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214.3(f), (g), (j), (k), and (l) until its SEVIS access termination date.

(2) *SEVIS access termination.* In determining the SEVIS access termination date, SEVP will consider the impact that such date will have upon SEVP, the school, and the school's nonimmigrant students in determining the SEVIS access termination date. In most situations, SEVP will not determine a SEVIS access termination date for that school until the appeals process has concluded and the initial denial or withdrawal has been upheld unless a school whose certification is withdrawn or whose recertification is denied is suspected of criminal activity or poses a potential national security threat. The school will no longer be able to access SEVIS, and SEVP will automatically terminate any remaining Active SEVIS records for that school on the SEVIS access termination date.

(3) *Legal obligations and ramifications for a school and its DSOs when a school is having SEVP certification denied or withdrawn.* Schools are obligated to their students to provide the programs of study to which they have committed themselves in the students' application for enrollment and acceptance process. Schools are obligated to the U.S. government to comply with the recordkeeping, retention, reporting and other requirements contained in 8 CFR 214.3. With any new petition for SEVP certification, SEVP will consider the extent to which a school has fulfilled these obligations to students and the U.S. government during any previous period of SEVP certification.

[37 FR 17463, Aug. 29, 1972, as amended at 48 FR 14592, Apr. 5, 1983; 48 FR 19867, May 3, 1983; 48 FR 22131, May 17, 1983; 49 FR 41015, Oct. 19, 1984; 50 FR 9991, Mar. 13, 1985; 54 FR 19544, May 8, 1989; 55 FR 41988, Oct. 17, 1990; 67 FR 60112, Sept. 25, 2002; 73 FR 55702, Sept. 26, 2008]

§ 214.5 Libyan and third country nationals acting on behalf of Libyan entities.

(a) Notwithstanding any other provision of this title, the nonimmigrant status of any Libyan national, or of any other foreign national acting on behalf of a Libyan entity, who is engaging in aviation maintenance, flight operations, or nuclear-related studies or training is terminated.

(b) Notwithstanding any other provision of this chapter, the following benefits will not be available to any Libyan national or any other foreign national acting on behalf of a Libyan entity where the purpose is to engage in, or seek to obtain aviation maintenance, flight operations or nuclear-related studies or training:

(1) Application for school transfer.

(2) Application for extension of stay.

(3) Employment authorization or practical training.

(4) Request for reinstatement of student status.

(5) Application for change of nonimmigrant status.

(Secs. 103, 212, 214, 248; 8 U.S.C. 1103, 1182, 1184, 1258)

[48 FR 10297, Mar. 3, 1983]

§ 214.6 Citizens of Canada or Mexico seeking temporary entry under NAFTA to engage in business activities at a professional level.

(a) *General.* Under section 214(e) of the Act, a citizen of Canada or Mexico who seeks temporary entry as a business person to engage in business activities at a professional level may be admitted to the United States in accordance with the North American Free Trade Agreement (NAFTA).

(b) *Definitions.* As used in this section, the terms:

Business activities at a professional level means those undertakings which require that, for successful completion, the individual has a least a baccalaureate degree or appropriate credentials demonstrating status as a professional in a profession set forth in Appendix 1603.D.1 of the NAFTA.

Business person, as defined in the NAFTA, means a citizen of Canada or Mexico who is engaged in the trade of goods, the provision of services, or the conduct of investment activities.

Engage in business activities at a professional level means the performance of prearranged business activities for a United States entity, including an individual. It does not authorize the establishment of a business or practice in the United States in which the professional will be, in substance, self-employed. A professional will be deemed

to be self-employed if he or she will be rendering services to a corporation or entity of which the professional is the sole or controlling shareholder or owner.

Temporary entry, as defined in the NAFTA, means entry without the intent to establish permanent residence. The alien must satisfy the inspecting immigration officer that the proposed stay is temporary. A temporary period has a reasonable, finite end that does not equate to permanent residence. In order to establish that the alien's entry will be temporary, the alien must demonstrate to the satisfaction of the inspecting immigration officer that his or her work assignment in the United States will end at a predictable time and that he or she will depart upon completion of the assignment.

