

Here is the legal basis for the JSAT restriction on IMS and alien dependents being employed while here in CONUS. Larry Ogden secured this memorandum for us. It is something we suggest you may wish to use when you brief the IMS.

DAJA-IO

8 January 2001

MEMORANDUM FOR DUSA-IA, ATTN: Larry Ogden

SUBJECT: Employment of International Students

1. This memorandum responds to your 2 January 2001 request for a legal opinion regarding the employment of International Military Students (IMS). Specifically, you have noted that AR 12-15, paragraph 10-27, precludes IMS personnel from accepting employment during their stay in the U.S. You have asked this office to review "this restriction to determine which law is applicable in this case."

2. IMS personnel are "nonimmigrants" and are thus granted A-2 visa status as "other officials and employees." 8 U.S.C. 1101(A)(15)(ii). As such, they are admitted into the United States solely for the purpose of representing the interests of their respective governments. Accepting other employment or engaging in private commercial ventures is prohibited. Dependents of such personnel also are prohibited from engaging in any form of remunerative work in the United States without prior authorization from the Immigration and Naturalization Service, in accordance with the provisions of bilateral work agreements or informal reciprocal work arrangements. Any violation thereof is viewed by the Department of State and the Immigration and Naturalization Service as an abuse of the mission member's visa status. Attachment A, Department of State Circular Note, April 10, 1991.

3. The Security Assistance Management Manual (SAMM), DOD 5105.38-M, paragraph 100408, incorporates this rule, stating:

IMS and alien dependents of IMS are not allowed to seek employment during their stay in the US. US Embassy or SA personnel should explain this to

students at predeparture briefings. In this connection, US country team personnel should ensure passports with A-2 Visas or related documents concerning students and their alien dependents are not annotated with "Employment authorized."

Indeed, the SAMM contemplates that foreign students, or their government, will bear the cost of living expenses in the United States. DOD 5105.38-M, paragraph 100208A. Only in exceptional situations will such expenses be included in Letters of Offer and Acceptance. DOD 5105.38-M, paragraph 60002.

4. This memorandum has been coordinated with the Legal Office, Defense Institute of Security Assistance Management. The POC for this subject is MAJ Walters, 588-0143.

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