Department of State

§ 40.63 Misrepresentation; Falsely claiming citizenship.

(a) Fraud and misrepresentation and INA 212(a)(6)(C) applicability to certain refugees. An alien who seeks to procure, or has sought to procure, or has procured a visa, other documentation, or entry into the United States or other benefit provided under the INA by fraud or by willfully misrepresenting a material fact at any time shall be ineligible under INA 212(a)(6)(C); Provided, That the provisions of this paragraph are not applicable if the fraud or misrepresentation was committed by an alien at the time the alien sought entry into a country other than the

(1) There are not sufficient workers in the United States who are able, willing, qualified, (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts) and available at the time of application for a visa and at the place to which the alien is destined to perform such skilled or unskilled labor, and

(2) The employment of such alien will not adversely affect the wages and working conditions of the workers in the United States similarly employed.

(c) Labor certification not required in certain cases. A spouse or child accompanying or following to join an alien spouse or parent who is a beneficiary of a petition approved pursuant to INA 203(b)(2) or (3) is not considered to be within the purview of INA 212(a)(5).


§ 40.54–40.59 [Reserved]

Subpart G—Illegal Entrants and Immigration Violators

§ 40.61 Aliens present without admission or parole.

INA 212(a)(6)(A)(i) does not apply at the time of visa issuance.


§ 40.62 Failure to attend removal proceedings.

An alien who without reasonable cause failed to attend, or to remain in attendance at, a hearing initiated on or after April 1, 1997, under INA 240 to determine inadmissibility or deportability shall be ineligible for a visa under INA 212(a)(6)(B) for five years following the alien’s subsequent departure or removal from the United States.


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