



U.S. Department of Justice
Immigration and Naturalization Service

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800 K Street NW #1000
Washington, DC 20536

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MEMORANDUM FOR ALL SERVICE CENTER DIRECTORS

FROM: Fujie O. Ohata *Fujie O. Ohata*
Associate Commissioner
Service Center Operations
Immigration Services Division

SUBJECT: Definition of Manager

Service Center employees are reminded to utilize the definition of managerial capacity as outlined in the Immigration Naturalization Act (INA) in adjudicating cases for L-1 or E1-3 managers.

The INA at 101(a)(44)(A) defines the term "managerial capacity" to mean an assignment within an organization in which the employee primarily-

- (i) manages the organization, or a department, subdivision, function, or component of the organization;
- (ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;
- (iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization) or, if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and
- (iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority.

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A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

These requirements are also outlined in 214.2(l)(1)(ii)(B)(1) through (4).

In adjudicating cases where the definition of manager is in question, be sure to refer to all elements outlined above in making a determination. Additional procedures for adjudicating I-140 E1-3 cases are articulated in the I-140 SOP. Questions regarding this memorandum may be directed to Joe Holliday at Immigration Service Division (ISD) at (202) 616-7546.