FOREWORD

Dear Friends,

Can you imagine being abruptly ejected from the United States — and leaving behind your home, your children, your job, your bank account, and everything else you’ve spent years to build? Can you imagine what your children would feel when they arrived home and you’re gone?

Deportation can be a cataclysm for families and communities, destroying decades of hard-earned assets and rupturing family development. But with advanced planning, immigrant families can prevent an enormous amount of this damage.

That’s why Appleseed is proud to present an updated version of its 2012 Manual, “Protecting Assets and Child Custody in the Face of Deportation.” This one-of-a-kind resource is designed for immigrants and those who work with them; the host of attorneys, nurses, social workers, religious workers who are stepping up in challenging times.

Appleseed’s Manual will help families develop plans in advance to deal with critical financial and family issues in the event of deportation, arrest, and other family emergencies. It will help immigrant families deal with child custody and related children’s issues, personal finances, assets and personal property, remittance payments, wages and benefits, business issues, and taxes. And it includes special guidance for family and children’s issues, including professional advice for parents to help their families deal with painful psychological issues, and for immigrant survivors of domestic violence and sexual assault.

Make no mistake: for vulnerable immigrant families, advance planning can make all the difference. Once an immigrant is detained or deported from the United States, navigating a legal proceeding or managing assets is much more difficult, or even impossible, especially since immigration laws bar immigrants from reentering the United States after deportation for several years.

We are grateful to our pro bono law firms, volunteer psychologists, translation companies, and more than 20 nonprofit partners across the country who wrote, researched, proofread, and translated this manual into Spanish. We could simply not have done it without you. Thank you so much to Adams and Reese LLP, the Asian Pacific Institute on Gender-based Violence, ASISTA, Ballard Spahr LLP, BGBG Abogados, Cooley LLP, Directum Translations, Hogan Lovells LLP, Mexico Appleseed, the Mexico
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Immigrants come to the United States to build a better future and to unite with family members. Most have lived in the United States for many years, paying taxes and joining the daily life of their communities. Over time, immigrants buy homes, start businesses and build personal assets. When they build better lives, they make our country stronger.

That’s why this Manual is a labor of love for all who worked on it. We are committed to fairness and compassion for the millions of immigrants living in our country. Our hope is that you can use this resource to help them build better lives.

Sincerely,

Annette LoVoi, Director, Financial Access and Asset Building, Appleseed
Disclaimers

Each Chapter is intended to provide generalized information on a particular topic. In many cases, laws may differ from state to state. Therefore, this information is not intended to replace state-specific legal assistance. Nothing in this manual is intended to create an attorney-client or fiduciary relationship.

Appleseed recognizes and understands the legal term “alien,” used to describe any person born in another country to parents who are not American and who has not become a naturalized citizen, but is living or staying in the United States. However, throughout this Manual, we will primarily use the term “immigrant” in place of the term “alien” based on AP Stylebook guidance and the recommendations of our partners. The exception will be when citing laws, codes, or regulations that specifically use the term “alien.”
20. Veterans Benefits

It is possible for non-US citizens to serve in the U.S. Armed Forces and become entitled to veterans benefits. These honorably-discharged veterans can subsequently be convicted and imprisoned for commission of a felony. Unfortunately, if these veterans have not availed themselves of the process for expedited citizenship while they served on active duty or after their retirement, they can be subjected to removal (deportation) proceedings upon release from prison. This chapter addresses the following issues:

- Non-Citizens are Eligible to Serve in the U.S. Armed Forces
- Expedited Citizenship for Military Members and Their Families
- Veterans Benefits for Military Veterans, Dependents and Survivors
- Veterans to be Removed (Deported)
- Potential for Non-Citizen
- Loss of Benefits Because of a Veteran’s
- Felony Conviction and Imprisonment
- Veterans Benefits after Removal
- (Deportation)

Non-Citizens are Eligible to Serve in the U.S. Armed Forces

To enlist in any branch of the U.S. military, you must either be a U.S. citizen or a legal permanent resident with a green card physically living in the United States.

