral character, 310–311
 types of evidence, 318
Guatemalans, eligibility, 303–304, 305, 307
jurisdiction
 Asylum Office jurisdiction, 307–308
 EOIR jurisdiction, 309–312
motions to reopen, 316–317
reinstatement of removal, 53
Salvadorans, eligibility, 303–304, 305, 307–308
unmarried sons and daughters, 306, 316

National security

asylum and withholding of removal, statutory bars, 370–371
as grounds of deportability, 93–94
as grounds of inadmissibility, 116–120

Naturalization, 409–421

after dismissal of removal proceedings, 420
applications after NTA filing, 417–419
applications before NTA filing, 412
as defense to removal, 409–421
 procedure, 412
eligibility, 409–412
good moral character, 410–411
prosecutorial discretion, 413–417
termination of proceedings, 419–420

Nazis. See Genocide or Nazi-sponsored persecution

Nazis. *See* Genocide or Nazi-sponsored persecution

Nicaraguans. *See* NACARA

Noncompliance with court orders, 50

Notice of Address Change (Form EOIR-33), 12

Notice of Intent to Issue Final Administrative Order of Removal (sample), 485

Notice to Appear (NTA) (Form I-862)

challenging the NTA, 151–153

charging document, 10–11

proper service, 12

sample document, 471

O

Orderly Departure Program (ODP), 213

Order to Show Cause (OSC) (Form I-221)

charging document, 11

proper service, 12

sample order, 475

P

PATRIOT Act. *See* USA PATRIOT Act

Persecution, 326–329

asylum and withholding of removal, 326–332

credible fear of, 319–322, 332–333

elements of, 326–329

motivation of persecutor, 334–336

past persecution

fundamental change in circumstances, 330–331

internal relocation, 331–332

persons who have participated in persecution of others, 363–365

well-founded fear of, 332–334

Petty offenses

exception to CMT inadmissibility ground, 108

Physical disorders

as inadmissibility ground, 101–102

waivers, 104–105, 226–227

Physical presence. *See* Continuous residence/physical presence

Political opinion, as protected ground for asylum, 338–341, 617–627

Practice tips

for asylum cases, 566–568

for non-court advocates, 54–57

obtaining a Certificate of Citizenship, 150

obtaining a passport, 150

Pre-hearing motions, 33–36

Pre-hearing procedures, 25–33. See also specific procedures

Pre-hearing statement, 39

Presence in U.S. in violation of law

as deportability ground, 61–62

Presence in U.S. without permission or parole

as ground of inadmissibility, 126

Previously removed aliens

inadmissibility, 135–137

Priority Enforcement Program (PEP), 5

Prosecutorial discretion, 181–184

administrative closure, 181–184, 199–200

Deferred Action for Childhood Arrivals (DACA), 184

motions to terminate, 178–180

sample joint motion for prosecutorial discretion, 503–507

Prostitution and commercialized vice

as inadmissibility ground, 112

Protection orders, violation of

as deportability ground, 91

waivers, 246

Public charges

deportability, 94–95

inadmissibility, 122–125

Public Health Service (PHS), 100, 101

R

Race, as protected ground for asylum, 336–337

REAL ID Act

asylum and withholding provisions, 372–373

CAT evidentiary requirements, 389–392

habeas provisions, 454

judicial review provisions, 452–456

removal proceedings, 7

terrorist activity, 26, 117

Reasonable fear process

asylum and withholding of removal, 319–321, 322–324

detention during, 324

Registry, 209–212

application process, 212

good moral character, 210

inadmissibility grounds, 211

residence requirements, 209–210

Reinstatement of removal, 53–54

Religion

protected ground for asylum, 337–338, 606–616

violations of religious freedom, as inadmissibility

ground, 113–114

Religion, as protected ground for asylum, 337–338

Removal proceedings, 1–57. See also

Cancellation of removal; INA §212(c) relief; Suspension of deportation; Voluntary departure

in absentia orders, 46–48

adjustment-of-status defense. *See*

Adjustment of status

appeals, 48–49, 423–429

diagram, 629

basic concepts, 1–10

burden of proof, 12–13, 153–155

challenging the NTA, 151–153

changes to laws affecting, 7

charging documents, 10–11

conceding vs. contesting removability, 150–155

congressional power to deport, 3

consequences of being in proceedings, 49–50

contesting removability, 145–185

U.S. citizenship, determination of, 145–149

DACA, 184

deportability vs. inadmissibility, 7–10

discovery, 36–39

enforcement priorities, 4–5

evidence required for criminal

grounds for removal, 155–162

failure to attend as ground of inadmissibility, 127

IJ decisions, 48–49

inadmissibility vs. deportability, 7–10

individual hearings, 42–46

law changes affecting, 7

master calendar hearings, 39–42

motions, pre-hearing, 33–36

motions to dismiss, 178–180

motions to terminate, 178–180

orders of removal

Final Administrative Order of Removal (sample), 487

noncompliance, penalties for, 50

Notice of Intent to Issue Final Administrative Order of Removal (sample), 485

reinstatement of removal, 53–54

review of. *See* Appeals to BIA; Judicial review

types of, 50–53

placement in removal proceedings, common scenarios, 5–7

practice tips, 54–57

pre-hearing procedures, 25–33. *See also specific procedures*
 pre-hearing statement, 39
 prosecutorial discretion, 181–184
 reinstatement, 53–54
 rights in proceedings, 14–19. *See also specific rights*
 service, 12–14
 termination to proceed with adjustment before USCIS, 190–191

