ALL ABOUT ADMISSION

DEFINITION OF ADMISSION


For purposes of establishing eligibility for adjustment of status under section 245(a) of the Immigration and Nationality Act, 8 U.S.C. § 1255(a) (2006), an alien seeking to show that he or she has been “admitted” to the United States pursuant to section 101(a)(13)(A) of the Act, 8 U.S.C. § 1101(a)(13)(A) (2006), need only prove procedural regularity in his or her entry, which does not require the alien to be questioned by immigration authorities or be admitted in a particular status.


An alien who physically presents herself for questioning and makes no knowing false claim to citizenship is "inspected" even though she volunteers no information and is asked no questions by the immigration authorities, and has satisfied the "inspection and admission" requirement of section 245 of the INA.

ADMISSION AND FRAUD

*Sum v Holder*, 602 F.3d 1092 (9th Cir 2010)

Alien inspected and admitted as LPR by concealing criminal record has been admitted within meaning of 101(a)(13) because admission only requires procedural regularity, not substantive compliance with the immigration laws.

*Emokah v Mukasey*, 523 F.3d 110 (2nd Cir 2008)

Alien who entered U.S. on a visa obtained through fraud has been admitted within meaning of 101(a)(13).

ADMISSION AND FALSE CLAIM TO CITIZENSHIP

*Reid v INS*, 420 U.S. 619 (1975)

Person who enters with false claim to US citizen is deportable for entry without inspection.

ADMISSION AND PAROLE

*INA Sec. 101(a)(13)(B)*

*Garcia v Holder*, 638 F.3d 511 (9th Cir. 2011)

Petitioner's 1992 parole as a Special Immigrant Juvenile under INA §245(h) qualified as an admission “in any status” for purposes of cancellation of removal under INA §240A(a).
ADMISSION AND LPRS

*Vartelas v Holder,* __ Sup Ct. ___ (March 2012)

INA Sec. 101(a)(13)(C)(v) may not be applied retroactively to lawful permanent residents returning from brief travel abroad.


A lawful permanent resident of the United States described in sections 101(a)(13)(C)(i)-(vi) of the Immigration and Nationality Act (to be codified at 8 U.S.C. § 1101(a)(13)(C)(i)-(vi)) is to be regarded as “seeking an admission into the United States for purposes of the immigration laws,” without further inquiry into the nature and circumstances of a departure from and return to this country.

ADMISSION AND REFUGEES


An alien who is a refugee under section 207 of the Immigration and Nationality Act, 8 U.S.C. § 1157 (2006), and has not adjusted status to that of a lawful permanent resident may be placed in removal proceedings without a prior determination by the Department of Homeland Security that the alien is inadmissible to the United States.

ADMISSION AND ADJUSTMENT OF STATUS


In general, an alien’s conviction for a crime involving moral turpitude triggers removability under section 237(a)(2)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1227(a)(2)(A)(i) (2006), only if the alien committed the crime within 5 years after the date of the admission by virtue of which he or she was then present in the United States. *Matter of Shanu,* 23 I&N Dec. 754 (BIA 2005), overruled in part.


An alien who has adjusted status to that of a lawful permanent resident pursuant to the Cuban Refugee Adjustment Act of November 2, 1966, Pub. L. No. 89-732, 80 Stat. 1161, as amended, has been admitted to the United States and is subject to charges of removability under section 237(a) of the Immigration and Nationality Act, 8 U.S.C. § 1227(a) (2006).


An alien who entered the United States without inspection and later obtained lawful permanent resident status through adjustment of status has “previously been admitted to the United States as an alien lawfully admitted for permanent residence” and must therefore satisfy the 7-year
continuous residence requirement of section 212(h) of the Immigration and Nationality Act, 8 U.S.C. § 1182(h) (2006), to be eligible for a waiver of inadmissibility.

*Matter of Rosas*, 22 I & N Dec 616 (BIA 1999)

An alien whose conviction for an aggravated felony was subsequent to her adjustment of status to that of a lawful permanent resident is deportable under section 237(a)(2)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1227(a)(2)(A)(iii) (Supp. II 1996), as an alien who was convicted of an aggravated felony “after admission.”

**ADMISSION AND TPS**

*Serrano v. U.S. Att'y Gen.*, (11th Cir 2011)

Alien who enters the United States without inspection is ineligible for adjustment of status under INA §245(a) even if granted temporary protected status under INA §244.

**ADMISSION AND FAMILY UNITY**


A grant of Family Unity Program benefits does not constitute an “admission” to the United States under section 101(a)(13)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(13)(A) (2006), for purposes of establishing that an alien has accrued the requisite 7-year period of continuous residence after having been “admitted in any status” to be eligible for cancellation of removal under section 240A(a)(2) of the Act

*Garcia Quintero v Gonzalez*, 455 F3d 1006 (9th Cir. 2006)

"Admitted in any status" for purposes of cancellation of removal for LPRs includes persons who registered in the U.S. for family unity benefits despite the lack of inspection.

**MULTIPLE ADMISSIONS**


*Totimneh v. Att'y Gen.* (3rd Cir. 2012)

LPR who first entered U.S on tourist visa in 1980 and adjusted status in May 1983 was not convicted of a crime within five years of admission where offense committed in January 1988, because his date of admission was the his initial admission as a nonimmigrant
ADMISSION AND 212(h)


In removal proceedings arising within the jurisdictions of the United States Courts of Appeals for the Fourth, Fifth, and Eleventh Circuits, an aggravated felony conviction disqualifies an alien from relief under section 212(h) of the Immigration and Nationality Act, 8 U.S.C. § 1182(h) (2006), only if the conviction occurred after the alien was admitted to the United States as a lawful permanent resident following inspection at a port of entry. In removal proceedings arising outside those jurisdictions, 212(h) relief is unavailable to any alien who has been convicted of an aggravated felony after acquiring lawful permanent resident status, without regard to the manner in which such status was acquired. *Matter of Koljenovic*, reaffirmed.


Adjustment of status is an admission for purposes of the 212(h) bar when he person was EWI before he adjusted status and therefore there was no other admission date

*Bracamontes v. Holder* (4th Cir 2012)

The plain language language of Section 212(h) does not bar an alien who adjusts post-entry to lawful permanent resident status from seeking a waiver of inadmissibility

*Lanier v U.S. AG*, 631 F.3d 1363 (11th Cir. 2011)

LPR who entered in status other than LPR and then adjusted to LPR status is eligible to apply for a 212(h) waiver even if convicted of an aggravated felony

*Martinez v Mukasey*, 519 F.3d 532 (5th Cir 2008)

INA 212(h) does not bar LPRs convicted of aggravated felonies from obtaining relief if they obtained LPR status through adjustment because they were not "admitted"