For enlistment purposes, citizens of the United States include citizens of Guam, Puerto Rico, the U.S. Virgin Islands, the Northern Marianas Islands, American Samoa, the Federated States of Micronesia, and the Republic of the Marshall Islands, as well as the 50 states.

Expedited Citizenship for Military Members and Their Families

Citizenship for Military Members

https://www.uscis.gov/military/citizenship-military-personnel-family-members/citizenship-military-members
Veterans Benefits for Military Veterans, Dependents and Survivors

Special Veterans Benefits (SSA)
Under certain circumstances, military veterans who served between 1940 and 2001 can be credited for special extra earnings for Social Security purposes. These extra earnings may help you qualify for Social Security or increase the amount of your Social Security benefit. Depending on the length and time frame of military service, some veterans may find that the benefit increase may be minimal. These special extra earnings are granted for periods of active duty or active duty for training. Special extra earnings are not granted for inactive duty training.

Veterans Administration (VA)
The benefits include health care, disability compensation, special monthly compensation, allowances and grants (related to disability), vocational rehabilitation and employment (for disabled), pensions and education. A thorough discussion can be found at:

Potential for Non-Citizen Veterans to be Removed (Deported)
Non-citizen veterans of military service may be subject to removal for a variety of reasons, including the commission of crimes worthy of imprisonment, engagement in terrorist activities and failure to comply with visa requirements. In a 2012 article by the Veterans United Network, federal authorities estimated anywhere from several hundred to as many as 3,000 men and women who served in the U.S. Armed Forces have been deported since 2007.

Loss of Benefits Because of a Veteran’s Felony Conviction and Imprisonment (Applies to All Veterans)

SSA Benefits
VA Benefits

Veterans could lose their VA benefits because of incarceration. For incarcerated veterans, a reduction or loss of benefits is determined by the crime committed and the resulting prison sentence, e.g. whether the offense was a felony or misdemeanor. Benefits commonly affected by a prison sentence include educational as well as disability entitlements. VA disability compensation payments are reduced if a veteran is convicted of a felony and imprisoned for more than 60 days. Veterans rated 20 percent or more are limited to the 10 percent disability rate. For a veteran whose disability rating is 10 percent, the payment is reduced by one-half. Unlike disability compensation, a disability pension will be lost completely regardless of the crime committed and the accompanying sentence. Payments will stop on the 61st day of incarceration. These payments may be collected again following a release from prison, but only if all VA eligibility requirements are again met. Inmates who are not receiving their benefits in prison can opt to have the payments sent to their spouse, children, or parents if they are dependents of the inmate. Whoever is to receive the benefit payments, must apply to get the money from the VA, because it will not be sent automatically. Benefits and compensation can be resumed on the date the inmate is released from prison. For this to happen, the Department of Veterans Affairs must be notified of the scheduled release date within one year of it. Furthermore, this release date must be confirmed with the VA 30 days from release. Education benefits are reduced but partially available during imprisonment. See, generally, [http://www.benefits.va.gov/persona/veteran-incarcerated.asp](http://www.benefits.va.gov/persona/veteran-incarcerated.asp)

Veterans Benefits after Removal (Deportation)

SSA Benefits

The removal of an immigrant may result in non-payment of Special Veterans Benefits (see section 804 of the Social Security Act). Suspension of benefits begins the month after the month that the SSA receives notice of their removal from the Secretary of Homeland Security, DHS, the Attorney General, or DOJ. Once the immigrant is subject to non-payment of benefits, payments cannot be reinstated until they are granted lawful admission for permanent residence in the United States subsequent to removal. Dependent or survivor benefits on a removed immigrant’s record cannot be paid for any month in which:

- Benefits are or would have been suspended; and
- The dependent or survivor is a non-US citizen; and
- The dependent or survivor was outside the United States at any time during the month, even if the absence was only for part of a day.
VA Benefits

The removal of an immigrant should not generally affect their VA Benefits, but it will require compliance with additional procedures. The VA should treat the veteran just as it treats other veterans who are living abroad. See, generally, http://www.benefits.va.gov/persona/veteran-abroad.asp.