



[Home](#) > [Laws and Policy](#) > [Other Resources](#) > Unlawful Presence and Inadmissibility

Unlawful Presence and Inadmissibility

i ALERT: On Aug. 13, 2026, the Board of Immigration Appeals (BIA) issued a precedent decision, [Matter of Delcarmen-Lara](#), 29 I&N Dec. 830 (BIA 2026), that overruled [Matter of Arrabally and Yerrabelly](#), 25 I&N Dec. 771 (BIA 2012).

This decision has an immediate impact for certain aliens with valid Advance Parole Documents (Form I-512L) who are considering departing from the United States. As of Aug. 13, 2026, departing the United States after obtaining an Advance Parole Document is a departure for purposes of inadmissibility under section 212(a)(9)(B)(i) of the Immigration and Nationality Act (INA). Under section 212(a)(9)(B)(i) of the INA, aliens who accrue more than 180 days of unlawful presence in the United States, depart the United States, and then again seek admission within the relevant 3- or 10-year statutory period, are inadmissible. Aliens considering a departure with an Advance Parole Document should be aware that they may be inadmissible under section 212(a)(9)(B)(i) of the INA upon their return to the United States if they have accrued more than 180 days of unlawful presence.

Unlawful presence is any period of time when you are present in the United States without being admitted or paroled, or when you are present in the United States after your “period of stay authorized by the Secretary” expires. Unless an exception applies, you will be found inadmissible based on your accrual of unlawful presence if you:

- Seek admission again within 3 years of leaving the United States before removal proceedings begin, after you accrued more than 180 days but less than 1 year of unlawful presence during a single stay;
- Seek admission again within 10 years of leaving or being removed from the United States, after you accrued 1 year or more of unlawful presence during a single stay; or
- Reenter or try to reenter the United States without being admitted or paroled after you accrued more than 1 year of unlawful presence, in total, during 1 or more stays in the United States.

You can find these inadmissibility grounds in the Immigration and Nationality Act at [INA 212\(a\)\(9\)\(B\)\(i\)](#) and [INA 212\(a\)\(9\)\(C\)\(i\)\(I\)](#).



Need Help?
Chat with Emma™

Determining whether you are inadmissible after accruing unlawful presence can be complex. If you need help or legal advice on immigration matters, make sure the person helping you is authorized to give legal advice. You can find information about authorized legal services on our [Avoid Scams](#) page.

 [Close All](#)  [Open All](#)

Accruing Unlawful Presence



Inadmissibility Under INA 212(a)(9)(B)(i)(I)



Inadmissibility Under INA 212(a)(9)(B)(i)(II)



Inadmissibility Under INA 212(a)(9)(C)(i)(I)



If You Are Inadmissible under INA 212(a)(9)(B)(i) or INA 212(a)(9)(C)(i)(I)



More Information about Unlawful Presence and the Inadmissibility



 [Close All](#)  [Open All](#)

Last Reviewed/Updated: 08/14/2026