



**UNITED STATES MISSION TO THE UNITED NATIONS
NEW YORK**

July 12, 2018

HC-59-18

The United States Mission to the United Nations presents its compliments to the Permanent Missions to the United Nations and has the honor to refer to the circular diplomatic notes numbers HC-60-02 of November 13, 2002 and HC-144-09 of November 19, 2009 concerning the definition of family members.

As recalled in the referenced notes, it has long been an accepted principle of international law that the privileges and immunities to which members of the mission are entitled extend, to a certain degree, to certain members of their families forming part of their households. The Vienna Convention on Diplomatic Relations (Article 37(1)) specifies the privileges and immunities which shall be accorded such “members of the family of a diplomatic agent forming part of [the] household” but does not provide a definition of the term “members of the family” for the purposes of the Convention. The drafters of the Convention recognized that

the concept of “family” differs among the societies of the world and left the matter to be resolved according to the standards of the respective receiving States.

Since the issuance of circular diplomatic note HC-144-09, the Supreme Court of the United States has ruled that U.S. domestic laws banning recognition of same-sex marriage are unlawful under the United States Constitution. Same-sex spouses of U.S. diplomats now enjoy the same rights and benefits as opposite-sex spouses.

Consequently, the Permanent Missions to the United Nations are informed that, consistent with changes to Department of State policy, the Department will only be able to accept the accreditation of spouses of newly arrived mission members, both same-sex and opposite-sex, as members of the family for the Permanent Missions to the United Nations as of **October 1, 2018**, except as described below. Further, consistent with Department policy, partners accompanying members of permanent missions or seeking to join the same must generally be married in order to be eligible for derivative G-1, G-2, and G-3 nonimmigrant visas or to seek a change into such status beginning **October 1, 2018**, except as described below.

For all currently accredited same-sex domestic partners who wish to maintain their acceptance of accreditation and derivative G-1, G-2, or G-3

nonimmigrant visa status, the sending State is requested to submit appropriate documentation to the United States Mission 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 thirty days. However, on or after October 1, 2018, partners applying for a visa renewal in the United States must be married, except in the limited circumstances described below, in order to qualify for a G-1, G-2, or G-3 nonimmigrant visa.

The requirements for eligibility of acceptance of accreditation as a spouse of a member of a Permanent Mission to the United Nations 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 United States Mission of new spouses of members of Permanent Missions to the United Nations, the sending State is requested to submit appropriate documentation to the United States Mission that the couple is married.

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

Permanent Missions to the United Nations are further 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 be eligible for registration and acceptance of accreditation by the Department of State as a member of the family forming part of the household, eligible for the same privileges and immunities as a spouse. On or after **October 1, 2018**, when submitting applications for visas or changes of status for its mission members and when notifying the United States Mission 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 members of Permanent Missions to the United Nations 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 the United States Mission 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 a G-1, G-2, or G-3 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 of members of the Permanent

Missions to the United Nations will not be eligible for the derivative G-1, G-2, or G-3 nonimmigrant 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 G-1, G-2, and G-3 nonimmigrant visas, the above also applies to eligibility for A-1, A-2, C-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 Mr. James B. Donovan, Minister Counselor for Host Country Affairs Section of the United States Mission at (212) 415-4300 or by email at DonovanJB@state.gov.

The United States Mission to the United Nations avails itself of this opportunity to renew to the Permanent Missions to the United Nations the assurances of its highest consideration.