

# Introduction to Immigration Law Practice E-Learning Course



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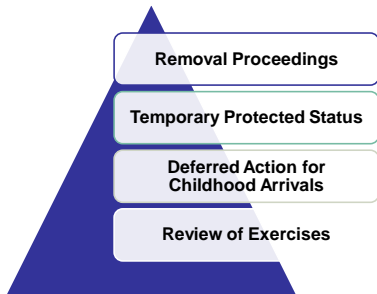
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## Week Six



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## REMOVAL PROCEEDINGS

Immigration Court hearing to decide charge of inadmissibility or deportability.

Immigration Court is part of Executive Office of Immigration Review (EOIR) within the Justice Department

Immigration Judge: from EOIR

DHS(ICE): seeks to remove person charged with inadmissibility or deportability

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## Notice to Appear: Charging Document in Immigration Court

- Notice to Appear (NTA) is filed with the Immigration Court
- Basic elements of NTA:
- Describes category:
  - a. arriving alien
  - b. present without admission
  - c. admitted but deportable
- Factual Allegations
- Underlying legal charge
- Hearing date, time, place

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## Removal Proceedings: Sequence of Events



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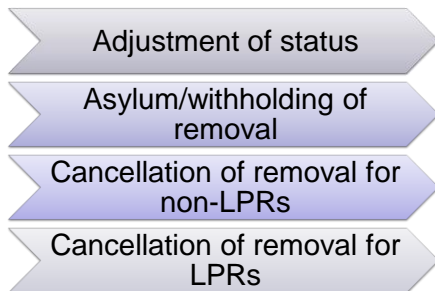
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## REMEDIES IN REMOVAL PROCEEDINGS



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## REMEDIES IN REMOVAL PROCEEDINGS

VAWA suspension and cancellation

NACARA suspension and cancellation

Voluntary departure

Administrative closure

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## WHO IS PLACED IN PROCEEDINGS?

Sasha, an undocumented worker, was charged with selling marijuana. If ICE learns of her presence through her arrest, she will be placed in removal proceedings.

Sasha's friend Janus, an LPR, was also arrested and charged with the same offense. If convicted, Janus may also be placed in proceedings.

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## WHO IS PLACED IN PROCEEDINGS?

LPR Nicolas files an I-130 for his wife. By the time the date is current, Nicolas has a drug possession conviction. At the adjustment interview, he is placed in removal proceedings and his wife's application is put on hold.

Lena, from Romania, entered the U.S. on a student visa and then dropped out of school. She later married USC Mike and applied for adjustment of status. If her application is denied, she may be placed in removal proceedings. She may then renew her application for adjustment before the IJ.

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## WHO IS PLACED IN PROCEEDINGS ?

Abdul, from Somalia, applied for asylum with the asylum office. When his application was not approved, his case was referred to immigration court.

Marisol applied for naturalization. She meets the standards for GMC. However, she has an old drug conviction from 1998. She is placed in removal proceedings.

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## IN ABSENTIA ORDERS

Person who fails to appear at removal hearing after proper notice shall be ordered removed if ICE establishes by clear and convincing evidence that written notice was provided and that the non-citizen is removable as charged.

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## OTHER REMOVAL ORDERS

Expedited Removal: Post April 1, 1997 authority for DHS to issue removal order against "arriving alien" without documents or with false documents.

Administrative Removal: Allows ICE to issue removal order against "aggravated felon" who is not an LPR.

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## EOIR WEB SITE

[www.justice.gov/eoir](http://www.justice.gov/eoir)

Resource for:

- BIA decisions
- Practice rules
- Local court rules
- Immigration court directory
- Immigration court forms
- Directory of recognized agencies, accredited representatives

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## HOW CAN YOU ASSIST SOMEONE IN REMOVAL PROCEEDINGS?

- Confirm date, place, time of hearing
- Call for status of case: (800) 898-7180
- Counsel on charge and possible remedies
- Refer to other counsel
- Remind to attend hearing
- Counsel to report any change of address

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# DACA

Deferred Action for Childhood Arrivals



On June 15, 2012, DHS Secretary issued memorandum with deferred action eligibility guidelines for certain individuals who entered the U.S. as children.

