

9 FAM 40.203

ALIEN ENTITLED TO A, E, OR G NONIMMIGRANT CLASSIFICATION

(CT:VISA-1441; 06-10-2010)
(Office of Origin: CA/VO/L/R)

9 FAM 40.203 RELATED STATUTORY PROVISIONS

(CT:VISA-1441; 06-10-2010)

See INA 214(b) (8 U.S.C. 1184(b)) and INA 247 (8 U.S.C. 1257)).

INA 214(b)

b. Presumption of Status; Written Waiver

Every alien (other than a nonimmigrant described in subparagraph (L) or (V) of section 101(a)(15), and other than a nonimmigrant described in any provision of section 101(a)(15)(H)(i) except subclause (b1) of such section) shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for a visa, and the immigration officers, at the time of application for admission, that he is entitled to a nonimmigrant status under section 101(a)(15). An alien who is an officer or employee of any foreign government or of any international organization entitled to enjoy privileges, exemptions, and immunities under the International Organizations Immunities Act (22 U.S.C. 288, note), or an alien who is the attendant, servant, employee, or member of the immediate family of any such alien shall not be entitled to apply for or receive an immigrant visa, or to enter the United States as an immigrant unless he executes a written waiver in the same form and substance as is prescribed by section 247(b).

INA 247

Adjustment of Status of Certain Resident Aliens to Nonimmigrant Status

(a) The status of an alien lawfully admitted for permanent residence shall be adjusted by the Attorney General, under such regulations as he may prescribe, to that of a nonimmigrant under paragraph (15)(A), (15)(E), or (15)(G) of section 101(a) , if such alien had at the time of admission or

subsequently acquires an occupational status which would, if he were seeking admission to the United States, entitle him to a nonimmigrant status under such sections. As of the date of the Attorney General's order making such adjustment of status, the Attorney General shall cancel the record of the alien's admission for permanent residence, and the immigrant status of such alien shall thereby be terminated.

(b) The adjustment of status required by subsection (a) shall not be applicable in the case of any alien who requests that he be permitted to retain his status as an immigrant and who, in such form as the Attorney General may require, executes and files with the Attorney General a written waiver of all rights, privileges, exemptions, and immunities under any law or any executive order which would otherwise accrue to him because of the acquisition of an occupational status entitling him to a nonimmigrant status under paragraph (15)(A), (15)(E), or (15)(G) of section 101(a).

9 FAM 40.203 RELATED REGULATORY PROVISIONS

(CT:VISA-1441; 06-10-2010)

See 22 CFR 40.203.

40.203 Alien entitled to A, E, or G nonimmigrant classification.

An alien entitled to nonimmigrant classification under INA 101(a)(15)(A), (E), or (G) (*8 U.S.C. 1101(a)(15)(A), (E), or (G)*) who is applying for an immigrant visa and who intends to continue the activities required for such nonimmigrant classification in the United States is not eligible to receive an immigrant visa until the alien executes a written waiver of all rights, privileges, exemptions and immunities which would accrue by reason of such occupational status.