(c) *Appendix 1603.D.1 to Annex 1603 of the NAFTA.* Pursuant to the NAFTA, an applicant seeking admission under this section shall demonstrate business activity at a professional level in one of the professions set forth in Appendix 1603.D.1 to Annex 1603. The professions in Appendix 1603.D.1 and the minimum requirements for qualification for each are as follows: [1]

APPENDIX 1603.D.1 (ANNOTATED)

—Accountant—Baccalaureate or Licenciatura Degree; or C.P.A., C.A., C.G.A., or C.M.A.

—Architect—Baccalaureate or Licenciatura Degree; or state/provincial license. [2]

—Computer Systems Analyst—Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma [3] or Post Secondary Certificate [4] and three years' experience.

—Disaster relief insurance claims adjuster (claims adjuster employed by an insurance company located in the territory of a Party, or an independent claims adjuster)—Baccalaureate or Licenciatura Degree and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or three years experience in claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims.

—Economist—Baccalaureate or Licenciatura Degree.

—Engineer—Baccalaureate or Licenciatura Degree; or state/provincial license.

—Forester—Baccalaureate or Licenciatura Degree; or state/provincial license.

—Graphic Designer—Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate and three years experience.

—Hotel Manager—Baccalaureate or Licenciatura Degree in hotel/restaurant management; or Post-Secondary Diploma or Post Secondary Certificate in hotel/restaurant management and three years experience in hotel/restaurant management.

—Industrial Designer—Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post Secondary Certificate, and three years experience.

—Interior Designer—Baccalaureate or Licenciatura Degree or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience.

—Land Surveyor—Baccalaureate or Licenciatura Degree or state/provincial/federal license.

—Landscape Architect—Baccalaureate or Licenciatura Degree.

—Lawyer (including Notary in the province of Quebec)—L.L.B., J.D., L.L.L., B.C.L., or Licenciatura degree (five years); or membership in a state/provincial bar.

—Librarian—M.L.S., or B.L.S. (for which another Baccalaureate or Licenciatura Degree was a prerequisite).

—Management Consultant—Baccalaureate or Licenciatura Degree; or equivalent professional experience as established by statement or professional credential attesting to five years experience as a management consultant, or five years experience in a field of specialty related to the consulting agreement.

[1] A business person seeking temporary employment under this Appendix may also perform training functions relating to the profession, including conducting seminars.

[2] The terms ''state/provincial license'' and ''state/provincial/federal license'' mean any document issued by a state, provincial, or federal government, as the case may be, or under its authority, but not by a local government, that permits a person to engage in a regulated activity or profession.

[3] ''Post Secondary Diploma'' means a credential issued, on completion of two or more years of post secondary education, by an accredited academic institution in Canada or the United States.

[4] ''Post Secondary Certificate'' means a certificate issued, on completion of two or more years of post secondary education at an academic institution, by the federal government of Mexico or a state government in Mexico, an academic institution recognized by the federal government or a state government, or an academic institution created by federal or state law.

—Mathematician (including Statistician)—Baccalaureate or Licenciatura Degree.[5]
—Range Manager/Range Conservationist—Baccalaureate or Licenciatura Degree.
—Research Assistant (working in a post-secondary educational institution)—Baccalaureate or Licenciatura Degree.
—Scientific Technician/Technologist[6]—Possession of (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology, or physics; and (b) the ability to solve practical problems in any of those disciplines, or the ability to apply principles of any of those disciplines to basic or applied research.
—Social Worker—Baccalaureate or Licenciatura Degree.
—Sylviculturist (including Forestry Specialist)—Baccalaureate or Licenciatura Degree.
—Technical Publications Writer—Baccalaureate or Licenciatura Degree, or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience.
—Urban Planner (including Geographer)—Baccalaureate or Licenciatura Degree.
—Vocational Counselor—Baccalaureate or Licenciatura Degree.

