Subpart C—Foreign Government Officials

§ 41.21 Foreign Officials—General.

(a) Definitions. In addition to pertinent INA definitions, the following definitions are applicable:

(1) Accredited, as used in INA 101(a)(15)(A), 101(a)(15)(G), and 212(d)(8), means an alien holding an official position, other than an honorary official position, with a government or international organization and possessing a travel document or other evidence of intention to enter or transit the United States to transact official business for that government or international organization.

(2) Attendants, as used in INA 101(a)(15)(A)(ii), 101(a)(15)(G)(v), and 212(d)(8), and in the definition of the NATO–7 visa symbol, means aliens paid from the public funds of a foreign government or from the funds of an international organization, accompanying or following to join the principal alien to whom a duty or service is owed.

(3) Immediate family, as used in INA 101(a)(15)(A), 101(a)(15)(G), and 212(d)(8), and in classification under the NATO–7 visa symbol, means:

- Spouse or Child of a Lawful Permanent Resident Alien Awaiting Availability of Immigrant Visa.
- Spouse or Child of a Lawful Permanent Resident Alien Awaiting Availability of Immigrant Visa.
- Child of a Lawful Permanent Resident Alien Awaiting Availability of Immigrant Visa.
- Unmarried Sibling under age 18 of a U.S. citizen.
- Unmarried Sibling under age 18 of a lawful permanent resident.
- Spouse of a U.S. citizen
- Spouse of a lawful permanent resident
- Spouse or Child of an Alien with Extraordinary Ability in Sciences, Arts, Education, Business or Athletics
- Child of an Alien with Extraordinary Ability in Sciences, Arts, Education, Business or Athletics
- Spouse of an Alien with Extraordinary Ability in Sciences, Arts, Education, Business or Athletics
- Parent of an Alien with Extraordinary Ability in Sciences, Arts, Education, Business or Athletics
- Spouse or Child of an Alien in a Religious Occupation
- Child of an Alien in a Religious Occupation
- Parent of an Alien in a Religious Occupation
- Son or Daughter of an Alien who is an International Military Headquarters Attendant, Servant, or Personal Employee of an Allied Headquarters Under the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty and Their Dependents

(b) Definition of Class. The definitions of the various classes in this subpart are as follows:

<table>
<thead>
<tr>
<th>Symbol</th>
<th>Class</th>
<th>Section of law</th>
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</thead>
<tbody>
<tr>
<td>TD</td>
<td>Spouse or Child of NAFTA Professional</td>
<td>214(e)(2)</td>
</tr>
<tr>
<td>TN</td>
<td>NAFTA Professional</td>
<td>Art. 1, 4 UST 1794; Art. 3, 5 UST 877.</td>
</tr>
<tr>
<td>V2</td>
<td>Child of a Lawful Permanent Resident Alien Awaiting Availability of Immigrant Visa.</td>
<td>203(d) &amp; 101(a)(15)(V)(i) or 101(a)(15)(V)(ii)</td>
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</tbody>
</table>
1 through NATO–5 visa symbols, means the spouse and unmarried sons and daughters, whether by blood or adoption, who are not members of some other household, and who will reside regularly in the household of the principal alien. Under the INA 101(a)(15)(A) and 101(a)(15)(G) visa classifications, “immediate family” also includes individuals who:

(i) Are not members of some other household;
(ii) Will reside regularly in the household of the principal alien;
(iii) Are recognized as immediate family members of the principal alien by the sending Government as demonstrated by eligibility for rights and benefits, such as the issuance of a diplomatic or official passport, or travel or other allowances; and
(iv) Are individually authorized by the Department.

(4) Servants and personal employees, as used in INA 101(a)(15)(A)(iii), 101(a)(15)(G)(v), and 212(d)(8), and in classification under the NATO–7 visa symbol, means aliens employed in a domestic or personal capacity by a principal alien, who are paid from the private funds of the principal alien and seek to enter the United States solely for the purpose of such employment.

(b) Exception to passport validity requirement for aliens in certain A, G, and NATO classes. A nonimmigrant alien for whom the passport requirement of INA 212(a)(7)(B)(i)(I) has not been waived and who is within one of the classes:

(1) Described in INA 101(a)(15)(A)(i) and (ii); or
(2) Described in INA 101(a)(15)(G)(i), (ii), (iii), and (iv); or
(3) NATO–1, NATO–2, NATO–3, NATO–4, or NATO–6 may present a passport which is valid only for a sufficient period to enable the alien to apply for admission at a port of entry prior to its expiration.

(c) Grounds for refusal of visas applicable to certain A, C, G, and NATO classes. (1) An A–1 or A–2 visa may not be issued to an alien the Department has determined to be persona non grata.

(2) Only the provisions of INA 212(a) cited below apply to the indicated classes of nonimmigrant visa applicants:

(i) Class A–1: INA 212(a) (3)(A), (3)(B), and (3)(C); (ii) Class A–2: INA 212(a) (3)(A), (3)(B), and (3)(C); (iii) Classes C–2 and C–3: INA 212(a) (3)(A), (3)(B), (3)(C), and (7)(B); (iv) Classes G–1, G–2, G–3, and G–4: INA 212(a) (3)(A), (3)(B), and (3)(C); (v) Classes NATO–1, NATO–2, NATO–3, NATO–4, and NATO–6: INA 212(a) (3)(A), (3)(B), and (3)(C); (3) An alien within class A–3 or G–5 is subject to all grounds of refusal specified in INA 212 which are applicable to nonimmigrants in general.

(4) Notwithstanding the provisions of Section 5(a) and consistent with Section 5(f)(2) of the Tom Lantos Block Burmese JADE (Junta’s Anti-Democratic Efforts) Act of 2008, Public Law 110–286, visas may be issued to visa applicants who are otherwise ineligible for a visa to travel to the United States under section 5(a)(1) of the Act:

(i) To permit the United States and Burma to operate their diplomatic missions, and to permit the United States to conduct other official United States Government business in Burma; (ii) To permit the United States to comply with the United Nations Headquarters Agreement and other applicable international agreements.

§ 41.22 Officials of foreign governments.

(a) Criteria for classification of foreign government officials in transit. An alien classified C–3 under INA 212(d)(8) needs to present only a valid unexpired visa and a travel document which is valid for entry into a foreign country for at least 30 days from the date of application for admission into the United States.