

18-1029

The Secretary of State presents his compliments to Their Excellencies and Messieurs and Mesdames the Chiefs of Mission and has the honor to inform the Embassies of upcoming policy changes with respect to eligibility as an immediate family member for diplomatic (A-1 and A-2) visas and the acceptance of accreditation of same-sex domestic partners forming part of the household of accredited diplomatic or consular personnel in the United States for purposes of the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations. This note updates and supersedes the note dated November 4, 2009, concerning same-sex domestic partners.

The Embassies are informed that, consistent with changes to Department of State policy, the Department will only accept the accreditation of spouses, both same-sex and opposite-sex, with derivative privileges and immunities of newly arrived foreign mission members at bilateral missions as of **October 1, 2018**, except as described below. Further, consistent with Department policy, partners accompanying foreign mission members at bilateral missions or seeking to join the same must generally be married in order to be eligible for derivative A-1 and A-2

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nonimmigrant visas or to seek a change into such status beginning **October 1, 2018**, except as described below.

For all currently accredited foreign mission same-sex domestic partners who wish to maintain their acceptance of accreditation and derivative A-1 or A-2 nonimmigrant visa status, the sending State is requested to submit appropriate documentation to the Department's Office of Foreign Missions (OFM) no later than **December 31, 2018**, that the couple is legally married. After December 31, 2018, unless such individuals are able to obtain separate authorization to remain in the United States through a change of nonimmigrant status with the United States Citizenship and Immigration Services (USCIS), they will generally be expected to depart the country within 30 days. However, on or after October 1, 2018, individuals applying for a visa renewal in the United States must be married, except in the limited circumstances described below, in order to qualify for an A-1 or A-2 nonimmigrant visa.

The requirements for eligibility of acceptance of accreditation as a spouse are the same for all spousal relationships and include the following: a spouse must not be a member of some other household and must reside regularly in the household of the principal. When notifying the Department of new spouses of its mission members, the sending State is requested to submit appropriate documentation to OFM that the couple is married.

Limited exceptions to the policy regarding same-sex domestic partners are described below.

The Embassies are informed that, in the limited cases of countries where same-sex marriage is not legally available, but the sending State accepts accreditation of U.S. same-sex spouses with the same privileges and immunities as opposite-sex spouses, the same-sex domestic partner may still qualify as immediate family for A-1 and A-2 visa purposes and be accepted for accreditation as a member of the family forming part of the household, eligible for the same privileges and immunities as an opposite-sex spouse. On or after **October 1, 2018**, when submitting applications for visas or changes of status for its mission members and when notifying the Department of a same-sex domestic partner of its mission members, the sending State is requested to provide documentation that same-sex marriage is not legal in the sending State and to confirm whether it would accept the accreditation of U.S. same-sex spouses with the same privileges and immunities as opposite-sex spouses. As with spouses, the same-sex domestic partner must not be a member of some other household, and must reside regularly in the household of the principal. In addition, the same-sex domestic partner must be recognized by the sending States as a family member forming part of the household of the principal.

Regarding currently accredited same-sex domestic partners of foreign mission members representing countries where same-sex marriage is not legally available, but the sending State accepts accreditation of U.S. same-sex spouses with the same privileges and immunities as opposite-sex spouses, the sending State is requested to provide documentation to OFM by **December 31, 2018**, that same-sex marriage is not legal in the sending State and to confirm whether it would accept the accreditation of U.S. same-sex spouses with the same privileges and immunities as opposite-sex spouses. After December 31, 2018, if documentation is not provided and unless such individuals are able to obtain separate authorization to remain in the United States through a change of nonimmigrant status with the USCIS, they will generally be expected to depart the country within 30 days. However, on or after October 1, 2018, individuals applying for a visa renewal in the United States must provide the aforementioned documentation, in order to qualify for an A-1 or A-2 nonimmigrant visa.

As a matter of principle and reciprocity, in countries where same-sex marriage is not legally available and the sending State is unable to accept the accreditation of the same-sex spouses of members of the U.S. diplomatic and consular posts abroad, the same-sex domestic partner would not be eligible for the derivative A-1 or A-2 visa and will not be accepted for accreditation as a member

of the family forming part of the household, eligible for the same privileges and immunities as a spouse while the principal serves in the United States.

While this circular note focuses on eligibility as immediate family for A-1 and A-2 nonimmigrant visas, the above also applies to eligibility for C-3, G-1, G-2, and G-3, and certain NATO visas or for any requests for a change into such nonimmigrant visa status.

Questions regarding this policy update may be directed to OFM at OFM-FMMA@state.gov.

Department of State,

Washington, July 6, 2018.

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