Medical/Allied Professionals

—Dentist—D.D.S., D.M.D., Doctor en Odontologia or Doctor en Cirugia Dental or state/provincial license.
—Dietitian—Baccalaureate or Licenciatura Degree; or state/provincial license.
—Medical Laboratory Technologist (Canada)/Medical Technologist (Mexico and the United States)[7]—Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience.
—Nutritionist—Baccalaureate or Licenciatura Degree.
—Occupational Therapist—Baccalaureate or Licenciatura Degree; or state/provincial license.
—Pharmacist—Baccalaureate or Licenciatura Degree; or state/provincial license.
—Physician (teaching or research only)—M.D. Doctor en Medicina; or state/provincial license.
—Physiotherapist/Physical Therapist—Baccalaureate or Licenciatura Degree; or state/provincial license.
—Psychologist—state/provincial license; or Licenciatura Degree.
—Recreational Therapist-Baccalaureate or Licenciatura Degree.
—Registered nurse—state/provincial license or Licenciatura Degree.
—Veterinarian—D.V.M., D.M.V., or Doctor en Veterinaria; or state/provincial license.

—SCIENTIST

—Agriculturist (including Agronomist)—Baccalaureate or Licenciatura Degree.
—Animal Breeder—Baccalaureate or Licenciatura Degree.
—Animal Scientist—Baccalaureate or Licenciatura Degree.
—Apiculturist—Baccalaureate or Licenciatura Degree.
—Astronomer—Baccalaureate or Licenciatura Degree.
—Biochemist—Baccalaureate or Licenciatura Degree.
—Biologist—Baccalaureate or Licenciatura Degree.[8]
—Chemist—Baccalaureate or Licenciatura Degree.
—Dairy Scientist—Baccalaureate or Licenciatura Degree.
—Entomologist—Baccalaureate or Licenciatura Degree.
—Epidemiologist—Baccalaureate or Licenciatura Degree.
—Geneticist—Baccalaureate or Licenciatura Degree.
—Geochemist—Baccalaureate or Licenciatura Degree.
—Geologist—Baccalaureate or Licenciatura Degree.
—Geophysicist (including Oceanographer in Mexico and the United States)—Baccalaureate or Licenciatura Degree.
—Horticulturist—Baccalaureate or Licenciatura Degree.
—Meteorologist—Baccalaureate or Licenciatura Degree.
—Pharmacologist—Baccalaureate or Licenciatura Degree.

[5] The term ''Mathematician'' includes the profession of Actuary. An Actuary must satisfy the necessary requirements to be recognized as an actuary by a professional actuarial association or society. A professional actuarial association or society means a professional actuarial association or society operating in the territory of at least one of the Parties.

[6] A business person in this category must be seeking temporary entry for work in direct support of professionals in agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics.

[7] A business person in this category must be seeking temporary entry to perform in a laboratory chemical, biological, hematological, immunologic, microscopic or bacteriological tests and analyses for diagnosis, treatment, or prevention of diseases.

[8] The term ''Biologist'' includes the profession of Plant Pathologist.

—Physicist (including Oceanographer in Canada—Baccalaureate or Licenciatura Degree.
—Plant Breeder—Baccalaureate or Licenciatura Degree.
—Poultry Scientist—Baccalaureate or Licenciatura Degree.
—Soil Scientist—Baccalaureate or Licenciatura Degree.
—Zoologist—Baccalaureate or Licenciatura Degree.
—TEACHER
—College—Baccalaureate or Licenciatura Degree.
—Seminary—Baccalaureate or Licenciatura Degree.
—University—Baccalaureate or Licenciatura Degree.

(d) *Classification of citizens of Canada or Mexico as TN professionals under the NAFTA*—(1) *Citizens of Mexico*. A citizen of Mexico who seeks temporary entry as a business person to engage in business activities at a professional level may be admitted to the United States in accordance with NAFTA upon presentation of a valid passport and valid TN nonimmigrant visa at a United States Class A port-of-entry, at a United States airport handling international traffic, or at a United States pre-clearance/pre-flight station.

(2) *Citizens of Canada*. A citizen of Canada seeking temporary entry as a business person to engage in business activities at a professional level shall make application for admission with a Department officer at the United States Class A port-of-entry, at a United States airport handling international traffic, or at a United States pre-clearance/pre-flight station.

