

(39) The term “unmarried”, when used in reference to any individual as of any time, means an individual who at such time is not married, whether or not previously married.

(40) The term “world communism” means a revolutionary movement, the purpose of which is to establish eventually a Communist totalitarian dictatorship in any or all the countries of the world through the medium of an internationally coordinated Communist political movement.

(41) The term “graduates of a medical school” means aliens who have graduated from a medical school or who have qualified to practice medicine in a foreign state, other than such aliens who are of national or international renown in the field of medicine.

(42) The term “refugee” means

(A) any person who is outside any country of such person’s nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or

(B) in such special circumstances as the President after appropriate consultation (as defined in section 1157 (e) of this title) may specify, any person who is within the country of such person’s nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The term “refugee” does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion. For purposes of determinations under this chapter, a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well founded fear of persecution on account of political opinion.

(43) The term “aggravated felony” means—

(A) murder, rape, or sexual abuse of a minor;

(B) illicit trafficking in a controlled substance (as defined in section 802 of title 21), including a drug trafficking crime (as defined in section 924 (c) of title 18);

(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18) or in explosive materials (as defined in section 841(c) of that title);

(D) an offense described in section 1956 of title 18 (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded \$10,000;

(E) an offense described in—

(i) section 842 (h) or (i) of title 18, or section 844(d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

(ii) section 922 (g)(1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18 (relating to firearms offenses); or

(iii) section 5861 of title 26 (relating to firearms offenses);

(F) a crime of violence (as defined in section 16 of title 18, but not including a purely political offense) for which the term of imprisonment at ⁵ least one year;

- (G)** a theft offense (including receipt of stolen property) or burglary offense for which the term of imprisonment at ⁵ least one year;
- (H)** an offense described in section 875, 876, 877, or 1202 of title 18 (relating to the demand for or receipt of ransom);
- (I)** an offense described in section 2251, 2251A, or 2252 of title 18 (relating to child pornography);
- (J)** an offense described in section 1962 of title 18 (relating to racketeer influenced corrupt organizations), or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses), for which a sentence of one year imprisonment or more may be imposed;
- (K)** an offense that—
 - (i)** relates to the owning, controlling, managing, or supervising of a prostitution business;
 - (ii)** is described in section 2421, 2422, or 2423 of title 18 (relating to transportation for the purpose of prostitution) if committed for commercial advantage; or
 - (iii)** is described in any of sections 1581–1585 or 1588–1591 of title 18 (relating to peonage, slavery, involuntary servitude, and trafficking in persons);
- (L)** an offense described in—
 - (i)** section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18;
 - (ii)** section 421 of title 50 (relating to protecting the identity of undercover intelligence agents); or
 - (iii)** section 421 of title 50 (relating to protecting the identity of undercover agents);
- (M)** an offense that—
 - (i)** involves fraud or deceit in which the loss to the victim or victims exceeds \$10,000; or
 - (ii)** is described in section 7201 of title 26 (relating to tax evasion) in which the revenue loss to the Government exceeds \$10,000;
- (N)** an offense described in paragraph (1)(A) or (2) of section 1324 (a) of this title (relating to alien smuggling), except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien’s spouse, child, or parent (and no other individual) to violate a provision of this chapter ⁶
- (O)** an offense described in section 1325 (a) or 1326 of this title committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;
- (P)** an offense
 - (i)** which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18 or is described in section 1546(a) of such title (relating to document fraud) and
 - (ii)** for which the term of imprisonment is at least 12 months, except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien’s spouse, child, or parent (and no other individual) to violate a provision of this chapter;
- (Q)** an offense relating to a failure to appear by a defendant for service of sentence if the underlying offense is punishable by imprisonment for a term of 5 years or more;
- (R)** an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which the term of imprisonment is at least one year;

- (S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which the term of imprisonment is at least one year;
- (T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and
- (U) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years. Notwithstanding any other provision of law (including any effective date), the term applies regardless of whether the conviction was entered before, on, or after September 30, 1996.

- (A) ⁽⁴⁴⁾ The term “managerial capacity” means an assignment within an organization in which the employee primarily—
- (i) manages the organization, or a department, subdivision, function, or component of the organization;
 - (ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;
 - (iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization) or, if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and
 - (iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority.

A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

- (B) The term “executive capacity” means an assignment within an organization in which the employee primarily—
- (i) directs the management of the organization or a major component or function of the organization;
 - (ii) establishes the goals and policies of the organization, component, or function;
 - (iii) exercises wide latitude in discretionary decision-making; and
 - (iv) receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

(C) If staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, the Attorney General shall take into account the reasonable needs of the organization, component, or function in light of the overall purpose and stage of development of the organization, component, or function. An individual shall not be considered to be acting in a managerial or executive capacity (as previously defined) merely on the basis of the number of employees that the individual supervises or has supervised or directs or has directed.

(45) The term “substantial” means, for purposes of paragraph (15)(E) with reference to trade or capital, such an amount of trade or capital as is established by the Secretary of State, after consultation with appropriate agencies of Government.

(46) The term “extraordinary ability” means, for purposes of subsection (a)(15)(O)(i) of this section, in the case of the arts, distinction.

- (A) ⁽⁴⁷⁾ The term “order of deportation” means the order of the special inquiry officer, or other such administrative officer to whom the Attorney General has delegated the responsibility for