

# Cancellation of Removal for Non-Lawful Permanent Residents

**Warning:** Some of this information may be outdated due to the 2025 executive orders. Please consider consulting an immigration lawyer if you have questions about your situation. You can also [read the President's executive orders](#).

When you are in deportation you need to find a way to stop it, and ideally a path to lawful permanent residency. One of the most common defenses is called cancellation of removal. If you do not have lawful status in the United States, your specific requirements will differ from those of lawful permanent residents (green card holders) and citizens who naturalized.

## Deportation Defense for Undocumented Immigrants

If you are not a lawful permanent resident yet, you can apply for something called cancellation of removal. Not only does cancellation stop your deportation, but it also gets you lawful permanent residency, or a green card. However, cancellation of removal is not something you can request outside of a deportation hearing.

**Cancellation of removal is only an option as a defense to being deported, or removed.**

## Requirements for Cancellation of Removal

During your deportation hearing, you need to show the judge that you qualify for cancellation by proving that you fulfill the following three requirements:

### Continuous Physical Presence

First, you must show that you have been inside of the United States for ten years. This is called continuous physical presence. If you left the United States in the past ten years, you can still show continuous physical presence if:

- No single trip lasted more than 90 days; and
- All of your trips combined did not last more than 180 days.

The court will not help you look for evidence of continuous physical presence. However, you can use anything that shows you have been here.

### *Acceptable Forms of Evidence*

Showing your green card will not be enough to prove continuous physical presence. You will need to establish that you've built your life in the United States for a certain period of time. Acceptable pieces of evidence include:

- Rent receipts
- Mortgage payments
- A printout from the Register of Deeds
- Children's birth certificates
- Marriage certificates
- Health records from a dentist or physician
- Income taxes
- Children's school records
- Pay stubs
- Utility or cell phone bills

### *Affidavits*

Affidavits, or sworn statements from friends and family, must be very detailed and give concrete examples of your life in the United States. Simply saying that someone knows that you have been here for ten years is not enough. In fact, Immigration will be suspicious that friends and family might lie in an effort to help you. A good immigration attorney can help your family and friends write strong affidavits that support your case.

Note: You stop accruing the ten years needed as soon as you receive a notice to go to court. Alternatively, you stop accruing your time as soon as you commit any crime that puts you into deportation.

## Good Moral Character

You will not be granted cancellation of removal unless you prove that you are a person of **good moral character**. The law does not specify what good moral character is exactly, but it does mention what prevents you from having good moral character. A good way to prove your character will be through sworn statements from family and friends who can vouch for you.

## Show Extreme and Unusual Hardship

Lastly, to qualify for cancellation of removal, you must show that your deportation would cause extreme and unusual hardship to at least one eligible family member. An eligible family member can include your:

- **Child** who is unmarried, under the age of 21, and either a lawful permanent resident or United States citizen;
- **Parent** who is either a lawful permanent resident or United States citizen; or
- **Spouse** who is either a lawful permanent resident or United States citizen.

Immigration courts have said that extreme and unusual hardship must be more than the typical hardship that you might expect of someone's deportation. Your family member cannot just struggle after your hypothetical deportation, but must truly face extreme and unusual hardship. For example, one court ruled that losing your home and all family ties is not considered extreme or unusual because anyone should expect to lose their home and all family ties with a deportation. **Don't take this lightly. Look for any and all of the evidence that you can possibly find.**

Acceptable forms of extreme and unusual hardship will vary depending on which family member your deportation would affect.

## Child Hardship Considerations

### General

- If you were deported, who could care for the child or pay for childcare? Would your spouse be able to afford caring for your child if you were deported?
- How old is your child? Are they settled in school? Do they have lots of ties to the community and friends? Are all their friends and family in the United States? Are they close to their cousins, grandparents, and aunts and uncles?

- Does your child have any illness for which they are being treated? Does your child qualify for health insurance in your home country?

## Education

- Does your child have any special education needs? Is there an Individualized Education Plan (IEP)? Would this special education be available in your home country?
- Is your child trying to go to college? Could they pay for it without your presence in the United States? If your child went with you back to your home country, could they get the same quality of education there?
- Does your child have activities, sports and hobbies here in the United States? For example, do they play varsity soccer or participate in intramural academic programs? Would any of these activities lead to a college scholarship?

## Culture

- Does your child speak the language in your home country?
- Does your child have permission to enter and live in your home country? If not, your child might have to be an undocumented person in your home country.

## **Parent Hardship Considerations**

### Care Plan

- Is your parent older and, as a result, you help care for them? Do you take your older parents to medical appointments, assist with banking, and with paying bills?
- Do you live with your parents in order to better take care of them?
- Are you your parent's only child in the United States? Is there anyone else who could help to care for them?
- Does your parent have any illnesses, or are they beginning to have any cognitive problems?

### Financial

- Is your parent economically dependent on you?
- Would your parent be able to get their pension or social security payments sent to another country?

- Is Medicare your parent's only option for health insurance?

## **Spouse Hardship Considerations**

### Employment

- Does your spouse have a job that requires some kind of license? For example, a law license from Wisconsin cannot be used in Burkina Faso, nor could a realtor's license from Wisconsin be used in Mexico. In other words, if your spouse was required to move to another country, would their ability to make a living be severely harmed?
- Are your spouse's job skills transferable to your home country? For example, we may need bilingual Spanish/English social workers here, but there is not the same kind of demand in Mexico.
- Would your spouses' age make it difficult to start a new job or career? Some workers as young as 50 are considered older workers in some countries, which would make landing a job in their field exceedingly difficult, if not impossible.