Repapering

proposed rule for LPRs, 266
 proposed rule for non-LPRs, 270–271

S**Sabotage**

as deportability ground, 88
 as inadmissibility ground, 116–117

Safe third country option, 356–357**Salvadorans. *See* NACARA****Search and seizure**

arrests vs. mere questioning vs. detentive questioning, 172–175
 motions to suppress, 167–178
 warrant requirement, 169–171

§212(c). *See* INA §212(c) relief**§245(i). *See* Adjustment of status****Sentencing**

determination of “conviction.”
See Convictions

Sex crimes

as inadmissibility ground, 112

Sex offenders

failure to register as deportability ground, 84–85

Smugglers. *See* Alien smuggling**Stalking**

as deportability ground, 90
 waivers, 246

Status

adjustment of. *See* Adjustment of status
 failure to maintain, as deportability ground, 62–63

Stays of removal

administrative review, 445–448, 662
 BIA, 446–447
 Immigration Court, 447–448, 662

Stop and frisk. *See* Search and seizure**Stowaways**

inadmissibility, 132

Student visa violators

inadmissibility, 133

Suspension of deportation, 267–275

discretion, 275
 eligibility, 268–269
 IIRAIRA changes, 267–268
 NACARA §203. *See* NACARA
 procedure, 268–275

T**Terrorist activity**

as deportability ground, 94
 as inadmissibility ground, 117–120
 ineligibility for asylum, 371–375
 REAL ID Act, 26, 117
 USA PATRIOT Act, 117, 373

Three- and ten-year bars. *See* Unlawful presence**Torture Convention. *See* Convention Against Torture****Trading with the Enemy Act of 1917, 88****Traffickers in controlled substances**

inadmissibility, 110–112

Traffickers in persons

as deportability ground, 91
 as inadmissibility ground, 114
 Trafficking Victims Protection Reauthorization Act of 2008 (TVPPRA), 23, 320

Translation services

pre-hearing document translation, 42
 right to, 17–18

Treason

as deportability ground, 88

U**U nonimmigrants**

contesting removal, 178–179
 waivers of inadmissibility, 241–242

United Nations High Commissioner of Refugees, 213**Unlawful presence, 137–142**

determination of, 138–142
 reentry without authorization, 142–144
 three- and ten-year bars, 137–142
 VAWA exception, 141
 waivers, 233–234

U.S. Department of Homeland Security (DHS)
 creation of, 2**U.S. Immigration and Customs Enforcement (ICE)**

creation of, 2
 Johnson memo on enforcement priorities, 4–5, 182–183,

199–200

Morton memo on adjustment of status, 196–199
 Morton memo on administrative closure, 182, 199

USA PATRIOT Act

removal proceedings, 7
 terrorist activity, 117, 373

V**Vaccinations, lack of**

as inadmissibility ground, 101
 waivers, 104–105, 227–229

Victims of Trafficking and Violence Protection Act of 2000, 114**Vietnamese nationals**

adjustment of status, 213–215

Violence Against Women Act (VAWA).

See also Traffickers in persons

cancellation of removal. *See* Cancellation of removal
 exception to unlawful presence, 141, 238
 removal proceedings, 7

Voluntary departure (VD), 393–407

application for, 398–399
 compliance, establishment of, 406
 failure to depart, consequences of, 399–402
 period of voluntary departure
 effect of appeal to BIA, 402–403
 effect of motions to reopen and petitions for review, 403–405
 post-*Dada* regulations, 405–406
 prior VD grant, effect of, 406
 requirements
 at conclusion of removal proceedings, 396–398
 prior to conclusion of removal proceedings, 394–396
 voluntary return vs., 406–407

Voting unlawfully

as deportability ground, 95–96

W**Waivers, 219–246**

of Communist/totalitarian party membership ground of inadmissibility, 121–122
 for criminal inadmissibility [INA §212(h)], 229–234
 denial of waiver, termination of

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, 23, 320

- conditional residence, 204
 - of deportation grounds, 244–246
 - discretion, exercise of, 220–221
 - for domestic violence deportation grounds, 246
 - Form I-212 consent to reapply for admission, 242–244
 - Form I-601 application, 234–235
 - for fraud or misrepresentation
 - INA §212(i) inadmissibility waiver, 232–233
 - INA §237(a)(1)(H) deportability waiver, 244–245
 - hardship waivers, 221–226
 - documenting extreme hardship, 223–226
 - for health-related inadmissibility grounds [INA §212(g)], 104–105, 226–229
 - communicable diseases, 226
 - physical or mental disorders, 226–227
 - vaccination requirement, 227–229
 - of inadmissibility grounds, 226–244
 - for juveniles [INA §101(a)(27)(J)], 240–241
 - nonimmigrant waiver [INA §212(d)(3)], 238–239
 - for refugees and asylees [INA §209(c)], 239
 - special forms of relief, 240
 - for stalking deportation grounds, 246
 - strategy and procedure, 234–235
 - for unlawful presence [INA §212(a)(9)(B)(v)], 233–234
 - provisional waivers, 235–238
 - for U nonimmigrants, 241–242
 - VAWA waivers [INA §212(a)(9)(C)], 238
 - for violation of protection order grounds of deportation, 246
- William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, 23, 320**
- Withholding of removal. *See* Asylum and withholding of removal**
- Women. *See also* Violence Against Women Act**
- Battered Immigrant Women Protection Act of 2000, 88
 - cancellation of removal for abused women and children, 288–303
 - annual cap, 302
 - battery or extreme cruelty, 292–295
 - child applicants, 291–292
 - continuous presence, 295
 - evidence, 301–302
 - extreme hardship, 299–301
 - foreign laws, 301
 - good moral character, 296–297
 - inadmissible/deportable applicants, 297–299
 - marital relationship, 290–291