

making a request under this section is an eligible spouse or child.

(g) *Duration.* The spouse or child qualifying under section 208(c) of the Act shall be granted asylum for an indefinite period unless the principal's status is revoked.

[55 FR 30680, July 27, 1990, as amended at 59 FR 62301, Dec. 5, 1994]

§208.22 Effect on deportation proceedings.

(a) An alien who has been granted asylum may not be excluded or deported unless his asylum status is revoked pursuant to §208.24. An alien in exclusion or deportation proceedings who is granted withholding of deportation may not be deported to the country as to which his deportation is ordered withheld unless withholding of deportation is revoked pursuant to §208.24.

(b) When an alien's asylum status or withholding of deportation is revoked under this chapter, he shall be placed in exclusion or deportation proceedings. Exclusion or deportation proceedings may be conducted concurrently with a revocation hearing scheduled under §208.24.

§208.23 Restoration of status.

An alien who was maintaining his nonimmigrant status at the time of filing an application for asylum or withholding of deportation may continue or be restored to that status, if it has not expired, notwithstanding the denial of asylum or withholding of deportation.

§208.24 Revocation of asylum or withholding of deportation.

(a) *Revocation of asylum by the Assistant Commissioner, Office of Refugees, Asylum, and Parole.* Upon motion by the Assistant Commissioner and following an interview by an asylum officer, the grant to an alien of asylum made under the jurisdiction of an asylum officer or a district director may be revoked if, by a preponderance of the evidence, the INS establishes that:

(1) The alien no longer has a well-founded fear of persecution upon return due to a change of conditions in the alien's country of nationality or habitual residence;

(2) There is a showing of fraud in the alien's application such that he was not eligible for asylum at the time it was granted; or

(3) The alien has committed any act that would have been grounds for denial of asylum under §208.14(d).

(b) *Revocation of withholding of deportation by the Assistant Commissioner, Office of Refugees, Asylum, and Parole.* Upon motion by the Assistant Commissioner and following an interview by an asylum officer, the grant to an alien of withholding of deportation made under the jurisdiction of an asylum officer or a district director may be revoked if, by a preponderance of the evidence, the INS establishes that:

(1) The alien is no longer entitled to withholding of deportation due to a change of conditions in the country to which deportation was withheld;

(2) There is a showing of fraud in the alien's application such that he was not eligible for withholding of deportation at the time it was granted;

(3) The alien has committed any other act that would have been grounds for denial of withholding of deportation under §208.16(c)(2).

(c) *Notice to applicant.* Upon motion by the Assistant Commissioner to revoke asylum status or withholding of deportation, the alien shall be given notice of intent to revoke, with the reason therefore, at least thirty days before the interview by the asylum officer. The alien shall be provided the opportunity to present evidence tending to show that he or she is still eligible for asylum or withholding of deportation. If the asylum officer determines that the alien is no longer eligible for asylum or withholding of deportation, the alien shall be given written notice that asylum status or withholding of deportation along with employment authorization are revoked. Notwithstanding any provision of this section, an alien granted asylum or withholding of deportation who is subject to revocation because he or she has been convicted of an aggravated felony is not entitled to an interview before an asylum officer.

(d) *Revocation of derivative status.* The termination of asylum status for a person who was the principal applicant

shall result in termination of the asylum status of a spouse or child whose status was based on the asylum application of the principal.

(e) *Reassertion of asylum claim.* A revocation of asylum or withholding of deportation pursuant to paragraphs (a) or (b) of this section shall not preclude an applicant from reasserting an asylum or withholding of deportation claim in any subsequent exclusion or deportation proceeding.

(f) *Revocation of asylum or withholding of deportation by the Executive Office for Immigration Review.* An Immigration Judge or the Board of Immigration Appeals may reopen a case pursuant to § 3.2 or § 242.22 of this chapter for the purpose of revoking a grant of asylum or withholding of deportation made under the exclusive jurisdiction of an Immigration Judge. In such a reopened proceeding, the Service must similarly establish by the appropriate standard of evidence one or more of the grounds set forth in paragraphs (a) or (b) of this section. Any revocation under this paragraph may occur in conjunction with an exclusion or deportation proceeding.

[55 FR 30680, July 27, 1990, as amended at 59 FR 62301, Dec. 5, 1994]

PART 209—ADJUSTMENT OF STATUS OF REFUGEES AND ALIENS GRANTED ASYLUM

Sec.

209.1 Admission for permanent residence after one year.

209.2 Adjustment of status of alien granted asylum.

AUTHORITY: 8 U.S.C. 1101, 1103, 1157, 1158, and 1159; 31 U.S.C. 9701.

§ 209.1 Admission for permanent residence after one year.

(a) *Eligibility.* (1) Every alien in the United States as a refugee under § 207 of this chapter whose status has not been terminated, is required to appear before an immigration officer one year after entry to determine his/her admissibility under sections 235, 236, and 237 of the Act. The applicant shall be examined under oath to determine admissibility. If the applicant is found to be admissible, he/she shall be inspected and admitted for lawful permanent resi-

idence as of the date of the alien's arrival in the United States. If the applicant is determined to be inadmissible, he/she shall be informed that he/she may renew the request for admission to the United States as an immigrant in exclusion proceedings under section 236 of the Act. The provisions of this section shall provide the sole and exclusive procedure for adjustment of status by a refugee admitted under section 207 of the Act, whose application is based on his/her refugee status.

(2) Every alien processed by the Immigration and Naturalization Service abroad and paroled into the United States as a refugee after April 1, 1980, and before May 18, 1980 shall be considered as having entered the United States as a refugee under section 207(a) of the Act.

(b) *Processing Application.* One year after arrival in the United States, every refugee entrant shall be notified to appear for examination before an immigration officer. Each applicant shall be examined under oath to determine eligibility for permanent residence. If the refugee entrant has been physically present in the United States for at least one year, forms FD-258 (Applicant Card) and G-325A (Biographical Information) will be processed. Unless there were medical grounds for exclusion at the time of arrival, a United States Public Health Service medical examination is not required. If the alien is found admissible after inspection under section 209(a) of the Act, he/she shall be processed for issuance of Form I-551 (Alien Registration Receipt Card).

[46 FR 45119, Sept. 10, 1981]

§ 209.2 Adjustment of status of alien granted asylum.

The provisions of this section shall be the sole and exclusive procedure for adjustment of status by an asylee admitted under section 208 of the Act whose application is based on his or her asylee status.

(a) *Eligibility.* (1) Except as provided in paragraph (a)(2) of this section, the status of any alien who has been granted asylum in the United States may be adjusted by the district director to that of an alien lawfully admitted for