### Health

- Does your spouse have any medical conditions which would not be adequately addressed in your home country?

### Family Connections

- Does your spouse have children from a previous relationship who cannot leave the United States? Would your spouse be required to choose between living with you or raising their children?
- Does your spouse have all of their family in the United States? Do they take care of their parents, are all of their brothers and sisters here, or do they have a strong social network here?

### Culture

- Would your spouse be eligible to live in your home country, or would they become an undocumented immigrant there?
- Does your spouse speak the language in your home country?

Note: YOUR CHILD MUST REMAIN UNMARRIED AND STILL BE UNDER THE AGE OF 21. Children can only be used as qualifying relatives for cancellation of removal as long as they are under the age of 21 and remain unmarried. Until the day the judge grants you lawful permanent residency, your child must continue to meet these two requirements. Make sure you stay on top of your application so that your child does not age out during the process. Also, make sure your child understands that they must wait to get married until the day you are granted lawful permanent residency.

## **Filing Your Evidence**

You will need to work closely with your immigration attorney to gather evidence and prepare a detailed statement about each aspect of your case. Documents such as medical, tax, and school records are all typically used as evidence. You will also need to submit birth and marriage certificates to the court. Sometimes obtaining these documents can take a while, so request them as soon as possible.

Caution: DO NOT PROCRASTINATE. Give these materials to your attorney as soon as possible because the immigration court has very strict filing deadlines. You do not want to lose your case because you procrastinated for too long.

## **Deportation Hearing**

After you submit your statement and evidence, your attorney will present your case to the court before an immigration judge. Then you will wait for a decision following your hearing. By law, Immigration gives only 5,000 final decisions every year, but so many people are in deportation that Immigration regularly exceeds the decision limit. Stay in close contact with your attorney after your hearing in case there are any additional steps you need to take before a final approval.

Once your cancellation of removal application is approved, you will eventually get your lawful permanent resident card in the mail. It should be backdated to the date of your final approval. Waiting for your card will likely seem like a long time, but don't worry. Once you get your final approval, you are a lawful permanent resident

of the United States. However, do not travel until you have proof of your residency, or the physical copy of your green card.

Caution: Even if you meet the three requirements listed above, if you have committed any of the deportable crimes, you probably have to find another way to stop your deportation. See our article on [Deportable Crimes](#) to explore which crimes make you open to deportation.

## Other Cancellation of Removal Options

If you do not qualify for standard cancellation of removal, you may still qualify for other solutions. You are not limited to one application. In fact, you can apply for anything for which you qualify. For example, if you are a victim of domestic violence or another crime, you may apply for VAWA or U nonimmigrant status. Alternatively, a qualifying family member could apply for you within the family-based system.

**A good immigration attorney can help you determine your best options.**

### VAWA Cancellation of Removal

VAWA cancellation of removal helps immigrant victims of domestic violence leave their abusers. To qualify, your abuser must be:

- your spouse, who is either a U.S. citizen or lawful permanent resident; or
- someone who you believed was your spouse but is not actually your spouse due to bigamy. This person must also be either a U.S. citizen or lawful permanent resident.

Alternatively, you may qualify for VAWA cancellation of removal if you have a child with a U.S. citizen or lawful permanent resident who abuses that child. In this case, you do not have to be married to the abuser.

One advantage of VAWA is that you need only three years of physical presence. Also, you continue accruing time even after you have been put into deportation. Also, if you are not married to your abuser, you may still qualify for VAWA if they are a United States citizen and you have a child together who is also being abused. Read more about VAWA Cancellation of Removal.

## **Asylum**

Asylum protects people who cannot return to their home country due to fear of being persecuted because of their race, religion, national origin, political opinion, or particular social group. Usually, you must apply for asylum within one year of entering the United States. However, you may still qualify for asylum if things have recently changed in your home country and you now fear returning due to this type of persecution. Read our [asylum](#) page to learn more.

## **U Nonimmigrant Status**

U nonimmigrant status is designed to help law enforcement investigate crimes. It protects people who are victims of certain crimes if they cooperate with the police. If you qualify for U nonimmigrant status, you should start the process as soon as possible. Unfortunately, because U nonimmigrant status applications can take many years to process, the court may not let you wait in the United States until it is approved. However, starting your U nonimmigrant status while you are still here is important. Read our article on U Nonimmigrant Status to learn more.

## **Family-Based Petition**

United States citizens and green card holders can petition for certain family members to get lawful permanent residency. If you have a qualifying family member, ask them to petition for you. Often spouses petition for one another, but if you marry while in deportation, Immigration will suspect marriage fraud. In these cases they will often interview you to determine whether your marriage is legitimate or not.

Regardless of your relationship, family-based petitions can get a little complicated because different people approve certain parts of your application. Only Immigration can process your application for the immigrant visa. Separately, only the immigration judge can approve your application for a green card. This is another reason why having a good lawyer is so important.

Lastly, if your family-based petition puts you in the priority system, you will still have to wait until your priority date is current before you can receive your immigrant visa. If your priority date is several years away, the court might not allow you to wait for it in the United States. This situation will often vary because many judges have



different time frames that they can allow cases to remain open.

Learn more on our Family Based Green Cards page.

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[Deportation or Removal Detention, Removal, or Deportation Immigration](#)

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