

9 FAM 41.104 PASSPORT REQUIREMENTS

*(CT:VISA-1291; 09-10-2009)
(Office of Origin: CA/VO/L/R)*

9 FAM 41.104 RELATED STATUTORY PROVISIONS

(CT:VISA-1291; 09-10-2009)

See INA 101(a)(30) (8 U.S.C. 1101(a)(30)), INA 212(a)(7)(B)(i) (8 U.S.C. 1182(a)(7)(B)(i)), and INA 212(d)(4) (8 U.S.C. 1182(d)(4)).

INA 101(a)(30)

(a)(30) The term "passport" means any travel document issued by competent authority showing the bearer's origin, identity, and nationality if any, which is valid for the admission of the bearer into a foreign country.

INA 212(a)(7)(B)(i)

(7) Documentation requirements.-

(A) Immigrants.-

- (i) In general.-Except as otherwise specifically provided in this Act, any immigrant at the time of application for admission-
 - (I) Who is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality if such document is required under the regulations issued by the Attorney General under section 211(a), or
 - (II) Whose visa has been issued without compliance with the provisions of section 203, is inadmissible.
- (ii) Waiver authorized.-For provision authorizing waiver of clause

(i), see subsection (k).

(B) Nonimmigrants.-

- (i) In general.-Any nonimmigrant who-
 - (I) Is not in possession of a passport valid for a minimum of six months from the date of the expiration of the initial period of the alien's admission or contemplated initial period of stay authorizing the alien to return to the country from which the alien came or to proceed to and enter some other country during such period, or
 - (II) Is not in possession of a valid nonimmigrant visa or border crossing identification card at the time of application for admission, is inadmissible.
- (ii) General waiver authorized.-For provision authorizing waiver of clause (i), see subsection (d)(4).
- (iii) Guam visa waiver.-For provision authorizing waiver of clause (i) in the case of visitors to Guam, see subsection (l).
- (iv) VISA WAIVER PROGRAM.-For authority to waive the requirement of clause (i) under a program, see section 217.

INA 212(d)(4)

- (4) Either or both of the requirements of paragraph (7)(B)(i) of subsection (a) of this section may be waived by the Attorney General and the Secretary of State acting jointly -
 - (A) On the basis of unforeseen emergency in individual cases, or
 - (B) On the basis of reciprocity with respect to nationals of foreign contiguous territory or of adjacent islands and residents thereof having a common nationality with such nationals, or
 - (C) In the case of aliens proceeding in immediate and continuous transit through the United States under contracts authorized in section 233(c) of this title.

(Amended by sec. 699L *Public Law* 110-161, 121 Stat. 2373; 2007)

9 FAM 41.104 RELATED REGULATORY PROVISIONS

(CT:VISA-973; 06-12-2008)

See 22 CFR 41.104.

41.104 Passport Requirements.

- (a) **Passports defined.** "Passport" as defined in INA 101(a)(30) is not limited to a national passport or to a single document. A passport may consist of two or more documents which, when considered together, fulfill the requirements of a passport, provided that the documentary evidence of permission to enter a foreign country has been issued by a competent authority and clearly meets the requirements of INA 101(a)(30).
- (b) **Passport requirement.** Except for certain persons in the A, C-3, G, and NATO classifications and persons for whom the passport requirement has been waived pursuant to the provisions of INA 212(d)(4), every applicant for a nonimmigrant visa is required to present a passport, as defined above and in INA 101(a)(30), which is valid for the period required by INA 212(a)(7)(B)(i)(I).
- (c) **A single passport including more than one person.** The passport requirement for a nonimmigrant visa may be met by the presentation of a passport including more than one person, if such inclusion is authorized under the laws or regulations of the issuing authority and if a photograph of each visa applicant 16 years of age or over has been attached to the passport by the issuing authority.
- (d) **Applicants for diplomatic visas.** Every applicant for a diplomatic visa must present a diplomatic passport, or the equivalent thereof, having the period of validity required by INA 212(a)(7)(B)(i)(I), unless such requirement has been waived pursuant to the authority contained in INA 212(d)(4) or unless the case falls within the provisions of §41.21(b).

(52 FR 42597, Nov. 5, 1987, as amended at 56 FR 30428, July 2, 1991; 61 FR 1522, Jan. 22, 1996; 61 FR 53058, Oct. 10, 1996; 66 FR 38543, July 25, 2001; 67 FR 66046, Oct. 30, 2002)