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# DACA

Deferred Action for Childhood Arrivals



Deferred action is a discretionary decision

Defers removal action against an individual

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## Benefits of DACA

Deferred action for two years, renewable

Work authorization for two-years, renewable

Not accruing "unlawful presence" while in deferred action status

Eligible for SSN and, in most states, driver's license

May be allowed to travel using Advance Parole (humanitarian, employment, or educational purposes)

Must show economic necessity

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## Limits of DACA

Not path to permanent resident status

Not "lawful immigration status"

No benefits to derivative family members

Can be terminated

Could lead to enforcement action under certain situations

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## Age Range to Apply

On June 15, 2012, must have been under 31 years old.

Must be at least 15 years old to apply for DACA, UNLESS:

In removal proceedings;

Final removal order; or

Voluntary departure order

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## Eligibility Requirements

Came to U.S. before turning 16;

*Continuously resided* in U.S. for minimum of 5 years prior to June 15, 2012;

On June 15, 2012, physically present in U.S.

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## Eligibility Requirements

At time of deferred action request, physically present in U.S.;

Entered without inspection prior to June 15, 2012 or expired lawful immigration status as of June 15, 2012;

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## Eligibility Requirements



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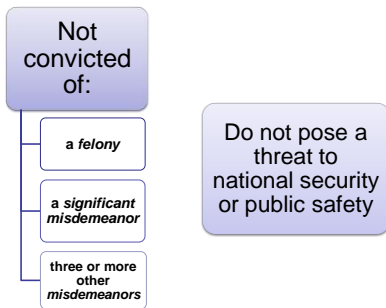
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## Eligibility Requirements



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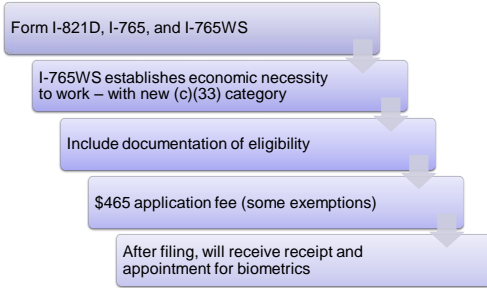
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## Application Process



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## TEMPORARY PROTECTED STATUS

### EMERGENCY SITUATION:

ARMED CONFLICT

NATURAL DISASTER

### TPS BENEFITS:

AUTHORIZED STAY

EMPLOYMENT AUTHORIZATION

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## ELIGIBILITY FOR TPS

Continuous physical presence since effective date

Continuous residence since designation date

Admissible (some grounds waivable)

Barred if 1 felony or 2 misdemeanors

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## TPS

Currently designated:

- El Salvador
- Haiti
- Honduras
- Nicaragua
- Somalia
- South Sudan
- Sudan
- Syria

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## Asylum and Refugee Status

Protection for persons fleeing persecution on basis of race, religion, nationality, political opinion, and membership in a particular social group

- INA §101(a)(42)(A)

Persecuted in the past, and/or has “well-founded fear” of future persecution

Outside country of nationality

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## Refugee Status

Determination made OUTSIDE U.S.

- State Dept.
- USCIS Refugee Corps

Admissions ceiling

Admitted to US as refugees

Resettled by NGOs

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## Asylum Process

Asylum is granted within the U.S.

Two roads: “affirmative” and “defensive”

**ONE YEAR FILING DEADLINE**

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## INELIGIBLE FOR ASYLUM

Persecutors

Security threat

Terrorist

Convicted of particularly serious crime

One-year filing deadline

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## PERMANENT RESIDENCE FOR ASYLEES AND REFUGEES

After one year as asylee/refugee

Adjust status under INA § 209, not 245

Some inadmissibility grounds don't apply: public charge, lack of valid travel documents

Many other inadmissibility grounds are waivable "for humanitarian reasons, to assure family unity, or in the public interest"

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## Exercise Review

What is the name of the document that is used to initiate removal proceedings?

What usually happens when a person in removal proceedings fails to appear at his or her scheduled hearing?

Can you apply for TPS from outside the U.S.? Why or why not?

Are there specific criminal bars to eligibility for TPS? If so, what are they?

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## Exercise Review

What are the three main eligibility requirements for asylum?

By what date must the non-citizen have entered the U.S. to be eligible for DACA?

What are the three categories of criminal bars to eligibility for DACA?

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## Next Steps

- Complete the course evaluation:
- Come and see us again!

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