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Introduction to the Adjudicator's Field Manual

Welcome to the online public version of the Adjudicator's Field Manual (AFM). The AFM comprehensively details USCIS policies and procedures for adjudicating applications and petitions. USCIS updates the AFM regularly to incorporate new policies and procedures established through statutes, regulations, policy memoranda, or any other pertinent publications.

As permitted under the Freedom of Information Act (FOIA), United States Code, Title 5, Section 552, the AFM on the USCIS public web site is a redacted version of the complete manual. All redactions were made under both of the following exemptions:

- 5 USC 552(b)(2) to prevent the disclosure of records that are related solely to the internal personnel rules and practices of an agency; and
- 5 USC 552(b)(7)(E) to prevent the disclosure of techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure that could reasonably be expected to risk circumvention of the law.

The abbreviations "(b)(2)" and "(b)(7)(E)" in the manual indicate where data has been redacted.

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Send us your suggestions for improving the AFM by cutting and pasting the following address "manual1@dhs.gov" into your e-mail address line. When sending an e-mail to us, provide your full name and, if you are an attorney or representative, the name of the firm or organization you represent. We will only consider e-mails related to AFM content and format. For specific case information or immigration related information, visit our website at www.uscis.gov.

Note: Any bookmarks for the Adjudicators Field Manual should be made from the Table of Contents page. This page will soon redirect all readers there.

Please be aware that the Adjudicators Field Manual (AFM) Chapters 71 to 76 and Appendices 71-1 to 75-7 have been superseded by [USCIS Policy Manual, Volume 12: Citizenship & Naturalization](#) as of January 22, 2013.

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21.2 Factors Common to the Adjudication of All Relative Visa Petitions.

(a) Filing and Receipting of Relative Petitions.

(1) Statutory Definitions of Relationships Covered.

USCIS has the responsibility of determining if the beneficiary of a relative visa petition is eligible for the classification sought. As the adjudicating officer, you will make that determination. Therefore, you must be completely familiar with the statutory definitions of relatives as well as the applicable regulations and precedent decisions. The classes of eligible alien relatives are enumerated in sections 201(b), 203(a), 207(c)(2), and 208(b)(3) of the Act and Public Law 97-359:

(A) Section 201(b) of the Act covers aliens exempt from numerical limitations and includes "immediate relatives" of United States citizens:

- **Spouse**, which is not really a defined term under the Act or regulations; although section 101(a)(35) of the Act does exclude spouses acquired through unconsummated proxy marriages. Also, section 7 of the Defense of Marriage Act (Pub. L. 104-199)



(D) Field Examination. See Chapter 17 of this field manual.

(c) Adjudicative Issues.

The adjudication of a relative petition deals with two issues: whether the petitioner has standing to file the petition and whether the beneficiary has the requisite familial relationship to qualify for the classification being sought. These determinations require an understanding of not only the immigration and nationality laws and regulations of the United States, but also of the laws of other countries and states, prior laws, genetics, domestic abuse, fraud, psychology, and a myriad of other issues and sub-issues.

(1) Burden of Proof.

The adjudication of visa petitions is an administrative proceeding. In administrative proceedings, the petitioner bears the burden of proof to establish eligibility for the benefit sought. Matter of Brantigan, 11 I & N Dec. 453 (BIA 1966).

(2) Review and Rebuttal Rights.

The adjudicating officer must keep in mind the fact that the petitioner must be given the opportunity to inspect and rebut any adverse information used in arriving at the decision to deny or revoke a petition. The one exception pertains to material classified under E.O. 12356. In accordance with 8 CFR 103.2(b)(16)(iv), the petitioner must still be given a summary (authorized by a regional director) of the general nature of the information and the opportunity to rebut it if it can be done without jeopardizing the safety of the information and the

(5) Derivative Beneficiaries

Any alien classified as an immediate relative must be the direct beneficiary of an approved petition for that classification. Therefore the child of an alien approved for immediate relative spouse classification is not eligible for derivative classification and must have a petition filed on his or her behalf.

However, the children and, in some cases, the spouse of an alien approved for family preference classification, may be included in the principal alien's preference visa petition. The derivative beneficiary will be accorded the same family preference classification and the same priority date as the principal alien.

If the derivative child of a second preference beneficiary reaches the age of 21 years prior to the issuance of a visa to the principal alien parent, a separate petition will be required for that child. The petition must be filed by the same petitioner that filed for the principal alien parent, and, if approved, would retain the original priority date. Remember, this retention of the original priority date only applies when the derivative child's principal alien parent is accorded second preference classification.

When adjudicating a petition, it is important to determine if there are family members eligible to derive benefits from the petition.

If the family is in the United States and the principal alien is outside the United States, the derivative beneficiaries may be eligible for adjustment of status under section 245 of the Act once the principal alien has immigrated (provided they are not subject to the bars contained in sections 245(a) or 245(c) of the Act), and should be so notified.

(6) Special Concerns about Particular Nationalities