

Grounds of Inadmissibility for Special Immigrant Juveniles

The waiver provision:

(h) In applying this section to a special immigrant described in section 101(a)(27)(J) [8 USC § 1101(a)(27)(J)] . . .
(2) in determining the alien's admissibility as an immigrant --
(A) *paragraphs (4), (5)(A), (6)(A), (6)(C), (6)(D), (7)(A) and (9)(B) of section 212(a) shall not apply, and*
(B) *the Attorney General may waive other paragraphs of section 212(a) (other than paragraphs (2)(A), (2)(B), (2)(C) (except for so much of such paragraph as related to a single offense of simple possession of 30 grams or less of marijuana), (3)(A), (3)(B), (3)(C), and (3)(E)) in the case of individual aliens for humanitarian purposes, family unity, or when it is otherwise in the public interest. The relationship between an alien and the alien's natural parents or prior adoptive parents shall not be considered a factor in making a waiver under paragraph (2)(B). . . .*

INA 245(h)(2)(A)-(B) (2009) (emphasis added).

What this means:¹

A. Grounds of Inadmissibility Inapplicable to Special Immigrant Juveniles

INA 212(a)(4)	Public charge
INA 212(a)(5)(A)	Labor certification
INA 212(a)(6)(A)	Aliens present without admission or parole
INA 212(a)(6)(C)	Misrepresentation, including false claim to U.S. citizenship
INA 212(a)(6)(D)	Stowaways
INA 212(a)(7)(A)	Immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document
INA 212(a)(9)(B)	Aliens unlawfully present

¹ Review the relevant statutory provisions (INA 212(a); 245(h)(2)(B)) carefully before filing an adjustment application for your client. If you are in doubt about whether a non-waivable bar applies to your client, contact Public Counsel before filing any documents with CIS.

B. Grounds of Inadmissibility Applicable to Special Immigrant Juveniles but Waivable²

INA 212(a)(1)	Health-related grounds
INA 212(a)(2)(D)	Prostitution and commercialized vice
INA 212(a)(2)(E)	Certain aliens involved in serious criminal activity who have asserted immunity from prosecution
INA 212(a)(2)(G)	Foreign government officials who have committed particularly severe violations of religious freedom
INA 212(a)(2)(H)	Significant traffickers in persons
INA 212(a)(2)(I)	Money laundering
INA 212(a)(3)(D)	Immigrant membership in a totalitarian party
INA 212(a)(3)(F)	Association with terrorist organization
INA 212(a)(5)(B)	Unqualified physicians
INA 212(a)(5)(C)	Uncertified foreign health care workers
INA 212(a)(6)(B)	Failure to attend removal proceedings
INA 212(a)(6)(E)	Smugglers
INA 212(a)(6)(F)	Subject of civil penalty
INA 212(a)(6)(G)	Student visa abusers
INA 212(a)(7)(B)	Nonimmigrants
INA 212(a)(8)	Ineligible for citizenship
INA 212(a)(9)(A)	Certain aliens previously removed
INA 212(a)(9)(C)	Aliens unlawfully present after previous immigration violations
INA 212(a)(10)	Miscellaneous grounds (polygamists, unlawful voters etc.)

C. Grounds of Inadmissibility Applicable to Special Immigrant Juveniles and Not Waivable

INA 212(a)(2)(A)	Conviction of certain crimes ³
INA 212(a)(2)(B)	Multiple criminal convictions
INA 212(a)(2)(C)	Controlled substance traffickers (anyone who the Attorney General has “reason to believe” is a trafficker (i.e., does not require a “conviction” in adult court or a juvenile delinquency disposition))
INA 212(a)(3)(A)	Entrance to engage solely, principally, or incidentally in unlawful activity, particularly espionage.
INA 212(a)(3)(B)	Terrorist activities
INA 212(a)(3)(C)	Serious adverse foreign policy consequences
INA 212(a)(3)(E)	Participants in Nazi persecutions, genocide or the commission of any act of torture or extrajudicial killing

² Use Form I-601 to apply for the waiver if the immigration officer or judge requires you to do so.

³ NB: INA 212(a)(2) non-waivable bars do not include the part of the paragraph related to a single offense of simple possession of 30 grams or less of marijuana. In addition, adjudications in juvenile proceedings are not considered “convictions” for immigration purposes. *See Matter of Devison-Charles*, 22 I. & N. Dec. 1362, 1365-66 (BIA 2000); *Matter of Ramirez-Rivero*, 18 I. & N. Dec. 135 (BIA 1981).