

## 9 FAM 41.101 PLACE OF APPLICATION

*(CT:VISA-1284; 09-04-2009)*  
*(Office of Origin: CA/VO/L/R)*

### 9 FAM 41.101 RELATED REGULATORY PROVISIONS

*(CT:VISA-1284; 09-04-2009)*

See 22 CFR 41.101

#### **41.101 Place of application.**

- (a) Application for regular visa made at jurisdictional consular office of alien's residence or physical presence.
- (1) An alien applying for a nonimmigrant visa shall make application at a consular office having jurisdiction over the alien's place of residence, or if the alien is a resident of Taiwan, at the American Institute in Taiwan, unless—
    - (i) The alien is physically present in the United States and is entitled to apply for issuance or reissuance of a visa under the provisions of 41.111(b); or
    - (ii) A consular office having jurisdiction over the area in which the alien is physically present but not resident has agreed, as a matter of discretion or at the direction of the Department, to accept the alien's application; or
    - (iii) The alien is subject to INA 222(g) and must apply as set forth in paragraph (b) or (c) of this section.
  - (2) The Deputy Assistant Secretary of State for Visa Services is authorized to designate the geographical area for which each consular office possesses jurisdiction to process nonimmigrant visa applications.
- (b) ***Place of application for persons subject to INA 222(g).***  
Notwithstanding the requirements of paragraph (a) of this section, an alien whose prior nonimmigrant visa has been voided pursuant to INA

222(g), who is applying for a new nonimmigrant visa, shall make application at a consular office which has jurisdiction in or for the country of the alien's nationality unless extraordinary circumstances have been determined to exist with respect to that alien as set forth in paragraph (c) of this section.

- (c) ***Exceptions based on extraordinary circumstances.*** (1) An alien physician serving in underserved areas of the United States under the provisions of INA 214(l) for whom an application for a waiver of the 2-year foreign residence requirement and/or a petition to accord H-1B status was filed prior to the end of the alien's authorized period of stay and was subsequently approved, but whose authorized stay expired during the adjudication of such application(s), shall make application in accordance with paragraph (a) of this section.
- (2) Any other individual or group whose circumstances are determined to be extraordinary, in accordance with paragraph (d)(1) of this section, by the Deputy Assistant Secretary for Visa Services upon the favorable recommendation of an immigration or consular officer, shall make application in accordance with paragraph (a) of this section.
- (3) An alien who has, or immediately prior to the alien's last entry into the United States had, a residence in a country other than the country of the alien's nationality shall apply at a consular office with jurisdiction in or for the country of residence.
- (4) An alien who is a national and resident of a country in which there is no United States consular office shall apply at a consular office designated by the Deputy Assistant Secretary for Visa Services to accept immigrant visa applications from persons of that nationality.
- (5) An alien who possesses more than one nationality and who has, or immediately prior to the alien's last entry into the United States had, a residence in one of the countries of the alien's nationality shall apply at a consular office in the country of such residence.
- (d) Definitions relevant to INA 222(g).
- (1) Extraordinary circumstances—Extraordinary circumstances may be found where compelling humanitarian or national interests exist or where necessary for the effective administration of the immigration laws. Extraordinary circumstances shall not be found upon the basis of convenience or financial burden to the alien, the alien's relative, or the alien's employer.

- (2) Nationality—For purposes of paragraph (b) of this section, a stateless person shall be considered to be a national of the country which issued the alien's travel document.
- (e) **Regular visa defined.** “Regular visa” means a nonimmigrant visa of any classification which does not bear the title “Diplomatic” or “Official.” A nonimmigrant visa is issued as a regular visa unless the alien falls within one of the classes entitled to a diplomatic or an official visa as described in 41.26(c) or 41.27(c).
- (f) **Q–2 nonimmigrant visas.** The American Consulate General at Belfast is designated to accept applications for the Q–2 visa from residents of the geographic area of Northern Ireland. The American Embassy at Dublin is designated to accept applications for Q–2 visas from residents of the geographic area of the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal in the Republic of Ireland. Notwithstanding any other provision of this section, an applicant for a Q–2 visa may not apply at any other consular post. Consular officers at the Consulate General at Belfast and at the Embassy at Dublin have discretion to accept applications for Q–2 visas from aliens who are resident in a qualifying geographic area outside of their respective consular districts, but who are physically present in their consular district.

(52 FR 42597, Nov. 5, 1987; 53 FR 9112, Mar. 21, 1988, as amended at 61 FR 1522, Jan. 22, 1996; 61 FR 53058, Oct. 10, 1996; 61 FR 56439, Nov. 1, 1996; 63 FR 671, Jan. 7, 1998; 63 FR 36366, July 6, 1998; 65 FR 14771, Mar. 17, 2000; 66 FR 38542, July 25, 2001; 67 FR 66046, Oct. 30, 2002)