

the application a written statement subscribed under penalty of perjury describing the exigent or special family circumstances the parent believes should be taken into consideration in applying an exception.

(E) Determinations under this paragraph (b)(2)(vi) may be made by a senior passport adjudicator or the Deputy Assistant Secretary for Passport Services for an application filed within the United States, or a consular officer or the Deputy Assistant Secretary for Overseas Citizens Services for an application filed abroad.

(viii) Nothing contained in this section shall prohibit any Department official adjudicating a passport application on behalf of a minor from requiring an applicant to submit other documentary evidence deemed necessary to establish the applying adult's entitlement to obtain a passport on behalf of a minor under the age of 14 in accordance with the provisions of this regulation.

(c) Objection by parent, guardian or person in loco parentis in cases not involving a custody dispute. At any time prior to the issuance of a passport to a minor, the application may be disapproved and a passport will be denied upon receipt of a written objection from a person having legal custody of the minor.

(d) Objection by parent, guardian or person in loco parentis in cases where minors are the subject of a custody dispute.

(1)(i) When there is a dispute concerning the custody of a minor under age 18, a passport may be denied if the Department has on file, or is provided in the course of a passport application executed on behalf of a minor, a copy of a court order from a court of competent jurisdiction in the United States or abroad which:

- (A) Grants sole custody to the objecting parent; or,
- (B) Establishes joint legal custody; or,
- (C) Prohibits the child's travel without the permission of both parents or the court; or,
- (D) Requires the permission of both parents or the court for important decisions, unless permission is granted in writing as provided therein.

(ii) For passport issuance purposes, a court order providing for joint legal custody will be interpreted as requiring the permission of both parents. The Department will consider a court of competent jurisdiction to be a U.S. state court or a foreign court located in the child's home state or place of habitual residence. Notwithstanding the existence of any such court order, a passport may be issued when compelling humanitarian or emergency reasons relating to the welfare of the child exist.

(2) Either parent may obtain information regarding the application for and issuance of a passport to a minor unless the inquiring parent's parental rights have been terminated by a court order which has been registered with the appropriate office at the Department of State; provided, however, that the Department may deny such information to any parent if it determines that the minor is of sufficient maturity to assert a privacy interest in his/her own right, in which case the minor's written consent to disclosure shall be required.

(3) The Department may require that conflicts regarding custody orders, whether domestic or foreign, be settled by the appropriate court before a passport may be issued.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 61 FR 6505, Feb. 21, 1996; 66 FR 29906, June 4, 2001; 69 FR 15671, Mar. 26, 2004; 69 FR 60813, Oct. 13, 2004]

§ 51.28 Identity of applicant.

(a) If the applicant is not personally known to the official receiving the application he or she shall establish his or her identity by the submission of a previous passport, other identifying documents or by an identifying witness.

(b) If an applicant submits an application under the provisions of paragraph (c) of § 51.21 he or she must submit a prior passport with his or her application.

(c) Any official receiving an application for a passport or any Passport

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Issuing Office may require such additional evidence of identity as may be deemed necessary.

(22 U.S.C. 2658 and 3926)

[33 FR 12043, Aug. 24, 1968, as amended at SD-165, 46 FR 2343, Jan. 9, 1981; 49 FR 16989, Apr. 23, 1984]

§ 51.30 Persons unacceptable as witnesses.

The passport issuing office will not accept as witness to a passport application a person who has received or expects to receive a fee for his services in connection with executing the application or obtaining the passport.

§ 51.31 Affidavit of identifying witness.

(a) An identifying witness shall execute an affidavit stating: That he or she resides at a specific address; that he or she knows or has reason to believe that the applicant is a citizen of the United States; the basis of his or her knowledge concerning the applicant; and that the information set out in his or her affidavit is true to the best of his or her knowledge and belief.

(b) If the witness has a U.S. passport, he or she shall state the place of issue and, if possible, the number and approximate date of issue.

(c) The identifying witness shall subscribe to his or her statement before the same person who took the passport application.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 31 FR 14522, Nov. 11, 1966; 49 FR 16989, Apr. 23, 1984]

§ 51.32 Amendment of passports.

Applicants for amendment of a passport shall be made on forms prescribed by the Department.

[SD-165, 46 FR 2343, Jan. 9, 1981]

§ 51.33 Release of passport information.

Information in passport files is subject to the provisions of the Freedom of Information Act (FOIA) and the Privacy Act. Release of this information may be requested in accordance with the implementing regulations set forth

§ 51.43

in Subchapter R, Part 171 or Part 172 of this title.

(22 U.S.C. 2658 and 3926; 5 U.S.C. 552, 552a)

[61 FR 29940, June 13, 1996]

Subpart C—Evidence of U.S. Citizenship or Nationality

§ 51.40 Burden of proof.

The applicant has the burden of proving that he or she is a national of the United States.

[66 FR 29907, June 4, 2001]

§ 51.41 Documentary evidence.

Every application shall be accompanied by evidence of the U.S. nationality of the applicant.

[66 FR 29907, June 4, 2001]

§ 51.43 Persons born in the United States applying for a passport for the first time.

(a) *Primary evidence of birth in the United States.* A person born in the United States in a place where official records of birth were kept at the time of his or her birth shall submit with the application for a passport a birth certificate under the seal of the official custodian of birth records. To be acceptable, a certificate must show the full name of the applicant place and date of birth, and that the record thereof was recorded at the time of birth or shortly thereafter.

(b) *Secondary evidence of birth in the United States.* If the applicant cannot submit primary evidence of birth, he or she shall submit the best obtainable secondary evidence. If a person was born at a place in the United States when birth records were filed, he or she must submit a “no record” certification from the official custodian of such birth records before secondary evidence may be considered. The passport issuing office will consider, as secondary evidence, baptismal certificates, certificates of circumcision, or other documentary evidence created shortly after birth but not more than 5 years after birth, and/or affidavits of