(3) *Documentation*. Upon application for a visa at a United States consular office, or, in the case of a citizen of Canada making application for admission at a port-of-entry, an applicant under this section shall present the following:

(i) *Proof of citizenship*. A Mexican citizen applying for admission as a TN nonimmigrant must establish such citizenship by presenting a valid passport. Canadian citizens, while not required to present a valid passport for admission unless traveling from outside the Western hemisphere, must establish Canadian citizenship.

(ii) *Documentation demonstrating engagement in business activities at a professional level and demonstrating professional qualifications*. The applicant must present documentation sufficient to satisfy the consular officer (in the case of a Mexican citizen) or the Department officer (in the case of a Canadian citizen) that the applicant is seeking entry to the United States to engage in business activities for a United States employer(s) or entity(ies) at a professional level, and that the applicant meets the criteria to perform at such a professional level. This documentation may be in the form of a letter from the prospective employer(s) in the United States or from the foreign employer, and must be supported by diplomas, degrees or membership in a professional organization. Degrees received by the applicant from an educational institution not located within Canada, Mexico, or the United States must be accompanied by an evaluation by a reliable credentials evaluation service which specializes in evaluating foreign educational credentials. The documentation shall fully affirm:

(A) The Appendix 1603.D.1 profession of the applicant;

(B) A description of the professional activities, including a brief summary of daily job duties, if appropriate, in which the applicant will engage in for the United States employer/entity;

(C) The anticipated length of stay;

(D The educational qualifications or appropriate credentials which demonstrate that the Canadian or Mexican citizen has professional level status; and

(E) The arrangements for remuneration for services to be rendered.

(e) *Procedures for admission*. A citizen of Canada or Mexico who qualifies for admission under this section shall be provided confirming documentation and shall be admitted under the classification symbol TN for a period not to exceed three years. The conforming document provided shall bear the legend ''multiple entry.'' The fee prescribed under 8 CFR 103.7(b)(1) shall be remitted by Canadian Citizens upon admission to the United States pursuant to the terms and conditions of the NAFTA. Upon remittance of the prescribed fee, the TN applicant for admission shall be provided a DHS-issued receipt on the appropriate form.

(f) [Reserved]

(g) *Readmission.* (1) *With a Form I–94.* An alien may be readmitted to the United States in TN classification for the remainder of the authorized period of TN admission on Form I–94 (see §1.4), without presentation of the letter or supporting documentation described in paragraph (d)(3) of this section, and without the prescribed fee set forth in 8 CFR 103.7(b)(1), provided that the original intended professional activities and employer(s) have not changed, and the Form I–94 has not expired.

(2) *Without a valid I–94.* If the alien seeking readmission to the United States in TN classification is no longer in possession of a valid, unexpired Form I–94, and the period of initial admission in TN classification has not lapsed, then a new Form I–94 may be issued for the period of validity that remains on the TN nonimmigrant's original Form I–94 with the legend ''multiple entry'' and the alien can then be readmitted in TN status if the alien presents alternate evidence as follows:

(i) For Canadian citizens, alternate evidence may include, but is not limited to, a fee receipt for admission as a TN or a previously issued admission stamp as TN in a passport, and a confirming letter from the United States employer(s).

(ii) For Mexican citizens seeking readmission as TN nonimmigrants, alternate evidence shall consist of presentation of a valid unexpired TN visa and evidence of a previous admission.

(h) *Extension of stay.* (1) *Filing.* A United States employer of a citizen of Canada or Mexico who is currently maintaining valid TN nonimmigrant status, or a United States entity (in the case of a citizen of Canada or Mexico who is currently maintaining valid TN nonimmigrant status and is employed by a foreign employer), may request an extension of stay, subject to the following conditions:

(i) An extension of stay must be requested by filing the appropriate form with the fee provided at 8 CFR 103.7(b)(1), in accordance with the form instructions with USCIS.

(ii) The beneficiary must be physically present in the United States at the time of the filing of the appropriate form requesting an extension of stay as a TN nonimmigrant. If the alien is required to leave the United States for any reason while the petition is pending, the petitioner may request that USCIS notify the consular office where the beneficiary is required to apply for a visa or, if visa exempt, a DHS-designated port-of-entry where the beneficiary will apply for admission to the United States, of the approval.

