

9 FAM 41.103 FILING AN APPLICATION AND FORM DS-160

*(CT:VISA-1683; 09-08-2011)
(Office of Origin: CA/VO/L/R)*

9 FAM 41.103 RELATED STATUTORY PROVISIONS

(CT:VISA-1683; 09-08-2011)

See INA 221(b) (8 U.S.C. 1201(b)), INA 222(c) (8 U.S.C. 1202(c)), and INA 222(e), in part (8 U.S.C. 1202(e), in part).

INA 221(b)

b. Each alien who applies for a visa shall be registered in connection with his application, and shall furnish copies of his photograph signed by him for such use as may be by regulations required. The requirements of this subsection may be waived in the discretion of the Secretary of State in the case of any alien who is within that class of nonimmigrants enumerated in sections 101(a)(15)(A), and 101(a)(15)(G), or in the case of any alien who is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof.

INA 222(c)

c. Every alien applying for a nonimmigrant visa and for alien registration shall make application therefore in such form and manner as shall be by regulations prescribed. In the application the alien shall state his full and true name, the date and place of birth, his nationality, the purpose and length of his intended stay in the United States; his marital status; and such additional information necessary to the identification of the applicant, the determination of his eligibility for a nonimmigrant visa, and the enforcement of the immigration and nationality laws as may be by regulations prescribed. The alien shall provide complete and accurate information in response to any request for information contained in the application. At the discretion of the Secretary of State, application forms for the various classes of nonimmigrant admissions described in section 101(a)(15) may vary according to the class of visa being requested.

INA 222 (e)

- e. Except as may be otherwise prescribed by regulations, each application for an immigrant visa shall be signed by the applicant in the presence of the consular officer, and verified by the oath of the applicant administered by the consular officer. The application for an immigrant visa, when visaed by the consular officer, shall become the immigrant visa. The application for a nonimmigrant visa or other documentation as a nonimmigrant shall be disposed of as may be by regulations prescribed. The issuance of a nonimmigrant visa shall, except as may be otherwise by regulations prescribed, be evidenced by a stamp, or other placed in the alien's passport.

9 FAM 41.103 RELATED REGULATORY PROVISIONS

(CT:VISA-973; 06-12-2011)

See 22 CFR 41.103

41.103 Filing an application.

- (a) Filing an application —
- (1) *Filing of application required.* Every alien seeking a nonimmigrant visa must make an electronic application on Form DS-160 or, as directed by a consular officer, an application on Form DS-156. The Form DS-160 must be signed electronically by clicking the box designated "Sign Application" in the certification section of the application.
 - (2) *Filing of an electronic application (Form DS-160) or Form DS-156 by alien under 16 or physically incapable.* The application for an alien under 16 years of age or one physically incapable of completing an application may be completed and executed by the alien's parent or guardian, or if the alien has no parent or guardian, by any person having legal custody of, or a legitimate interest in, the alien.
 - (3) *Waiver of filing of application when personal appearance is waived.* Even if personal appearance of a visa applicant is waived pursuant to 22 CFR 41.102, the requirement for filing an application is not waived.
- (b) Application —

- (1) *Preparation of Electronic Nonimmigrant Visa Application (Form DS-160) or, alternatively, Form DS-156.* The consular officer shall ensure that the application is fully and properly completed in accordance with the applicable regulations and instructions.
- (2) *Additional requirements and information as part of application.* Applicants who are required to appear for a personal interview must provide a biometric, which will serve to authenticate identity and additionally verify the accuracy and truthfulness of the statements in the application at the time of interview. The consular officer may require the submission of additional necessary information or question an alien on any relevant matter whenever the consular officer believes that the information provided in the application is inadequate to permit a determination of the alien's eligibility to receive a nonimmigrant visa. Additional statements made by the alien become a part of the visa application. All documents required by the consular officer under the authority of §41.105(a) are considered papers submitted with the alien's application within the meaning of INA 221(g)(1).
- (3) *Signature.* The Form DS-160 shall be signed electronically by clicking the box designated "Sign Application" in the certification section of the application. This electronic signature attests to the applicant's familiarity with and intent to be bound by all statements in the NIV application under penalty of perjury. Alternatively, except as provided in paragraph (a)(2) of this section, the Form DS-156 shall be signed by the applicant, with intent to be bound by all statement in the NIV application under penalty of perjury.
- (4) *Registration.* The Form DS-160 or the Form DS-156, when duly executed, constitutes the alien's registration for the purposes of INA 221(b).

[73 FR 23068, Apr. 29, 2008]