

INS to show an unexpired period of initial admission or extension of stay, or, in the case of a qualified F or J student or exchange visitor or the accompanying spouse or child of such an alien, is in possession of a current Form I-20, Certificate of Eligibility for Nonimmigrant Student Status, or Form IAP-66, Certificate of Eligibility for Exchange Visitor Status, issued by the school the student has been authorized to attend by INS, or by the sponsor of the exchange program in which the alien has been authorized to participate by INS, and endorsed by the issuing school official or program sponsor to indicate the period of initial admission or extension of stay authorized by INS;

(ii) Is applying for readmission after an absence not exceeding 30 days solely in contiguous territory, or, in the case of a student or exchange visitor or accompanying spouse or child meeting the stipulations of paragraph (d)(2)(i) of this section, after an absence not exceeding 30 days in contiguous territory or adjacent islands other than Cuba;

(iii) Has maintained and intends to resume nonimmigrant status;

(iv) Is applying for readmission within the authorized period of initial admission or extension of stay;

(v) Is in possession of a valid passport;

(vi) Does not require authorization for admission under INA 212(d)(3); and

(vii) Has not applied for a new visa while abroad.

(3) The provisions in paragraphs (d)(1) and (d)(2) of this section shall not apply to the nationals of countries identified as supporting terrorism in the Department's annual report to Congress entitled *Patterns of Global Terrorism*.

[52 FR 42597, Nov. 5, 1987; 53 FR 9112, 9172, Mar. 21, 1988, as amended at 55 FR 36028, Oct. 31, 1990; 62 FR 24332, May 5, 1997; 66 FR 38543, July 25, 2001; 67 FR 10323, Mar. 7, 2002; 67 FR 66046, Oct. 30, 2002]

§ 41.113 Procedures in issuing visas.

(a) *Visa evidenced by stamp placed in passport.* Except as provided in paragraphs (b) of this section, a nonimmigrant visa shall be evidenced by a visa stamp placed in the alien's passport. The appropriate symbol as pre-

scribed in 41.12, showing the classification of the alien, shall be entered on the visa.

(b) *Cases in which visa not placed in passport.* In the following cases the visa shall be placed on the prescribed Form OF-232. In issuing such a visa, a notation shall be made on the Form OF-232 on which the visa is placed specifying the pertinent subparagraph of this paragraph under which the action is taken.

(1) The alien's passport was issued by a government with which the United States does not have formal diplomatic relations, unless the Department has specifically authorized the placing of the visa in such passport;

(2) The alien's passport does not provide sufficient space for the visa;

(3) The passport requirement has been waived; or

(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 Attorney General, 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 and disposition of Form OF-156.* In issuing a nonimmigrant visa, the consular officer shall deliver the visaed passport, or the prescribed Form OF-232, which bears the visa, to the alien or, if personal appearance has been waived, to the authorized representative. The executed Form OF-156, Nonimmigrant Visa Application, and any additional evidence furnished by the alien in accordance with 41.103(b) shall be retained in the consular files.

(h) *Disposition of supporting documents.* Original supporting documents furnished by the alien shall be returned for presentation, if necessary, to the immigration authorities at the port of entry, and a notation to that effect shall be made on the Form OF-156. Duplicate copies may be retained in the consular files.

[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]

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 (l) (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