

(2) The alien's eligibility to receive a visa.

(b) Waivers of personal appearance by consular officers. Except as provided in paragraph (e) of this section or as otherwise instructed by the Deputy Assistant Secretary of State for Visa Services, a consular officer may waive the requirement of personal appearance if the consular officer concludes the alien presents no national security concerns requiring an interview and:

(1) Is within a class of nonimmigrants classifiable under the visa symbols A-1, A-2, C-2, C-3 (except attendants, servants, or personal employees of accredited officials), G-1, G-2, G-3, G-4, NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, NATO-6, or is a Taipei Economic and Cultural Representative Office (TECRO) nonimmigrant classifiable under visa symbol E-1, and is seeking a visa in such classification; or

(2) Is an applicant for a diplomatic or official visa as described in § 41.26 or § 41.27 of this chapter; or

(3) Is an applicant who is within 12 months of the expiration of the applicant's previously issued visa and:

(i) Is seeking re-issuance of a nonimmigrant visa in the same classification;

(ii) Is applying at the consular post of the applicant's usual residence; and

(iii) Is an applicant for whom the consular officer has no indication of visa ineligibility or of noncompliance with U.S. immigration laws and regulations.

(c) Waivers of personal appearance in the national interest. Except as provided in paragraph (e) of this section, the Secretary may waive the requirement of personal appearance of an individual applicant or a class of applicants if the Secretary determines that such waiver is in the national interest of the United States.

(d) Waivers of personal appearance in unusual or emergent circumstances. Except as provided in paragraph (e) of this section, the Deputy Assistant Secretary for Visa Services may waive the requirement of personal appearance of an individual applicant or a class of applicants if the Deputy Assistant Secretary determines that such waiver is

necessary as a result of unusual or emergent circumstances.

(e) Cases in which personal appearance may not be waived. Except for a nonimmigrant applicant whose personal appearance is waived under paragraphs (b)(1), (b)(2), or (c) of this section, the personal appearance requirement may not be waived for:

(1) Any nonimmigrant applicant who is not a national or resident of the country in which he or she is applying.

(2) Any nonimmigrant applicant who was previously refused a visa, is listed in CLASS, or otherwise requires a Security Advisory Opinion, unless:

(i) The visa was refused and the refusal was subsequently overcome; or

(ii) The alien was found inadmissible, but the inadmissibility was waived.

(3) Any nonimmigrant applicant who is from a country designated by the Secretary of State as a state sponsor of terrorism, regardless of age, or who is a member of a group or sector designated by the Secretary of State under section 222(h)(2)(F) of the Immigration and Nationality Act.

[80 FR 69589, Nov. 10, 2015]

§ 41.103 Filing an application.

(a) *Filing an application*—(1) *Filing of application required.* Every alien seeking a nonimmigrant visa must make an electronic application on Form DS-160 or, as directed by a consular officer, an application on Form DS-156. The Form DS-160 must be signed electronically by clicking the box designated "Sign Application" in the certification section of the application.

(2) *Filing of an electronic application (Form DS-160) or Form DS-156 by alien under 16 or physically incapable.* The application for an alien under 16 years of age or one physically incapable of completing an application may be completed and executed by the alien's parent or guardian, or if the alien has no parent or guardian, by any person having legal custody of, or a legitimate interest in, the alien.

(3) *Waiver of filing of application when personal appearance is waived.* Even if personal appearance of a visa applicant is waived pursuant to 22 CFR 41.102, the requirement for filing an application is not waived.

(b) *Application*—(1) *Preparation of Electronic Nonimmigrant Visa Application (Form DS–160) or, alternatively, Form DS–156.* The consular officer shall ensure that the application is fully and properly completed in accordance with the applicable regulations and instructions.

(2) *Additional requirements and information as part of application.* Applicants who are required to appear for a personal interview must provide a biometric, which will serve to authenticate identity and additionally verify the accuracy and truthfulness of the statements in the application at the time of interview. The consular officer may require the submission of additional necessary information or question an alien on any relevant matter whenever the consular officer believes that the information provided in the application is inadequate to permit a determination of the alien's eligibility to receive a nonimmigrant visa. Additional statements made by the alien become a part of the visa application. All documents required by the consular officer under the authority of § 41.105(a) are considered papers submitted with the alien's application within the meaning of INA 221(g)(1).

(3) *Signature.* The Form DS–160 shall be signed electronically by clicking the box designated “Sign Application” in the certification section of the application. This electronic signature attests to the applicant's familiarity with and intent to be bound by all statements in the NIV application under penalty of perjury. Alternatively, except as provided in paragraph (a)(2) of this section, the Form DS–156 shall be signed by the applicant, with intent to be bound by all statement in the NIV application under penalty of perjury.

(4) *Registration.* The Form DS–160 or the Form DS–156, when duly executed, constitutes the alien's registration for the purposes of INA 221(b).

[73 FR 23068, Apr. 29, 2008]

§ 41.104 Passport requirements.

(a) *Passports defined.* “Passport” as defined in INA 101(a)(30) is not limited to a national passport or to a single document. A passport may consist of two or more documents which, when considered together, fulfill the require-

ments of a passport, provided that the documentary evidence of permission to enter a foreign country has been issued by a competent authority and clearly meets the requirements of INA 101(a)(30).

(b) *Passport requirement.* Except for certain persons in the A, C–3, G, and NATO classifications and persons for whom the passport requirement has been waived pursuant to the provisions of INA 212(d)(4), every applicant for a nonimmigrant visa is required to present a passport, as defined above and in INA 101(a)(30), which is valid for the period required by INA 212(a)(7)(B)(i)(I).

(c) *A single passport including more than one person.* The passport requirement for a nonimmigrant visa may be met by the presentation of a passport including more than one person, if such inclusion is authorized under the laws or regulations of the issuing authority and if a photograph of each visa applicant 16 years of age or over has been attached to the passport by the issuing authority.

(d) *Applicants for diplomatic visas.* Every applicant for a diplomatic visa must present a diplomatic passport, or the equivalent thereof, having the period of validity required by INA 212(a)(7)(B)(i)(I), unless such requirement has been waived pursuant to the authority contained in INA 212(d)(4) or unless the case falls within the provisions of § 41.21(b).

[52 FR 42597, Nov. 5, 1987, as amended at 56 FR 30428, July 2, 1991; 61 FR 1522, Jan. 22, 1996; 61 FR 53058, Oct. 10, 1996; 66 FR 38543, July 25, 2001; 67 FR 66046, Oct. 30, 2002]

§ 41.105 Supporting documents and fingerprinting.

(a) *Supporting documents*—(1) *Authority to require documents.* The consular officer is authorized to require documents considered necessary to establish the alien's eligibility to receive a nonimmigrant visa. All documents and other evidence presented by the alien, including briefs submitted by attorneys or other representatives, shall be considered by the consular officer.

(2) *Unobtainable documents.* If the consular officer is satisfied that a document or record required under the authority of this section is unobtainable,