

9 FAM 41.81 Procedural Notes

(TL:VISA-552; 06-24-2003)
(Office of Origin: CA/VO/L/R)

9 FAM 41.81 PN1 Application for Nonimmigrant K Visa

(TL:VISA-377; 03-29-2002)

a. The following records and documents are required for presentation at the time of visa application:

- (1) A Form DS-156, *Nonimmigrant Visa Application*, in duplicate;
- (2) An original Form DS-156K, *Nonimmigrant Fiancé Visa Application*, (Supplement to Form DS-156).
- (3) Valid passport (except for a person coming under 22 CFR 41.2(a), (b), (h));
- (4) Birth certificate;
- (5) Evidence of termination of any prior marriage of beneficiary (if the petition does not indicate that such evidence was previously submitted);
- (6) Police certificates (in addition to supplying a police certificate from the present place of residence, the applicant must also present police certificates from any place or places of residence for 6 months or more since attaining the age of 16); and
- (7) Form DS-2053, *Medical Examination for Immigrant and Refugee Applicant*, in duplicate (a third copy is required if the alien has a Class A or B condition involving tuberculosis).

b. An accompanying child requires a valid passport (or may be included in the parent's passport), a birth certificate, and a medical examination. If a child is 16 years of age or over, police certificates are required. No chest X-ray or serologic tests are required if the child is under 15 years of age.

9 FAM 41.81 PN2 Evidence of Support

(TL:VISA-377; 03-20-2002)

A K visa applicant and any accompanying children must meet the public charge requirement of INA 212(a)(15) like any other visa applicant. Evidence of support is usually requested by the consular officer. There is, however, no absolute requirement that an affidavit of support or other public

charge documentation be presented. It is only necessary that the consular officer be able to conclude that the alien is not likely to become a public charge. It would not be unusual, therefore, for a healthy alien of working age, applying alone, to be able to establish eligibility during the visa interview without the need for substantiating documentation.

9 FAM 41.81 PN3 Processing of K Visa Application

9 FAM 41.81 PN3.1 Timely Visa Issuance

(TL:VISA-501; 12-03-2002)

a. The interview with the consular officer is the most significant part of the visa issuing process. It is particularly important from the point of view of full and correct application of the law. Section 237 of Public Law 106-113 requires that the Department establish a policy under which fiancé(e) visas be processed within 30 days of receipt of the necessary information from the applicant and the INS. The Department expects all posts to strive to meet the 30/60 day requirements.

b. Since the underlying purpose of the LIFE Act is to reunite families, it is important that posts process these cases as quickly as possible. Posts should first process IV cases that are current for processing and for which visa numbers are available. The second priority should be V-1 and K-3 applicants and their children.

9 FAM 41.81 PN3.2 Applicant Informed of Requirement for Visa

(TL:VISA-493; 11-20-2002)

Upon receipt of a K visa petition approved by INS, the consular officer should promptly send to the applicant:

- (1) Form DS-230, *Application for Immigrant Visa and Alien Registration*;
- (2) Two copies of the Form DS-156; *Nonimmigrant Visa Application*;
and
- (3) One copy of the Form DS-156K, *Nonimmigrant Fiancé(e) Visa Application*.

9 FAM 41.81 PN3.3 Clearance Procedures

(TL:VISA-377; 03-29-2002)

Upon receipt of the completed Form DS-156, *Nonimmigrant Visa Application*, Form DS-156K, *Nonimmigrant Fiancé Visa Application*, and Form DS-230, *Application for Immigrant Visa and Alien Registration*, the consular officer should initiate clearance procedures. If the applicant, since attaining the age of 16, has resided for six months or more in a country other than the one of visa application, the security clearance procedures used in immigrant visa cases are to be followed.

9 FAM 41.81 PN3.4 Interview of Alien to Determine Eligibility

(TL:VISA-377; 03-29-2002)

a. The alien is to be invited for an interview when:

(1) Security clearances, including replies from other posts, have been completed;

(2) The alien has reported that all of the necessary documents have been collected; and

(3) The medical examination has been completed and the report is or will be available before the interview.

b. The consular officer must direct the interview to determine eligibility as if the alien were applying for an immigrant visa in the immediate relative category. The Form DS-156K, *Nonimmigrant Fiancé Visa Application*, and the certification of legal capacity and intent to marry, which is contained therein, are both to be sworn to and signed before the consular officer. If the applicant is eligible under immigrant standards, a K visa shall be issued gratis, valid for a single entry and a six-month period. The alien's fingerprints are not required.

9 FAM 41.81 PN3.5 Use of Stamped Entries for K Aliens

(TL:VISA-2; 08-30-1987)

Issuance of a K visa is evidenced by the usual nonimmigrant stamp placed in the alien's passport. If the applicant comes under 22 CFR 41.2(a), (b), or (h) regarding waiver of passport requirements, Form *DS-232, Unrecognized Passport or Waiver Cases*, is to be used for this purpose. Posts which are authorized to use "Bearer(s)" stamps may use such stamps in issuing K visas.

9 FAM 41.81 PN3.6 Procedures for Minor Child or Children of K Visa Applicant

(TL:VISA-346; 01-14-2002)

If the applicant is to be accompanied by a minor child or children, Form DS-156, *Nonimmigrant Visa Application*, in duplicate, a medical examination, and a birth certificate are required for each child. The children may be included in the principal alien's visa or issued separate visas if they present separate passports. In the latter instance, the name of the principal alien is to be written immediately below the lower margin of the visa; for example, "Principal alien: Mary Brown".