(iii) An extension of stay in TN status may be approved by USCIS for a maximum period of three years.

(iv) There is no specific limit on the total period of time an alien may be in TN status provided the alien continues to be engaged in TN business activities for a U.S. employer or entity at a professional level, and otherwise continues to properly maintain TN nonimmigrant status.

(2) *Readmission at the border.* Nothing in paragraph (h)(1) of this section shall preclude a citizen of Canada or Mexico who has previously been admitted to the United States in TN status, and who has not violated such status while in the United States, from applying at a DHS-designated port-of-entry, prior to the expiration date of the previous period of admission, for a new three-year period of admission. The application for a new period of admission must be supported by a new letter from the United States employer or the foreign employer, in the case of a citizen of Canada who is providing prearranged services to a United States entity, which meets the requirements of paragraph (d) of this section, together with the appropriate filing fee as noted in 8 CFR 103.7(b)(1). Citizens of Mexico must present a valid passport and a valid, unexpired TN nonimmigrant visa when applying for readmission, as outlined in paragraph (d)(1) of this section.

(i) *Request for change or addition of United States employers*—(1) *Filing at the service center.* A citizen of Canada or Mexico admitted into the United States as a TN nonimmigrant who seeks to change or add a United States employer during the period of admission must have the new employer file a Form I–129 with appropriate supporting documentation, including a letter from the new employer describing the services to be performed, the time needed

to render such services, and the terms of remuneration for services. Employment with a different or with an additional employer is not authorized prior to Department approval of the request.

(2) *Readmission at the border.* Nothing in paragraph (i)(1) of those section precludes a citizen of Canada or Mexico from applying for readmission to the United States for the purpose of presenting documentation from a different or additional United States or foreign employer. Such documentation shall meet the requirements prescribed in paragraph (d) of this section. The fee prescribed under 8 CFR 103.7(b)(1) shall be remitted by Canadian citizens upon admission to the United States pursuant to the terms and conditions of the NAFTA. Citizens of Mexico may present documentation from a different or additional United States or foreign employer to a consular officer as evidence in support of a new nonimmigrant TN visa application.

(3) No action shall be required on the part of a citizen of Canada or Mexico in TN status who is transferred to another location by the same United States employer to perform the same services. Such an acceptable transfer would be to a branch or office of the employer. In a case of a transfer to a separately incorporated subsidiary or affiliate, the requirements of paragraphs (i)(1) and (i)(2) of this section will apply.

(j) *Spouse and unmarried minor children accompanying or following to join.* (1) The spouse or unmarried minor children of a citizen of Canada or Mexico admitted in TN nonimmigrant status, if otherwise admissible, may be admitted initially, readmitted, or granted a change of nonimmigrant status or an extension of his or her period of stay for the same period of time granted to the TN nonimmigrant. Such spouse or unmarried minor children shall, upon approval of an application for admission, readmission, change of status or extension of stay be classified as TD nonimmigrants. A request for a change of status to TD or an extension of stay of a TD nonimmigrant may be made on the appropriate form together with appropriate filing fees and evidence of the principal alien's current TN status.

(2) The spouse or unmarried minor children of a citizen of Canada or Mexico admitted in TN nonimmigrant status shall be required to present a valid, unexpired TD nonimmigrant visa unless otherwise exempt under 8 CFR 212.1.

(3) The spouse and unmarried minor children of a citizen of Canada or Mexico admitted in TN nonimmigrant status shall be issued confirming documentation bearing the legend ''multiple entry.'' There shall be no fee required for admission of the spouse and unmarried minor children.

(4) The spouse and unmarried minor children of a citizen of Canada or Mexico admitted in TN nonimmigrant status shall not accept employment in the United States unless otherwise authorized under the Act.

(k) *Effect of a strike.* (1) If the Secretary of Labor certifies or otherwise informs the Director of USCIS that a strike or other labor dispute involving a work stoppage of workers is in progress, and the temporary entry of a citizen of Mexico or Canada in TN nonimmigrant status may adversely affect the settlement of any labor dispute or the employment of any person who is involved in such dispute, the United States may refuse to issue an immigration document authorizing the entry or employment of such an alien.

