

Department of State

§41.121

(4) In other cases as authorized by the Department.

(c) *Visa stamp.* A machine-readable nonimmigrant visa foil, or other indicia as directed by the Department, shall constitute a visa “stamp,” and shall be in a format designated by the Department, and contain, at a minimum, the following data:

- (1) Full name of the applicant;
- (2) Visa type/class;
- (3) Location of the visa issuing office;
- (4) Passport number;
- (5) Sex;
- (6) Date of birth;
- (7) Nationality;
- (8) Number of applications for admission or the letter “M” for multiple entries;
- (9) Date of issuance;
- (10) Date of expiration;
- (11) Visa control number.

(d) *Insertion of name; petition and derivative status notation.* (1) The surname and given name of the visa recipient shall be shown on the visa in the space provided.

(2) If the visa is being issued upon the basis of a petition approved by the Secretary of Homeland Security, the number of the petition, if any, the period for which the alien’s admission has been authorized, and the name of the petitioner shall be reflected in the annotation field on the visa.

(3) In the case of an alien who derives status from a principal alien, the name and position of the principal alien shall be reflected in the annotation field of the visa.

(e) *Period of validity.* If a nonimmigrant visa is issued for an unlimited number of applications for admission within the period of validity, the letter “M” shall be shown under the word “entries”. Otherwise the number of permitted applications for admission shall be identified numerically. The date of issuance and the date of expiration of the visa shall be shown at the appropriate places in the visa by day, month and year in that order. The standard three letter abbreviation for the month shall be used in all cases.

(f) *Restriction to specified port of entry.* If a nonimmigrant visa is valid for admission only at one or more specified ports of entry, the names of those ports shall be entered in the annotation

field. In cases where there is insufficient room to list the ports of entry, they shall be listed by hand on a clean passport page. Reference shall be made in the visa’s annotation field citing the passport page upon which the ports are listed.

(g) *Delivery of visa.* In issuing a nonimmigrant visa, the consular officer should deliver the visaed passport, or the prescribed Form DS–232, which bears the visa, to the alien or to the alien’s authorized representative. Any evidence furnished by the alien in accordance with 41.103(b) should be retained in the consular files, along with Form DS–156, if received.

(h) *Disposition of supporting documents.* Original supporting documents furnished by the alien should be returned for presentation, if necessary, to the immigration authorities at the port of entry. Duplicate copies may be retained in the consular files or scanned into the consular system.

(i) Nonimmigrant visa issuances must be reviewed, in accordance with guidance by the Secretary of State, by consular supervisors, or a designated alternate, to ensure compliance with applicable laws and procedures. Visa issuances must be reviewed without delay; that is, on the day of issuance or as soon as is administratively possible. If the reviewing officer disagrees with the decision and he or she has a consular commission and title, the reviewing officer may assume responsibility and readjudicate the case. If the reviewing officer does not have a consular commission and title, he or she must consult with the adjudicating officer, or with the Visa Office, to resolve any disagreement.

[52 FR 42597, Nov. 5, 1987, as amended at 56 FR 30428, July 2, 1991; 61 FR 1523, Jan. 22, 1996; 61 FR 1836, Jan. 24, 1996; 61 FR 53058, Oct. 10, 1996; 62 FR 24334, May 5, 1997; 66 FR 38543, July 25, 2001; 67 FR 66046, Oct. 30, 2002; 71 FR 34522, June 15, 2006; 71 FR 50338, Aug. 25, 2006; 73 FR 23069, Apr. 29, 2008]

Subpart L—Refusals and Revocations

§41.121 Refusal of individual visas.

(a) *Grounds for refusal.* Nonimmigrant visa refusals must be based on legal

grounds, such as one or more provisions of INA 212(a), INA 212(e), INA 214(b), (f) or (1) (as added by Section 625 of Pub. L. 104–208), INA 221(g), or INA 222(g) or other applicable law. Certain classes of nonimmigrant aliens are exempted from specific provisions of INA 212(a) under INA 102 and, upon a basis of reciprocity, under INA 212(d)(8). When a visa application has been properly completed and executed in accordance with the provisions of INA and the implementing regulations, the consular officer must either issue or refuse the visa.

(b) *Refusal procedure.* (1) When a consular officer knows or has reason to believe a visa applicant is ineligible and refuses the issuance of a visa, he or she must inform the alien of the ground(s) of ineligibility (unless disclosure is barred under INA 212(b)(2) or (3)) and whether there is, in law or regulations, a mechanism (such as a waiver) to overcome the refusal. The officer shall note the reason for the refusal on the application. Upon refusing the nonimmigrant visa, the consular officer shall retain the original of each document upon which the refusal was based, as well as each document indicating a possible ground of ineligibility, and should return all other supporting documents supplied by the applicant.

(2) If an alien, who has not yet filed a visa application, seeks advice from a consular officer, who knows or has reason to believe that the alien is ineligible to receive a visa on grounds which cannot be overcome by the presentation of additional evidence, the officer shall so inform the alien. The consular officer shall inform the applicant of the provision of law or regulations upon which a refusal of a visa, if applied for, would be based (subject to the exception in paragraph (b)(1) of this section). If practicable, the consular officer should request the alien to execute a nonimmigrant visa application in order to make a formal refusal. If the individual fails to execute a visa application in these circumstances, the consular officer shall treat the matter as if a visa had been refused and create a record of the presumed ineligibility which shall be filed in the consular office.

(c) Nonimmigrant refusals must be reviewed, in accordance with guidance by the Secretary of State, by consular supervisors, or a designated alternate, to ensure compliance with laws and procedures. If the ground(s) of ineligibility upon which the visa was refused cannot be overcome by the presentation of additional evidence, the refusal must be reviewed without delay; that is, on the day of the refusal or as soon as it is administratively possible. If the ground(s) of ineligibility may be overcome by the presentation of additional evidence, and the applicant has indicated the intention to submit such evidence, a review of the refusal may be deferred for not more than 120 days. If the reviewing officer disagrees with the decision and he or she has a consular commission and title, the reviewing officer can assume responsibility and readjudicate the case. If the reviewing officer does not have a consular commission and title, he or she must consult with the adjudicating officer, or with the Visa Office, to resolve any disagreement.

(d) *Review of refusal by Department.* The Department may request a consular officer in a specific case or in specified classes of cases to submit a report if a visa has been refused. The Department will review each report and may furnish an advisory opinion to the consular officer for assistance in considering the case further. If the officer believes that action contrary to an advisory opinion should be taken, the case shall be resubmitted to the Department with an explanation of the proposed action. Rulings of the Department concerning an interpretation of law, as distinguished from an application of the law to the facts, shall be binding upon consular officers.

[52 FR 42597, Nov. 5, 1987, as amended at 56 FR 30428, July 2, 1991; 63 FR 671, Jan. 7, 1998; 66 FR 10364, Feb. 15, 2001; 71 FR 50339, Aug. 25, 2006]

§ 41.122 Revocation of visas.

(a) *Grounds for revocation by consular officers.* A consular officer, the Secretary, or a Department official to whom the Secretary has delegated this authority is authorized to revoke a nonimmigrant visa at any time, in his or her discretion.