9 FAM 40.34
PROCEDURAL NOTES

(CT:VISA-1842;   06-15-2012)
(Office of Origin: CA/VO/L/R)

9 FAM 40.34 PN1 SECURITY ADVISORY OPINION (SAO) PROCEDURES

(CT:VISA-1032;   09-23-2008)

Requests for the Department's Security Advisory Opinions (SAO) which are required by 9 FAM 40.34 Notes or are solicited at your (consular officer) discretion must be submitted as a "VISAS DONKEY". SAO requests must provide all information known to post, including a complete citation of the Consular Lookout and Support System (CLASS) entry (if any), as well as the consular officer's evaluation of the case and recommendation regarding eligibility. They should be directed to the Office of Legislation and Coordination Division (CA/VO/L/C), with "FBI WASHDC" included as an action addressee. Once an SAO has been submitted, no visa may be issued until the Department's response has been received.

9 FAM 40.34 PN2 NOTATING IMMIGRANT VISA APPLICATION FORMS IN NON-VOLUNTARY ASSOCIATION AND PAST MEMBERSHIP CASES

(CT:VISA-1455;   07-19-2010)

When an immigrant alien has been found to benefit from the relief provided by INA 212(a)(3)(D)(ii) the action should be noted on item 35 of Form DS-230, Application for Immigrant Visa and Alien Registration, or in the remarks box for the Security and Background section of the Form DS-260, Online Application for Immigrant Visa and Alien Registration CCD Application Web Report.

9 FAM 40.34 PN3 INA 212(A)(3)(D)(IV) WAIVER PROCEDURES

FAM 40.34 PN3.1 Waiver Applications Submitted Directly to DHS

(CT:VISA-1842;   06-15-2012)

Instruct ineligible applicants to file their Form I-601, Application for Waiver of Ground of Inadmissibility, with USCIS per the USCIS Form I-601 instructions. If the applicant also requires Form I-212, they must submit it simultaneously with the Form I-601. Approved I-601 waivers on behalf of aliens who obtain lawful permanent residence on a conditional basis under INA 216 automatically terminate concurrently with the termination of such status, and separate notification of termination of the waiver is not required when the alien is notified of the termination of residence under INA 216.

9 FAM 40.34 PN3.2 Responsibility of Consular Officers

(CT:VISA-1842;   06-15-2012)

You must interview the alien to establish that the finding of ineligibility is fully in accord with law and regulations and that any necessary qualifying relationship exists. Consular officers should record notes that clearly and thoroughly document the factual findings that support each element of the ineligibility so that U.S. Citizenship and Immigration Services (USCIS) will have available the information required to adjudicate Form I-601.

9 FAM 40.34 PN3.3 Notating Department of Homeland Security (DHS) Waiver Action

(CT:VISA-1842;   06-15-2012)

a. When a waiver is granted under INA 212(a)(3)(D)(iv), USCIS will notify the consular post via an encrypted spreadsheet if the waiver was adjudicated at the Nebraska Service Center (NSC). Post must make a case note indicating the date USCIS's decision, the grounds of ineligibility waived and the name of the spreadsheet file that post received:

> Per USCIS/NSC notification received (date), (grounds of ineligibility) waived for (NVC case number). Spreadsheet POST_DD_MM_YYYY_HR_MIN.csv

b. **If the applicant filed Form DS-260, Online Application for Immigrant Visa and Alien Registration, you should note DHS's waiver approval on the Online IV Application Report using the "Add Remarks" function at the top of the Report.** The post must also note "212(a)(3)(D)(iv)" in the block provided for specifying waiver action on the machine readable immigrant visa (MRIV). Consular sections will not receive a physical copy of the approval

record from USCIS. There is no need to scan it into the case. CBP officers will be able to verify the waiver decision through DHS's system Computer Linked Application Information Management System (CLAIMS).