(2) If the alien has already commenced employment in the United States and is participating in a strike or other labor dispute involving a work stoppage of workers, whether or not such strike or other labor dispute has been certified by the Department of Labor, or whether USCIS has been otherwise informed that such a strike or labor dispute is in progress, the alien shall not be deemed to be failing to maintain his or her status solely on account of past, present, or future participation in a strike or other labor dispute involving a work stoppage of workers, but is subject to the following terms and conditions:

(i) The alien shall remain subject to all applicable provisions of the Immigration and Nationality Act and regulations promulgated in the same manner as all other TN nonimmigrants;

(ii) The status and authorized period of stay of such an alien is not modified

or extended in any way by virtue of his or her participation in a strike or other labor dispute involving a work stoppage of workers; and

(iii) Although participation by a TN nonimmigrant alien in a strike or other labor dispute involving a work stoppage of workers will not constitute a ground for removal, any alien who violates his or her status or who remains in the United States after his or her authorized period of stay has expired will be subject to removal.

(3) If there is a strike or other labor dispute involving a work stoppage of workers in progress but such strike or other labor dispute is not certified under paragraph (k)(1) of this section, or USCIS has not otherwise been informed by the Secretary that such a strike or labor dispute is in progress, Director of USCIS shall not deny a petition or deny entry to an applicant for TN status based upon such strike or other labor dispute.

[58 FR 69212, Dec. 30, 1993, as amended at 63 FR 1335, Jan. 9, 1998; 69 FR 11289, Mar. 10, 2004; 69 FR 60941, Oct. 13, 2004; 73 FR 61334, Oct. 16, 2008; 78 FR 18472, Mar. 27, 2013]

§ 214.7 Habitual residence in the territories and possessions of the United States and consequences thereof.

(a) *Definitions.* As used in this section, the term:

(1) *Compacts* means the agreements of free association between the United States and the governments of the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau, approved by Public Law 99–239 with respect to the governments of the Republic of the Marshall Islands and the Federated States of Micronesia, and by Public Law 99–658, with respect to Palau.

(2) *Freely associated states (FAS)* means the following parts of the former Trust Territories of the Pacific Islands, namely, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

(3) *Territories and possessions of the United States* means all territories and possessions of the United States to which the Act applies, including those commonwealths of the United States that are not States. It does not include American Samoa, as long as the Act does not apply to it.

(4)(i) *Habitual resident* means a citizen of the FAS who has been admitted to a territory or possession of the United States (other than American Samoa, as long as the Act is not applicable to it) pursuant to section 141(a) of the Compacts and who occupies in such territory or possession a habitual residence as that term is defined in section 461 of the Compacts, namely a place of general abode or a principal, actual dwelling place of a continuing or lasting nature. The term ''habitual resident'' does not apply to:

(A) A person who has established a continuing residence in a territory or possession of the United States, but whose cumulative physical presence in the United States amounts to less than 365 days; or

(B) A dependent of a resident representative described in section 152 of the Compacts; or

(C) A person who entered the United States for the purpose of full-time studies as long as such person maintains that status.

(ii) Since the term ''habitual'' resident requires that the person have entered the United States pursuant to section 141(a) of the Compacts, the term does not apply to FAS citizens whose presence in the territories or possessions is based on an authority other than section 141(a), such as:

(A) Members of the Armed Forces of the United States described in 8 CFR § 235.1(c);

(B) Persons lawfully admitted for permanent residence in the United States; or

(C) Persons having nonimmigrant status whose entry into the United States is based on provisions of the Compacts or the Act other than section 141(a) of the Compacts.

(5) *Dependent* means a citizen of the FAS, as defined in section 141(a) of the Compacts, who:

(i) Is a habitual resident;

(ii) Resides with a principal habitual resident;

(iii) Relies for financial support on that principal habitual resident; and

(iv) Is either the parent, spouse, or unmarried child under the age of 21 of the principal habitual resident or the