

9 FAM 41.102 Procedural Notes

(TL:VISA-602; 12-05-2003)
(Office of Origin: CA/VO/L/R)

9 FAM 41.102 PN1 Form DS-156, *Nonimmigrant Visa Application*

(TL:VISA-237; 10-17-2001)

Form DS-156, *Nonimmigrant Visa Application*, is designed to enable the consular officer to determine whether the visa may be issued without the personal appearance of the applicant. Information concerning the issuance of a nonimmigrant visa should be entered on Form DS-156.

9 FAM 41.102 PN1.1 When Form DS-156, *Nonimmigrant Visa Application*, Is Completed by Other Than Applicant

(TL:VISA-602; 12-05-2003)

Form DS-156, *Nonimmigrant Visa Application*, for an alien under 16 years of age, or one who is physically incapable of completing an application, may be completed and executed by the alien's parent or guardian. If the alien has no parent or guardian, then Form DS-156 may be completed by any person having legal custody of, or a legitimate interest in, the alien.

9 FAM 41.102 PN2 Waiving of Personal Appearance and Filing of Form DS-156, *Nonimmigrant Visa Application*

(TL:VISA-602; 12-05-2002)

When a consular officer waives the personal appearance requirement under 22 *CFR* 41.102(a)(2) or (3), he and/or she may also waive the filing of the visa application, but only in cases of life-threatening emergency. If the filing of the visa application is waived, the consular officer shall prepare Form DS-156, *Nonimmigrant Visa Application*, on behalf of the applicant, using the data available in the passport or other documents that have been submitted.

9 FAM 41.102 PN2.1 Cases in Which Personal Appearance Is Necessary to Determine Eligibility

(TL:VISA-602; 12-05-2003)

If the consular officer is in doubt concerning the nonimmigrant status or the eligibility under INA 212 of an alien whose application was submitted by mail or messenger or other means, the officer shall request the alien to appear in person. Posts are also reminded of interview requirements for certain categories of aliens as stated in 9 FAM 41.102 N4. If the alien is expected to appear within a few days, the consular officer may retain the alien's passport and accompanying supporting documents. If the applicant fails to keep his and/or her appointment, the passport and documents should be returned to the applicant immediately. Form DS-156, *Nonimmigrant Visa Application*, is to be annotated to reflect the alien's failure to keep the appointment, as well as the date the passport and documents are returned.

9 FAM 41.102 PN3 Cases of Students

(TL:VISA-462; 09-18-2002)

In cases of students, consular officers should make an assessment of English language skills when relevant.

9 FAM 41.102 PN4 Applying Criteria for Waivers

(TL:VISA-462; 09-18-2002)

When posts apply criteria for waivers of personal appearance, they should be mindful of the prohibition against accepting nonimmigrant visa applications from applicants who are neither residents of, nor physically present in, their consular district. All waivers of personal appearance authorized under the discretionary authority granted by regulation must be documented in the NIV system comments to reflect the reason why the adjudicating consular officer determined that a waiver of personal appearance was in the national interest.

9 FAM 41.102 PN5 *Interview Required When Doubt Exists*

(TL:VISA-602; 12-05-2003)

Consular officers must be vigilant to ensure that Personal Appearance Waiver procedures are not used fraudulently. All applications must be reviewed and adjudicated by a consular officer or employee designated as a consular officer for visa purposes (COVP). When there is any doubt about an applicant's qualifications for a nonimmigrant visa, the consular officer must request any needed additional information and/or a personal interview before authorizing issuance of a visa. Consular officers **cannot** abdicate their statutory responsibility to any third party.

9 FAM 41.102 PN6 *Documentation Requirements*

(TL:VISA-602; 12-05-2003)

Many visa applications will require supporting documentation. The quantity of such documents should be kept to a minimum. If fraud concerns mandate that supporting documents be originals, it will be necessary to ensure that originals needed by the applicant are returned when the passport is picked up or mailed out. If the passport and documents are mailed out, the alien should enclose a self-addressed, postage-paid envelope with his and/or her application.

9 FAM 41.102 PN7 *Methods for Returning Passports to Bearers*

(TL:VISA-602; 12-05-2003)

If passports are to be handed out, posts should explore various options to ensure proper handling, such as color coding passports submitted on any given day and organizing passports in alphabetical order, or by numbered receipt. Numbered receipts could be handed out or self-dispensed at the time an application is delivered to the drop box, or posts may elect to annotate the *machine-readable visa* (MRV) fee receipts numerically. The receipt should be an identically numbered two-part form: one for the applicant to retain for pick-up and one to be attached to the passport.