

Appendix E: Good Moral Character

Good Moral Character: statutory period begins 5 years prior to filing for general naturalization (unless spouse, at which point its 3 years)

- May also review severe cases outside of 5 year window
- Must be **convicted** (a formal judgment of guilt entered by the court)
 - a) judge, jury finds applicant guilty, pleads guilty, or pleads *nolo contendere*
 - b) Punishment, penalty, or restraint of liberty imposed

...Special Cases...

- i) **Pre-Trial diversion/intervention programs** (where no admission/finding of guilt is required) may NOT count as conviction for immigration purposes
- ii) **A decision or ruling of *nolle prosequi*** ("we shall no longer prosecute") does not meet the definition of conviction.
- iii) **Juvenile Cases:** guilty verdict, ruling, judgement does NOT constitute a conviction for USCIS
 - A conviction for a person who is under 18 years of age and who was charged as an adult constitutes a conviction for immigration purposes
- iv) **Armed Forces:** A judgment of guilt by a court martial has the same force and effect as a conviction by a criminal court.
- v) **Foreign Convictions:** USCIS considers a foreign conviction to be a "conviction" in the immigration context if the conviction was the result of an offense deemed to be criminal by United States standards
 - "Purely Political Offense" Exception:: convictions obviously based on fabricated charges or predicated upon repressive measures against racial, religious or political minorities.
- vi) **Expunged Records:** A record of conviction that has been expunged does not remove the underlying conviction
 - often occurs in controlled substances, moral turpitude
 - Board of Immigration Appeals (BIA) has held that a state court action to "expunge, dismiss, cancel, vacate, discharge, or otherwise remove a guilty plea or other record of guilt or conviction by operation of a state rehabilitative statute" has no effect on removing the underlying conviction for immigration purposes

Permanent Bars to Naturalization: (and possible grounds for deportation)

- 1) Murder
- 2) Aggravated Felony: rape, sexual abuse of a minor, trafficking (substances, firearms, destructive devices), money laundering (>10,000), explosive/firearm offenses, violent crime/theft (with imprisonment >1yr), Ransom, child pornography, Racketeering/gambling (with imprisonment >1yr), prostitution (manage, transporting, trafficking), gathering/transmitting classified info, fraud/deceit/tax evasion (>10,000), alien smuggling, illegal entry/reentry, passport/document fraud (with imprisonment >1yr), failure to appear sentence or to court, bribery/counterfeiting/forgery/trafficking vehicles, obstruction of justice/perjury/bribery of witness,
- 3) Activity in persecution, genocide, torture, or severe violations of religious freedom

Conditional Bars to GMC:

Conditional Bars to GMC for Acts Committed in Statutory Period		
Offense	Citation	Description
One or More CIMTs	8 CFR 316.10(b)(2)(i), (iv) INA 101(f)(3)	Conviction or admission of one or more CIMTs (other than political offense), except for one petty offense
Aggregate Sentence of Five Yrs or More	8 CFR 316.10(b)(2)(ii), (iv) INA 101(f)(3)	Conviction of two or more offenses with combined sentence of five years or more (other than political offense)
Controlled Substance Violation	8 CFR 316.10(b)(2)(iii), (iv) INA 101(f)(3)	Violation of any law on controlled substances, except for simple possession of 30g or less of marijuana
Incarceration for 180 Days	8 CFR 316.10(b)(2)(v) INA 101(f)(7)	Incarceration for a total period of 180 days or more, except political offense and ensuing confinement abroad
False Testimony under Oath	8 CFR 316.10(b)(2)(vi) INA 101(f)(6)	False testimony for the purpose of obtaining any immigration benefit
Prostitution Offenses	8 CFR 316.10(b)(2)(vii) INA 101(f)(3)	Engaged in prostitution, attempted or procured to import prostitution, or received proceeds from prostitution
Smuggling of a Person	8 CFR 316.10(b)(2)(viii) INA 101(f)(3)	Involved in smuggling of a person to enter or try to enter the United States in violation of law
Polygamy	8 CFR 316.10(b)(2)(ix) INA 101(f)(3)	Practiced or is practicing polygamy (the custom of having more than one spouse at the same time)
Gambling Offenses	8 CFR 316.10(b)(2)(x)-(xi) INA 101(f)(4)-(5)	Two or more gambling offenses or derives income principally from illegal gambling activities
Habitual Drunkard	8 CFR 316.10(b)(2)(xii) INA 101(f)(1)	Is or was a habitual drunkard
Failure to Support Dependents	8 CFR 316.10(b)(3)(i) INA 101(f)	Willful failure or refusal to support dependents, unless extenuating circumstances are established
Adultery	8 CFR 316.10(b)(3)(ii) INA 101(f)	Extramarital affair tending to destroy existing marriage, unless extenuating circumstances are established
Unlawful Acts	8 CFR 316.10(b)(3)(iii) INA 101(f)	Unlawful act that adversely reflect upon GMC, unless extenuating circumstances are established

Crimes involving moral turpitude (CIMT): refers generally to conduct that shocks the public conscience as being inherently base, vile, or depraved, contrary to the rules of morality and the duties owed between man and man, either one's fellow man or society in general

- a) Crimes against People: criminal intent/recklessness, unjustified violence, use of a dangerous weapon (statutory rape, aggravated assault/battery)
- b) Crimes against Property: knowledge/intent to permanently take property (theft, forgery, robbery)
- c) Sexual/Family Crimes: often hinge on presence/absence of violence or criminal intent (spousal/child abuse, abandonment, willful sexual assault of a minor)
- d) Crimes against Government: bribe, counterfeiting

Unlawful acts include unlawful voting, claims of citizenship, failure to file tax returns/pay taxes