

mother was the principal refugee's spouse on the date of the principal refugee's admission as a refugee.

(d) *Filing.* A refugee may request accompanying or following-to-join benefits for his or her spouse and unmarried, minor child(ren) (whether the spouse and children are inside or outside the United States) by filing a separate Request for Refugee/Asylee Relative in accordance with the form instructions for each qualifying family member. The request may only be filed by the principal refugee. Family members who derived their refugee status are not eligible to request derivative benefits on behalf of their spouse and child(ren). A separate Request for Refugee/Asylee Relative must be filed for each qualifying family member within two years of the refugee's admission to the United States unless USCIS determines that the filing period should be extended for humanitarian reasons. There is no time limit imposed on a family member's travel to the United States once the Request for Refugee/Asylee Relative has been approved, provided that the relationship of spouse or child continues to exist and approval of the Request for Refugee/Asylee Relative has not been subsequently revoked. There is no fee for this benefit request.

(e) *Evidence.* Documentary evidence consists of those documents which establish that the petitioner is a refugee, and evidence of the claimed relationship of the petitioner to the beneficiary. The burden of proof is on the petitioner to establish by a preponderance of the evidence that any person on whose behalf he/she is making a request under this section is an eligible spouse or unmarried, minor child. Evidence to establish the claimed relationship for a spouse or unmarried, minor child as set forth in 8 CFR part 204 must be submitted with the request for accompanying or following-to-join benefits. Where possible this will consist of the documents specified in § 204.2(a)(1)(i)(B), (a)(1)(iii)(B), (a)(2), (d)(2), and (d)(5) of this chapter.

(f) *Approvals.* (1) *Spouse or child in the United States.* When a spouse or child of a refugee is in the United States and the Request for Refugee/Asylee Relative is approved, USCIS will notify

the refugee of such approval. Employment will be authorized incident to status.

(2) *Spouse or child outside the United States.* When a spouse or child of a refugee is outside the United States and the Request for Refugee/Asylee Relative is approved, USCIS will notify the refugee of such approval. USCIS will send the approved request to the Department of State for transmission to the U.S. Embassy or Consulate having jurisdiction over the area in which the refugee's spouse or child is located.

(3) *Benefits.* The approval of the Request for Refugee/Asylee Relative will remain valid for the duration of the relationship to the refugee and, in the case of a child, while the child is under 21 years of age and unmarried, provided also that the principal's status has not been revoked. However, the approved Request for Refugee/Asylee Relative will cease to confer immigration benefits after it has been used by the beneficiary for admission to the United States as a derivative of a refugee. For a derivative inside or arriving in the United States, USCIS will issue a document reflecting the derivative's current status as a refugee to demonstrate employment authorization, or the derivative may apply, under 8 CFR 274a.12(a), for evidence of employment authorization.

(g) *Denials.* If the spouse or child of a refugee is found to be ineligible for derivative status, a written notice explaining the basis for denial shall be forwarded to the principal refugee. There shall be no appeal from this decision. However, the denial shall be without prejudice to the consideration of a new petition or motion to reopen the refugee or asylee relative petition proceeding, if the refugee establishes eligibility for the accompanying or following-to-join benefits contained in this part.

[63 FR 3795, Jan. 27, 1998, as amended at 76 FR 53783, Aug. 29, 2011; 76 FR 73476, Nov. 29, 2011]

#### **§ 207.8 Physical presence in the United States.**

For the purpose of adjustment of status under section 209(a)(1) of the Act, the required one year physical presence of the applicant in the United States is

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computed from the date the applicant entered the United States as a refugee.

[46 FR 45118, Sept. 10, 1981. Redesignated at 63 FR 3795, Jan. 27, 1998]

### § 207.9 Termination of refugee status.

The refugee status of any alien (and of the spouse or child of the alien) admitted to the United States under section 207 of the Act will be terminated by USCIS if the alien was not a refugee within the meaning of section 101(a)(42) of the Act at the time of admission. USCIS will notify the alien in writing of its intent to terminate the alien's refugee status. The alien will have 30 days from the date notice is served upon him or her in accordance with 8 CFR 103.8, to present written or oral evidence to show why the alien's refugee status should not be terminated. There is no appeal under this chapter I from the termination of refugee status by USCIS. Upon termination of refugee status, USCIS will process the alien under sections 235, 240, and 241 of the Act.

[76 FR 53784, Aug. 29, 2011]

## PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

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AUTHORITY: 8 U.S.C. 1101, 1103, 1158, 1226, 1252, 1282; Title VII of Public Law 110–229; 8 CFR part 2.

SOURCE: 62 FR 10337, Mar. 6, 1997, unless otherwise noted.

### Subpart A—Asylum and Withholding of Removal

#### § 208.1 General.

(a) *Applicability.* (1) *General.* Unless otherwise provided in this chapter I, this subpart A shall apply to all applications for asylum under section 208 of the Act or for withholding of deportation or withholding of removal under section 241(b)(3) of the Act, or under the Convention Against Torture, whether before an asylum officer or an immigration judge, regardless of the date of filing. For purposes of this chapter I, withholding of removal shall also mean withholding of deportation under section 243(h) of the Act, as it appeared prior to April 1, 1997, except as provided in § 208.16(d). Such applications are referred to as "asylum applications." The provisions of this part 208 shall not affect the finality or validity of any decision made by a district director, an immigration judge, or