

9 FAM 40.81 INELIGIBLE FOR CITIZENSHIP

*(CT:VISA-978; 06-27-2008)
(Office of Origin: CA/VO/L/R)*

9 FAM 40.81 RELATED STATUTORY PROVISIONS

(CT:VISA-978; 06-27-2008)

See INA 212(a)(8)(A) (8 U.S.C. 1182(a)(8)(A)), INA 314 (8 U.S.C. 1425), and INA 315 (8 U.S.C. 1426)

INA 212(a)(8)(A)

(8) Ineligible for citizenship.-

- (A) In general.-Any immigrant who is permanently ineligible to citizenship is inadmissible.
- (B) Draft evaders.-Any person who has departed from or who has remained outside the United States to avoid or evade training or service in the armed forces in time of war or a period declared by the President to be a national emergency is inadmissible, except that this subparagraph shall not apply to an alien who at the time of such departure was a nonimmigrant and who is seeking to reenter the United States as a nonimmigrant.

INA 314

A person who, at any time during which the United States has been or shall be at war, deserted or shall desert the military, air, or naval forces of the United States, or who, having been duly enrolled, departed, or shall depart from the jurisdiction of the district in which enrolled, or who, whether or not having been duly enrolled, went or shall go beyond the limits of the United States, with intent to avoid any draft into the military, air, or naval service, lawfully ordered, shall, upon conviction thereof by a court martial or a court of competent jurisdiction, be permanently ineligible to become a citizen of the United States; and such deserters and evaders shall be forever incapable of holding any office of trust or of profit under the United States, or of exercising any rights of citizens thereof.

INA 315

- a. Notwithstanding the provisions of section 405(b) but subject to subsection (c), any alien who applies or has applied for exemption or discharge from training or service in the Armed Forces or in the National Security Training Corps of the United States on the ground that he is an alien, and is or was relieved or discharged from such training or service on such ground, shall be permanently ineligible to become a citizen of the United States.
- b. The records of the Selective Service System or of the Department of Defense shall be conclusive as to whether an alien was relieved or discharged from such liability for training or service because he was an alien.
- c. An alien shall not be ineligible for citizenship under this section or otherwise because of an exemption from training or service in the Armed Forces of the United States pursuant to the exercise of rights under a treaty, if before the time of the exercise of such rights the alien served in the Armed Forces of a foreign country of which the alien was a national.

9 FAM 40.81 RELATED REGULATORY PROVISIONS

(CT:VISA-978; 06-27-2008)

See 22 CFR 40.81.

§ 40.81 Ineligible for citizenship.

An alien will be ineligible to receive an immigrant visa under INA 212(a)(8)(A) if the alien is ineligible for citizenship, including as provided in INA 314 or 315.

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