9 FAM 41.81 PN3.7 Steps to Take for Issuance of K Visa

(TL:VISA-377; 03-29-2002)

When the consular officer issues a K visa to an applicant who was previously found entitled to immigrant status and in whose behalf a Form OF-224, *Immigrant Visa Control Card (Background Investigation)*, was prepared, the following procedures must be undertaken:

(1) Annotate the white copy of Form OF-224B, *Immigrant Visa Control Card*, showing the issuance of a K visa and the date of issuance, and mark the card for destruction in one year [see (e) below];

(2) Remove all copies of Form OF-224B from the numerical control file and attach to the white copy of Form OF-224B [see (e) below];

(3) If the post issuing the K visa is not an immigrant visa issuing post and the alien's OF-224B forms are therefore physically in the files of another post, inform the other post of the K visa issuance to permit compliance with (a) and (b);

(4) Refile the numerical control cards in the numerical control file in the case of any alien who does not marry the U.S. citizen fiancé(e) but is still interested in obtaining an immigrant visa, since such an alien is entitled to the original priority date; and

(5) At IVACS posts, follow the separately prescribed steps rather than (1) and (2) above.

9 FAM 41.81 PN3.8 Visa Fees and Validity

(TL:VISA-552; 06-24-2003)

a. There is no additional processing fee for K visas. Applicants will pay only the standard MRV fee. There are no separate reciprocity fees.

b. *The K-1 and K-2 visas shall be valid for six months for one entry. The K-3 visa shall be valid for multiple entries for 10 years, unless constrained by security clearance requirement or waivers, which are valid for a year or less. Unmarried children may receive multiple entry visas valid only until they reach the age of 21 years.*

9 FAM 41.81 PN4 Supporting Documents Hand-carried by Applicant

9 FAM 41.81 PN4.1 Documents Placed in Envelope

(TL:VISA-346; 01-14-2002)

Supporting documents, including the K visa petition, birth certificate, duplicate Form DS-156, *Nonimmigrant Visa Application*, Form DS-156K, *Nonimmigrant Fiancé Visa Application* (including the certificate of legal capacity and intent to marry), and Form DS-2053, *Medical Examination for Immigrant or Refugee Applicant* (in duplicate), and the Form DS-3025, *Vaccination Documentation Worksheet*, should be placed in a sealed envelope and given to the applicant for presentation at the port of entry. (A copy of Form DS-2053 is also to be retained in the applicant's issued visa file.) Any documents for accompanying children are to be enclosed in the envelope containing the parent's documentation [see 9 FAM 41.81 PN1 (f)].

9 FAM 41.81 PN4.2 "MED" Notation and Hand-carried X-Ray

(TL:VISA-346; 01-14-2002)

a. The notation "MED" is to be placed in the lower left corner of the K visa stamp in the following cases:

(1) When the medical examination discloses a Class B tubercular condition; or

(2) When the medical examination discloses a Class A tubercular or other condition and an INA 212(d)(3)(A) waiver has been granted. In these cases, a third copy of the medical report and the X-rays, if a tubercular condition is involved, are also to be placed in a sealed envelope and given to the applicant for presentation at the port of entry. This envelope should be stamped in the following way:

(a) Form DS-2053, *Medical Examination for Immigrant or Refugee Applicant*, enclosed;

(b) Chest X-ray film(s) and Form DS-3024, *Chest X-Ray and Classification Worksheet*, enclosed in this envelope;

(c) Not required to be hand carried to the United States; and

(d) Being reviewed—will be sent to the health facility or physician who is to care for alien.

b. The last item under X-ray film(s) applies only in INA 212(d)(3)(A) waiver cases in instances where the film is under review.

9 FAM 41.81 PN4.3 Child of a K-1

(TL:VISA-324; 10-10-2001)

In the case of children following-to-join the principal alien who are entitled to K-2 classification, the required documents are to be placed in an envelope together with a copy of the approved K visa petition. A notation of the principal alien's name and date of visa issuance is to be made immediately below the lower margin of the visa stamp. For example, "Principal alien: Mary Brown, K-1 visa issued November 16, 2000."

9 FAM 41.81 PN4.4 Child of a K-3

(TL:VISA-324; 10-10-2001)

The unmarried child of a K-3 is entitled to K-4 status and does not need to be the beneficiary of a petition. He or she needs only to establish that the relationship to the principal alien exists.

9 FAM 41.81 PN5 Petitions Received After Visa Issuance Returned to INS

(TL:VISA-521 02-12-2003)

When a K visa has been issued upon receipt of a cabled authorization and the approved petition is subsequently received, the consular officer should return the petition to the approving office of INS with a memorandum indicating the date of visa issuance.

9 FAM 41.81 PN6 Disposition of Form DS-156, *Nonimmigrant Visa Application*

(TL:VISA-346; 01-14-2002)

Upon issuance of a K visa, the post is to file the original of Form DS-156, *Nonimmigrant Visa Application*, in its consolidated card file. The form is to be marked for destruction one year from issuance date.

9 FAM 41.81 PN7 Revalidation of Fiancé(e) Petition

(TL:VISA-2; 08-30-1987)

When a K visa petition is revalidated, the notation "Revalidated to (date)" should be placed in the "Remarks" block of the petition over the signature and title of the consular officer. The date of the revalidation should also be shown.

9 FAM 41.81 PN8 Social Security Registration

(TL:VISA-521; 02-12-2003)

Even though a fiancé(e) is treated in most respects like an immigrant, posts do not give a fiancé(e) the information regarding Social Security registration. INS will do this at the time of the alien's adjustment of status.