

## Department of State

## § 41.86

(c) *Child*. An alien is classifiable under INA 101(a)(15)(K)(iii) if:

(1) The consular officer is satisfied that the alien is the child of an alien classified under INA 101(a)(15)(K)(i) or (ii) and is accompanying or following to join the principal alien; and

(2) The alien otherwise has met all other applicable requirements in order to receive a nonimmigrant visa, including the requirements of paragraph (d) of this section.

(d) *Eligibility as an immigrant required*. The consular officer, insofar as is practicable, must determine the eligibility of an alien to receive a nonimmigrant visa under paragraphs (a), (b) or (c) of this section as if the alien were an applicant for an immigrant visa, except that the alien must be exempt from the vaccination requirement of INA 212(a)(1) and the labor certification requirement of INA 212(a)(5).

[66 FR 19393, Apr. 16, 2001]

### § 41.82 Certain parents and children of section 101(a)(27)(I) special immigrants. [Reserved]

### § 41.83 Certain witnesses and informants.

(a) *General*. An alien shall be classifiable under the provisions of INA 101(a)(15)(S) if:

(1) The consular officer is satisfied that the alien qualifies under the provisions of that section; and

(2)(i) The consular officer has received verification from the Department of State, Visa Office, that:

(A) in the case of INA 101(a)(15)(S)(i) the DHS has certified that the alien is accorded such classification, or

(B) in the case of INA 101(a)(15)(S)(ii) the Assistant Secretary of State for Consular Affairs on behalf of the Secretary of State and the DHS have certified that the alien is accorded such classification;

(ii) and the alien is granted an INA 212(d)(1) waiver of any INA 212(a) ground of ineligibility known at the time of verification.

(b) *Certification of S visa status*. The certification of status under INA 101(a)(15)(S)(i) by the Secretary of Homeland Security or of status under INA 101(a)(15)(S)(ii) by the Secretary of State and the Secretary of Homeland

Security acting jointly does not establish that the alien is eligible to receive a nonimmigrant visa.

(c) *Validity of visa*. The period of validity of a visa authorized on the basis of paragraph (a) of this section shall not exceed the period indicated in the certification required in paragraph (b) and shall not in any case exceed the period of three years.

[61 FR 1838, Jan. 24, 1996, as amended at 71 FR 34521, June 15, 2006]

### § 41.84 Victims of trafficking in persons.

(a) *Eligibility*. An alien may be classifiable as a parent, spouse or child under INA 101(a)(15)(T)(ii) if:

(1) The consular officer is satisfied that the alien has the required relationship to an alien who has been granted status by the Secretary for Homeland Security under INA 101(a)(15)(T)(i);

(2) The consular officer is satisfied that the alien is otherwise admissible under the immigration laws of the United States; and

(3) The consular officer has received an DHS-approved I-914, Supplement A, evidencing that the alien is the spouse, child, or parent of an alien who has been granted status under INA 101(a)(15)(T)(i).

(b) *Visa validity*. A qualifying family member may apply for a nonimmigrant visa under INA(a)(15)(T)(ii) only during the period in which the principal applicant is in status under INA 101(a)(15)(T)(i). Any visa issued pursuant to such application shall be valid only for a period of three years or until the expiration of the principal alien's status as an alien classified under INA 101(a)(15)(T)(i), whichever is shorter.

[68 FR 37964, June 26, 2003]

### § 41.86 Certain spouses and children of lawful permanent resident aliens.

(a) *Definition of "remains pending"*. For the purposes of this section, a visa application "remains pending" if the applicant has applied for an immigrant visa in accordance with the definition in part 40, § 40.1(l)(2) and the visa has neither been issued, nor refused for any reason under applicable law and regulation.