

the occupation's licensing or certification examination, provided such a test is recognized by a majority of States licensing the occupation for which the certificate is issued, or that the alien has passed the occupation's licensing or certification examination.

(g) *English testing requirement.* (1) With the exception of those aliens described in paragraph (g)(2) of this section, every alien must meet certain English language requirements in order to obtain a certificate. The Secretary of Health and Human Services has determined that an alien must have a passing score on one of the two tests listed in paragraph (g)(3) of this section before he or she can be granted a certificate.

(2) *Aliens exempt from the English language requirement.* Aliens who have graduated from a college, university, or professional training school located in Australia, Canada (except Quebec), Ireland, New Zealand, the United Kingdom, and the United States are exempt from the English language requirement.

(3) *Approved testing services.* (i) Michigan English Language Assessment Battery (MELAB). Effective June 30, 2000, the MELAB Oral Interview Speaking Test is no longer being given overseas and is only being administered in the United States and Canada. Applicants may take MELAB Parts 1, 2, and 3, plus the Test of Spoken English offered by the Educational Testing Service.

(ii) Test of English as a Foreign Language, Educational Testing Service (ETS).

(4) *Passing scores for various occupations—(i) Occupational and physical therapists.* An alien seeking to perform labor in the United States as an occupational therapist or physical therapist must obtain the following scores on the English tests administered by ETS: Test of English as a Foreign Language (TOEFL), Paper-Based 560, Computer-Based 220; Test of Written English (TWE): 4.5; Test of Spoken English (TSE): 50. Certifying organizations shall not accept the results of the MELAB for the occupation of occupational therapist or physical therapist. Aliens seeking to obtain a certificate to work as an occupational or physical therapist must take the test offered by

the ETS. The MELAB scores are not acceptable for these occupations.

(ii) *Registered nurses.* An alien coming to the United States to perform labor as a registered nurse must obtain the following scores to obtain a certificate: ETS: TOEFL: Paper-Based 540, Computer-Based 207; TWE: 4.0; TSE: 50; MELAB: Final Score 79; Oral Interview: 3+.

(iii) *Licensed practical nurses and licensed vocational nurses.* An alien coming to the United States to perform labor as a licensed practical nurse or licensed vocational nurse must have the following scores to be issued a certificate: ETS: TOEFL: Paper-Based 530, Computer-Based 197; TWE: 4.0; TSE: 50; MELAB: Final Score 77; Oral Interview: 3+.

(iv) *Speech-language pathologists and Audiologists, medical technologists (clinical laboratory scientists), and physician assistants.* An alien coming to the United States to perform labor as a speech-language pathologist and audiologist, a medical technologist (clinical laboratory scientist), or a physician assistant must have the following scores to be issued a certificate: ETS: TOEFL: Paper-Based 540, Computer-Based 207; TWE: 4.0; TSE: 50; MELAB: Final Score 79; Oral Interview: 3+.

(v) *Medical technicians (clinical laboratory technicians).* An alien coming to the United States to perform labor as a medical technician (clinical laboratory technician) must have the following scores to be issued a certificate: ETS: TOEFL: Paper-Based 530, Computer-Based 197; TWE: 4.0; TSE: 50; MELAB: Final Score 77; Oral Interview: 3+.

[63 FR 55011, Oct. 14, 1998, as amended at 64 FR 23177, Apr. 30, 1999; 66 FR 3444, Jan. 16, 2001]

PART 213—ADMISSION OF ALIENS ON GIVING BOND OR CASH DEPOSIT

AUTHORITY: 8 U.S.C. 1103; 8 CFR part 2.

§ 213.1 Admission under bond or cash deposit.

The district director having jurisdiction over the intended place of residence of an alien may accept a public charge bond prior to the issuance of an

immigrant visa to the alien upon receipt of a request directly from a United States consular officer or upon presentation by an interested person of a notification from the consular officer requiring such a bond. Upon acceptance of such a bond, the district director shall notify the U.S. consular officer who requested the bond, giving the date and place of acceptance and the amount of the bond. The district director having jurisdiction over the place where the examination for admission is being conducted or the special inquiry officer to whom the case is referred may exercise the authority contained in section 213 of the Act. All bonds and agreements covering cash deposits given as a condition of admission of an alien under section 213 of the Act shall be executed on Form I-352 and shall be in the sum of not less than \$1,000. The officer accepting such deposit shall give his receipt therefor on Form I-305. For procedures relating to bond riders, acceptable sureties, cancellation or breaching of bonds, see §103.6 of this chapter.

[29 FR 10579, July 30, 1964, as amended at 32 FR 9626, July 4, 1967; 62 FR 10349, Mar. 6, 1997]

PART 213a—AFFIDAVITS OF SUPPORT ON BEHALF OF IMMIGRANTS

Sec.

- 213a.1 Definitions.
- 213a.2 Use of affidavit of support.
- 213a.3 Notice of change of address.
- 213a.4 Actions for reimbursement, public notice, and congressional reports.
- 213a.5 Relationship of this part to other affidavits of support.

AUTHORITY: 8 U.S.C. 1183a; 8 CFR part 2.

SOURCE: 62 FR 54352, Oct. 20, 1997, unless otherwise noted.

§ 213a.1 Definitions.

As used in this part, the term:

Domicile means the place where a sponsor has a residence, as defined in section 101(a)(33) of the Act, in the United States, with the intention to maintain that residence for the foreseeable future, *provided*, that a permanent resident who is living abroad temporarily shall be considered to be domiciled in the United States if the permanent resident has applied for and ob-

tained the preservation of residence benefit under section 316(b) or section 317 of the Act, *and provided further*, that a citizen who is living abroad temporarily shall be considered to be domiciled in the United States if the citizen's employment abroad meets the requirements of section 319(b)(1) of the Act.

Federal poverty line means the level of income equal to the poverty guidelines as issued by the Secretary of Health and Human Services in accordance with 42 U.S.C. 9902 that is applicable to a household of the size involved. For purposes of considering the Form I-864, Affidavit of Support Under Section 213A of the Act, the Service and Consular Posts will use the most recent income-poverty guidelines published in the FEDERAL REGISTER by the Department of Health and Human Services. These guidelines are updated annually, and the Service and Consular Posts will begin to use updated guidelines on the first day of the second month after the date the guidelines are published in the FEDERAL REGISTER.

Household income means the income used to determine whether the sponsor meets the minimum income requirements under sections 213A(f)(1)(E), 213A(f)(3), or 213A(f)(5) of the Act. It includes the sponsor's income and may also include the incomes of any individuals who either are related to the sponsor by birth, marriage, or adoption and have been living in the sponsor's residence for the previous 6 months or are lawfully listed as dependents on the sponsor's Federal income tax return for the most recent tax year, even if such dependents do not live at the same residence as the sponsor.

Household size means the number obtained by adding: (1) The sponsor and all persons living at the same residence with the sponsor who are related to the sponsor by birth, marriage, or adoption; (2) all persons whom the sponsor has claimed as a dependent on the sponsor's Federal income tax return for the most recent tax year, even if such persons do not live at the same residence as the sponsor; and (3) the number of aliens the sponsor has sponsored under any prior Forms I-864 for whom the sponsor's support obligation has not terminated, plus the number of