

9 FAM 42.1

ALIENS NOT REQUIRED TO OBTAIN IMMIGRANT VISAS

(CT:VISA-960; 05-22-2008)

(Office of Origin: CA/VO/L/R)

9 FAM 42.1 RELATED STATUTORY PROVISIONS

(CT:VISA-960; 05-22-2008)

See INA 211(a) (8 U.S.C. 1181(a)), INA 211(b) (8 U.S.C. 1181(b)), INA 212(d)(7) (8 U.S.C. 1182(d)(7)), INA 248 (8 U.S.C. 1258) and INA 289 (8 U.S.C. 1359).

INA 211(a)

- a. Except as provided in subsection (b) and subsection (c) no immigrant shall be admitted into the United States unless at the time of application for admission he (1) has a valid unexpired immigrant visa or was born subsequent to the issuance of such visa of the accompanying parent, and (2) presents a valid unexpired passport or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Attorney General. With respect to immigrants to be admitted under quotas of quota areas prior to June 30, 1968, no immigrant visa shall be deemed valid unless the immigrant is properly chargeable to the quota area under the quota of which the visa is issued.

INA 211(b)

- b. Notwithstanding the provisions of section 212(a)(7)(A) of this Act in such cases or in such classes of cases and under such conditions as may be by regulations prescribed, returning resident immigrants, defined in section 101(a)(27)(A) , who are otherwise admissible may be readmitted to the United States by the Attorney General in his discretion without being required to obtain a passport, immigrant visa, reentry permit or other documentation.

INA 212(d)(7)

- d. Temporary admission of nonimmigrants

(7) The provisions of subsection (a) of this section (other than paragraph (7)) shall be applicable to any alien who shall leave Guam, Puerto

Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States. The Attorney General shall by regulations provide a method and procedure for the temporary admission to the United States of the aliens described in this proviso. Any alien described in this paragraph, who is denied admission to the United States, shall be immediately removed in the manner provided by section 241(c) of this title.

INA 248

- a. The Secretary of Homeland Security may, under such conditions as he may prescribe, authorize a change from any nonimmigrant classification to any other nonimmigrant classification in the case of any alien lawfully admitted to the United States as a nonimmigrant who is continuing to maintain that status and who is not inadmissible under section 212(a)(9)(B)(i) (or whose inadmissibility under such section is waived under section 212(a)(9)(B)(v)), 1/ except 2/ (subject to subsection (b)) in the case of-
- (1) an alien classified as a nonimmigrant under subparagraph (C), (D), (K), or (S) of section 101(a)(15),
 - (2) an alien classified as a nonimmigrant under subparagraph (J) of section 101(a)(15) who came to the United States or acquired such classification in order to receive graduate medical education or training,
 - (3) an alien (other than an alien described in paragraph (2)) classified as a nonimmigrant under subparagraph (J) of section 101(a)(15) who is subject to the two-year foreign residence requirement of section 212(e) and has not received a waiver thereof, unless such alien applies to have the alien's classification changed from classification under subparagraph (J) of section 101(a)(15) to a classification under subparagraph (A) or (G) of such section, and
 - (4) an alien admitted as a nonimmigrant visitor without a visa under section 212(l) or section 217.
- b. 2/ The exceptions specified in paragraphs (1) through (4) of subsection (a) shall not apply to a change of nonimmigrant classification to that of a nonimmigrant under subparagraph (T) or (U) of section 101(a)(15).

INA 289

Nothing in this title shall be construed to affect the right of American Indians born in Canada to pass the borders of the United States, but such right shall extend only to persons who possess at least 50 per centum of blood of the American Indian race.

9 FAM 42.1 RELATED REGULATORY PROVISIONS

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See 22 CFR 42.1.