

## **§ Sec. 214.2(a) Foreign government officials --**

(1) General. The determination by a consular officer prior to admission and the recognition by the Secretary of State subsequent to admission is evidence of the proper classification of a nonimmigrant under **section 101(a)(15)(A)** of the Act. An alien who has a nonimmigrant status under section 101(a)(15)(A) (i) or (ii) of the Act is to be admitted for the duration of the period for which the alien continues to be recognized by the Secretary of State as being entitled to that status. An alien defined in section (101)(a)(15)(A)(iii) of the Act is to be admitted for an initial period of not more than three years, and may be granted extensions of temporary stay in increments of not more than two years. In addition, the application for extension of temporary stay must be accompanied by a statement signed by the employing official stating that he/she intends to continue to employ the applicant and describing the type of work the applicant will perform.

(2) Definition of A - 1 or A - 2 dependent. For purposes of employment in the United States, the term "dependent" of an A - 1 or A - 2 principal alien, as used in Sec. 214.2(a), means any of the following immediate members of the family habitually residing in the same household as the principal alien who is an officer or employee assigned to a diplomatic or consular office in the United States:

(i) Spouse;

(ii) Unmarried children under the age of 21;

(iii) Unmarried sons or daughters under the age of 23 who are in full-time attendance as students at post-secondary educational institutions;

(iv) Unmarried sons or daughters under the age of 25 who are in full-time attendance as students at post-secondary educational institutions if a formal bilateral employment agreement permitting their employment in the United States was signed prior to November 21, 1988, and such bilateral employment agreement does not specify 23 as the maximum age for employment of such sons and daughters. The Office of Protocol of the Department of State shall maintain a listing of foreign states with which the United States has such bilateral employment agreements;

(v) Unmarried sons or daughters who are physically or mentally disabled to the extent that they cannot adequately care for themselves or cannot establish, maintain or re-establish their own households. The Department of State or the Service may require certification(s) as it deems sufficient to document such mental or physical disability; or (Amended 8/9/10; **75 FR 47699**)

(vi) An immediate family member of an A-1 or A-2 principal alien described in [22 CFR 41.21\(a\)\(3\)\(i\) to \(iv\)](#) with A-1 or A-2 nonimmigrant status, who falls within a category of aliens recognized by the Department of State as qualifying dependents. (Added 8/9/10; [75 FR 47699](#))

(3) Applicability of a formal bilateral agreement or an informal de facto arrangement for A - 1 or A - 2 dependents. The applicability of a formal bilateral agreement shall be based on the foreign state which employs the principal alien and not on the nationality of the principal alien or dependent. The applicability of an informal de facto arrangement shall be based on the foreign state which employs the principal alien, but under a de facto arrangement the principal alien also must be a national of the foreign state which employs him/her in the United States.

(4) Income tax, Social Security liability; non-applicability of certain immunities. Dependents who are granted employment authorization under this section are responsible for payment of all federal, state and local income, employment and related taxes and Social Security contributions on any remuneration received. In addition, immunity from civil or administrative jurisdiction in accordance with Article 37 of the Vienna Convention on Diplomatic Relations or other international agreements does not apply to these dependents with respect to matters arising out of their employment.

(5) Dependent employment pursuant to formal bilateral employment agreements and informal de facto reciprocal arrangements.

(i) The Office of Protocol shall maintain a listing of foreign states which have entered into formal bilateral employment agreements. Dependents of an A-1 or A-2 principal alien assigned to official duty in the United States may accept or continue in unrestricted employment based on such formal bilateral agreements upon favorable recommendation by the Department of State and issuance of employment authorization documentation by the Service in accordance with [8 CFR part 274a](#). The application procedures are set forth in paragraph (a)(6) of this section.

(ii) For purposes of this section, an informal de facto reciprocal arrangement exists when the Department of State determines that a foreign state allows appropriate employment on the local economy for dependents of certain United States officials assigned to duty in that foreign state. The Office of Protocol shall maintain a listing of countries with which such reciprocity exists. Dependents of an A-1 or A-2 principal alien assigned to official duty in the United States may be authorized to accept or continue in employment based upon informal de facto arrangements upon favorable recommendation by the Department of State and issuance of employment authorization by the Service in accordance with [8 CFR part 274a](#). Additionally, the procedures set forth in paragraph (a)(6) of this section must be complied with, and the following conditions must be met:

(A) Both the principal alien and the dependent desiring employment are maintaining A-1 or A-2 status as appropriate;

(B) The principal's assignment in the United States is expected to last more than six months;

(C) Employment of a similar nature for dependents of United States Government officials assigned to official duty in the foreign state employing the principal alien is not prohibited by that foreign state's government;

(D) The proposed employment is not in an occupation listed in the Department of Labor Schedule B (20 CFR part 656), or otherwise determined by the Department of Labor to be one for which there is an oversupply of qualified U.S. workers in the area of proposed employment. This Schedule B restriction does not apply to a dependent son or daughter who is a full-time student if the employment is part-time, consisting of not more than 20 hours per week, and/or if it is temporary employment of not more than 12 weeks during school holiday periods; and

(E) The proposed employment is not contrary to the interest of the United States. Employment contrary to the interest of the United States includes, but is not limited to, the employment of A-1 or A-2 dependents: who have criminal records; who have violated United States immigration laws or regulations, or visa laws or regulations; who have worked illegally in the United States; and/or who cannot establish that they have paid taxes and social security on income from current or previous United States employment.

(6) Application procedures. The following procedures are applicable to dependent employment applications under bilateral agreements and de facto arrangements:

(i) The dependent must submit a completed Form I-566 to the Department of State through the office, mission, or organization which employs his/her principal alien. A dependent applying under paragraph (a)(2)(iii) or (iv) of this section must submit a certified statement from the post-secondary educational institution confirming that he/she is pursuing studies on a full-time basis. A dependent applying under paragraph (a)(2)(v) of this section must submit medical certification regarding his/her condition. The certification should identify the dependent and the certifying physician and give the physician's phone number; identify the condition, describe the symptoms and provide a prognosis; and certify that the dependent is unable to maintain a home of his or her own. Additionally, a dependent applying under the terms of a de facto arrangement must attach a statement from the prospective employer which includes the dependent's name; a description of the position offered and the duties to be performed; the salary offered; and verification that the dependent possesses the qualifications for the position.

(ii) The Department of State reviews and verifies the information provided, makes its determination, and endorses the Form I-566.

(iii) If the Department of State's endorsement is favorable, the dependent may apply to USCIS for employment authorization. When applying to USCIS for employment authorization, the dependent must present his or her Form I-566 with a favorable endorsement from the

Department of State and any additional documentation as may be required by the Secretary.  
(Revised effective 7/6/09; [74 FR 26933](#).)

(7) Period of time for which employment may be authorized. If approved, an application to accept or continue employment under this section shall be granted in increments of not more than three years each.

(8) No appeal. There shall be no appeal from a denial of permission to accept or continue employment under this section.

(9) Dependents or family members of principal aliens classified A - 3. A dependent or family member of a principal alien classified A - 3 may not be employed in the United States under this section.

(10) Unauthorized employment. An alien classified under [section 101\(a\)\(15\)\(A\)](#) of the Act who is not a principal alien and who engages in employment outside the scope of, or in a manner contrary to this section, may be considered in violation of section [241\(a\)\(1\)\(C\)](#) (i) of the Act. An alien who is classified under section [101\(a\)\(15\)\(A\)](#) of the Act who is a principal alien and who engages in employment outside the scope of his/her official position may be considered in violation of section 241(a)(1)(C)(i) of the Act.

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