



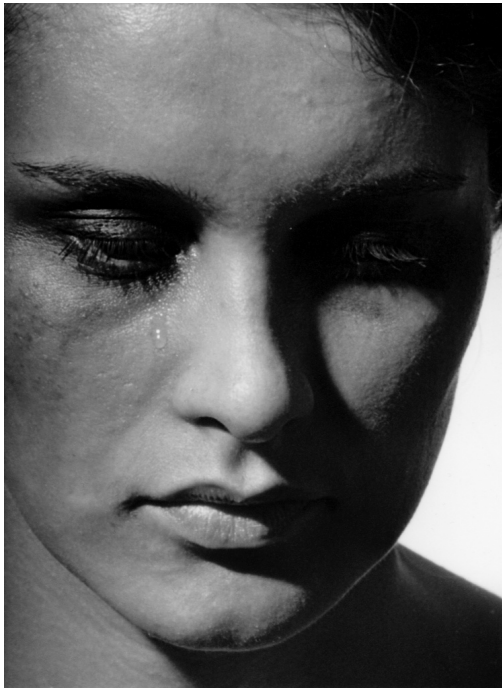
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Original page: [Extreme Hardship for Immigration Waivers](#)

## How to establish extreme hardship when applying for an immigration waiver



**In order to establish extreme hardship when applying for an immigration waiver, whether it is a 601 waiver, 601A, or any of the 212 waivers, the applicant must establish the following:**

### **A. Explanation of Totality of the Circumstances**

The government must make extraordinary hardship conclusions after analysing all elements, contentions, and proof submitted. Therefore, the officer should consider any items submitted from the candidate that could bear on the extreme hardship requirement. The officer may likewise consider elements, contentions, and proof significant to the hardship that the candidate has not introduced, for example, [1] the Department of State (DOS) data on country conditions [2] or different U.S. Government opinions with respect to country conditions, including a country's eligibility for Temporary Protected Status (TPS). Officers must base their decision in light of the totality of the proof and conditions submitted and readily available to them.

### **B. Common Consequences**

The common hardship of being denied admission, just by themselves, are not enough to merit a

finding of extreme hardship. The Board of Immigration Appeals (BIA) has long held that the common hardship in denying admission, include, but are not limited to, the following:

- Separation of the family;
- Economic problems;
- Readjustment to life in the new country;
- The educational opportunities abroad;
- Lack of medical services and facilities; and
- Ability to follow a chosen occupation abroad.

While the extreme hardship required must involve more than the common hardship experienced by everyone, the extreme hardship standard is not as high as the more difficult “exceptional and extremely unusual” hardship standard that is used in other forms of immigration adjudications, such as [cancellation of removal](#).

### **C. Cumulatively Factors Must Be Considered**

The officer must consider all variables and outcomes in their totality and in total while deciding whether a qualifying relative will encounter extreme hardship either in the United States or abroad. Sometimes, common hardship that alone doesn't constitute extreme hardship may bring about extreme hardship when all the evidence cumulatively amounts to extreme hardship.

For instance, if a qualifying relative has a medical condition that by itself does not ascend to the level of extreme hardship, the blend of that hardship and the normal outcomes of mediocre medicinal help, monetary inconvenience, or the readjustment to a life in another country may aggregately cause extreme emotional or financial hardship for the qualifying relative when determining the totality of the conditions.

Normally, for instance, the way that doctors and hospitals are less effective in another country is a typical outcome of denying admission to the U.S.; yet the sub-par nature of medical services, considered alongside the person's particular medical conditions, may be enough to reach the level of extreme hardship, in combination with the various other factors.

The officer must weigh all evidence individually and cumulatively, as follows:

- First, the officer must consider whether any factor provided by the applicant individually rises to the level of extreme hardship under the totality of the circumstances.
- Second, if any factor alone fails to rise to the level of extreme hardship, the officer must consider all other factors cumulatively to determine whether they together amount to the level of extreme hardship.

When considering the factors, whether individually or cumulatively, every factor, counting negative factors, must be assessed in the totality of the circumstances.

### **D. It's All a Matter of Discretion**

The following is an excerpt from the USCIS Policy Manual - [Volume 9 – Waivers, Part B – Extreme Hardship](#)

"A finding of extreme hardship permits but never compels a favorable exercise of discretion. If the officer finds the requisite extreme hardship, the officer must then determine whether USCIS should grant the waiver as a matter of discretion based on an assessment of the positive and negative factors relevant to the exercise of discretion. The family relationships to U.S. citizens or lawful permanent residents and a finding of extreme hardship to one or more of those family members are significant positive factors to consider.<sup>[1]</sup>

For purposes of exercising discretion, a finding of extreme hardship that is sufficient to warrant a favorable exercise of discretion to grant a waiver of the unlawful presence grounds of inadmissibility may not be sufficient to warrant a favorable exercise of discretion with respect to crime- or fraud-related grounds of inadmissibility. The conduct that triggered the applicant's inadmissibility, such as a criminal conviction<sup>[2]</sup> or underlying fraud,<sup>[3]</sup> is an important negative factor to consider. The officer should weigh all positive factors against all negative factors. Ultimately, if the positive factors outweigh the negative factors, the officer should approve the waiver; otherwise, the waiver should be denied."

**E. Personal Statements**

The evidence you should submit to demonstrate extreme hardship begins with your qualifying relative's personal statement. Your qualifying relative must draft a statement that explains clearly the reasons he or she will endure extreme hardship if you are cannot return to the United States.

You should also include a personal statement that supports the arguments made by your qualifying relative and to reveal more insight into the conditions in your country of origin. Each statement made should be supported by extra documentation. This documentation can include:

- Country Reports issued by the U.S. Bureau of State, or other administrative, or human rights associations, explaining the state of affairs in your home country that will create an extreme hardship.
- Letters from medical professionals as proof of physical or potentially deliterious conditions that will create extreme hardship.
- Copies of government documents as confirming income.
- Copies of documnets demonstrating any obligations that has to be resolved in the United States.
- Copies of your qualifying relative's professional and educational certification.
- News articles showing political and othrer events in your home country that will create extreme hardship.
- Letters from relatives, experts, and others who are in a position to bolster your contentions of extreme hardship.

It is a wise idea to reference each piece of evidence in the personal statement(s) as an exhibit. Organizing your application, will make it easier for the USCIS officer to properly review it and hopefully approve the immigration waiver.

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[2] In cases where applicants who have been convicted of violent or dangerous crimes apply for waivers under [INA 212\(h\)\(1\)\(B\)](#) [formerly INA 212(h)(2)], discretion generally will not be favorably

exercised unless either there are “extraordinary circumstances” (for example those relating to national security or foreign policy) or the applicant demonstrates “exceptional and extremely unusual hardship.” Depending on the gravity of the offense, even a showing of extraordinary circumstances does not guarantee a favorable exercise of discretion. See [8 CFR 212.7\(d\)](#).

[3] See *INS v. Yueh-Shaio Yang*, 519 U.S. 26, 30-32 (1996). See [Matter of Cervantes-Gonzalez](#), 22 I&N Dec. 560, 568-69 (BIA 1999), *aff'd*, *Cervantes-Gonzales v. INS*, 244 F.3d 1001 (9th Cir. 2001).