

Information for Dependents

Same Sex Marriage and Repeal of the Defense of Marriage Act

In June 2013, the U.S. Supreme Court repealed the Defense of Marriage Act. This means that if you and your spouse are the same sex and you were legally married in a country or a state in the U.S. that has legalized same sex marriage, your spouse is entitled to dependent status. If you and your spouse are in the U.S., your spouse is eligible to apply for a change of status to the derivative dependent status. If your spouse is currently outside the U.S. he/she is eligible to apply for a dependent visa at a U.S. Consulate or if a Canadian citizen, at the airport or border prior to entry.

The J-2, H-4 and F-2 classifications are designated for the use of dependents of J-1, H-1B, and F-1 nonimmigrants respectively. A dependent is defined as a legal spouse (must show a marriage certificate when applying for a visa) and children under the age of 21 years. Your parents, partners, aunts, uncles, sisters, brothers, nannies and housekeepers ARE NOT eligible for these classifications. For information on bringing a household employee of long standing with you to the U.S., please contact the U.S. Consulate. Family members (not spouse/children) can come to visit you using the B2 visitor's visa.

Employment

H-4 dependents of temporary workers (H-1B) are not permitted to accept employment of any kind.¹ **This includes unpaid employment and self-funded research.** J-2 dependents of exchange visitors (J-1) are permitted to work *after* they have obtained an employment authorization document from the USCIS. Applications for employment authorization (Form I-765) are available on the USCIS website at www.uscis.gov. The J-2 dependent cannot apply for work authorization until after arrival in the United States.

Academic Studies

J-2, F-2, and H-4 dependent children and spouses are all permitted to attend school in the United States. All dependent spouses may enroll in college and university classes. Tuition rates may vary according to determination of resident status in the State of Ohio. It is suggested that your spouse consult with the Office of International Student Services at the college or university which they plan to attend.

F-1 and J-1 students are permitted to accept on campus employment. However, even though an H-4 dependent is a student, they are NOT permitted to accept employment. This includes post-graduate employment. If necessary, the H-4 dependent must apply for a change of status from H-4 to H-1B for post-graduate employment or change to F-1 student or J-1 student status.

Volunteer Work

The only volunteer activities permitted are those which are done for a charitable organization which depends on volunteers for its daily operations. Cleveland Clinic does not depend on volunteers for its daily operations. These are examples of volunteering in which

¹ H4 dependents whose spouse is the beneficiary of an approved I140 Immigrant Worker Petition AND is a citizen of a country for which there are no available immigrant visas *may* be eligible for employment authorization.

dependents may participate:

- Volunteering in a hospital (giving patients directions, visiting with patients; community volunteering (literacy programs, food banks etc.) or in a museum

Dependents may NOT volunteer to do research in laboratories, libraries or on computers, assist with patient care, perform general administrative or secretarial duties. These are all examples of positions for which people are normally hired and paid as an employee. The USCIS strictly forbids this type of activity on the part of dependents unless the person is eligible and authorized for employment. The U.S. Department of Labor considers this using unpaid foreign labor to displace U.S. workers and it is a violation of the Fair Labor Standards Act.