

Department of State

§ 46.1

(d) An alien who seeks a redetermination of admissibility pursuant to paragraph (a) of this section shall not be found to be admissible unless he or she:

(1) Has continued to be employed by the petitioning entity in a qualifying position since issuance of the visa and presents a letter describing the specific qualifying employment the alien will take up upon admission for permanent residence; or

(2) Is the spouse or child accompanying or following to join such an alien.

(e) For the purposes of this section, "qualifying position" shall include both the position occupied by the alien at the time the petition in the alien's behalf was approved and any other position within the petitioning entity's organization, regardless of geographical location, which would otherwise meet the requirements for approval of such a petition in the alien's behalf. For the purposes of this section, *qualifying employment* shall mean any position in the United States of the kind required for approval of such a petition.

[56 FR 32506, July 17, 1991, as amended at 61 FR 1837, Jan. 24, 1996]

§ 45.6 Issuance of immigrant visa upon redetermination of admissibility.

When an alien to whom an immigrant visa having extended validity has been issued pursuant to § 45.5 of this part applies for a redetermination of admissibility and the consular officer determines that the alien remains admissible to the United States, the consular officer shall issue to the alien a new immigrant visa valid for a period of four months. The applicant shall execute a new application and provide the necessary current supporting documents. The applicant shall pay a new issuance fee. The consular officer shall insert the word "DUPLICATE" on Form OF-155A before the word "IMMIGRANT" on each immigrant visa issued pursuant to this section.

PART 46—CONTROL OF ALIENS DEPARTING FROM THE UNITED STATES

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AUTHORITY: Secs. 104, 215, 66 Stat. 174, 190; 8 U.S.C. 1104, 1185.

§ 46.1 Definitions.

For the purposes of this part:

(a) The term *alien* means any person who is not a citizen or national of the United States.

(b) The term *Commissioner* means the Commissioner of Immigration and Naturalization.

(c) The term *regional commissioner* means an officer of the Immigration and Naturalization Service duly appointed or designated as a regional commissioner, or an officer who has been designated to act as a regional commissioner.

(d) The term *district director* means an officer of the Immigration and Naturalization Service duly appointed or designated as a district director, or an officer who has been designated to act as a district director.

(e) The term *United States* means the several States, the District of Columbia, the Canal Zone, Puerto Rico, the Virgin Islands, Guam, American Samoa, Swains Island, the Trust Territory of the Pacific Islands, and all other territory and waters, continental and insular, subject to the jurisdiction of the United States.

(f) The term *continental United States* means the District of Columbia and the several States, except Alaska and Hawaii.

(g) The term *geographical part of the United States* means (1) the continental United States, (2) Alaska, (3) Hawaii, (4) Puerto Rico, (5) the Virgin Islands, (6) Guam, (7) the Canal Zone, (8) American Samoa, (9) Swains Island, or (10) the Trust Territory of the Pacific Islands.

(h) The term *depart from the United States* means depart by land, water, or air (1) from the United States for any foreign place, or (2) from one geographical part of the United States for a separate geographical part of the United States: *Provided*, That a trip or journey upon a public ferry, passenger vessel sailing coastwise on a fixed schedule, excursion vessel, or aircraft, having both termini in the continental United States or in any one of the other geographical parts of the United States and not touching any territory or waters under the jurisdiction or control of a foreign power, shall not be deemed a departure from the United States.

(i) The term *departure-control officer* means any immigration officer as defined in the regulations of the Immigration and Naturalization Service who is designated to supervise the departure of aliens, or any officer or employee of the United States designated by the Governor of the Canal Zone, the High Commissioner of the Trust Territory of the Pacific Islands, or the governor of an outlying possession of the United States, to supervise the departure of aliens.

(j) The term *port of departure* means a port in the continental United States, Alaska, Guam, Hawaii, Puerto Rico or the Virgin Islands, designated as a port of entry by the Attorney General or by the Commissioner, or in exceptional circumstances such other place as the departure-control officer may, in his discretion, designate in an individual case, or a port in American Samoa, Swains Island, the Canal Zone, or the Trust Territory of the Pacific Islands, designated as a port of entry by the chief executive officer thereof.

(k) The term *special inquiry officer* shall have the meaning ascribed therein in section 101(b)(4) of the Immigration and Nationality Act.

[22 FR 10827, Dec. 27, 1957, as amended at 25 FR 7022, July 23, 1960]

§ 46.2 Authority of departure-control officer to prevent alien's departure from the United States.

(a) No alien shall depart, or attempt to depart, from the United States if his departure would be prejudicial to the interests of the United States under

the provisions of § 46.3. Any departure-control officer who knows or has reason to believe that the case of an alien in the United States comes within the provisions of § 46.3 shall temporarily prevent the departure of such alien from the United States and shall serve him with a written temporary order directing him not to depart, or attempt to depart, from the United States until notified of the revocation of the order.

(b) The written order temporarily preventing an alien, other than an enemy alien, from departing from the United States shall become final 15 days after the date of service thereof upon the alien, unless prior thereto the alien requests a hearing as hereinafter provided. At such time as the alien is served with an order temporarily preventing his departure from the United States, he shall be notified in writing concerning the provisions of this paragraph, and shall be advised of his right to request a hearing if entitled thereto under § 46.4. In the case of an enemy alien, the written order preventing departure shall become final on the date of its service upon the alien.

(c) Any alien who seeks to depart from the United States may be required, in the discretion of the departure-control officer, to be examined under oath and to submit for official inspection all documents, articles, and other property in his possession which are being removed from the United States upon, or in connection with, the alien's departure. The departure-control officer may permit such other persons, including officials of the Department of State and interpreters, to participate in such examination or inspection and may exclude from presence at such examination or inspection any person whose presence would not further the objectives of such examination or inspection. The departure-control officer shall temporarily prevent the departure of any alien who refuses to submit to such examination or inspection, and may, if necessary to cause the alien to submit to such examination or inspection, take possession of the alien's passport or other travel document or issue a subpoena requiring