

9 FAM APPENDIX O, 1200 CONSULAR PROCESSING OF V-92 BENEFICIARIES

*(CT:VISA-1170; 03-19-2009)
(Office of Origin: CA/VO/L/R)*

9 FAM APPENDIX O, 1201 LEGAL AUTHORITIES

(CT:VISA-1134; 12-22-2008)

- a. Under INA 208, a person already in the United States (whether lawfully, e.g., in nonimmigrant visa (NIV) status, or unlawfully) may apply for asylum. Decisions on whether to grant asylum are made by U.S. Citizenship and Immigration Services (USCIS). Accordingly, the adjudication of asylum cases, including applications for the admission of family members on a derivative basis, is governed by USCIS regulations in 8 CFR Part 208. Nevertheless, consular officers, particularly ones at posts with no USCIS officer present, are required to assist in processing cases of spouses and children of persons granted asylum. This chapter provides guidance to consular officers on handling such cases. Posts with questions should direct them to the Post Liaison Division (CA/VO/F/P), which will coordinate a response with USCIS as appropriate.
- b. Asylum cases (VISAS 92): INA 208 provides that a person determined to be a refugee "may" be granted asylum, and that the spouse or child of an alien granted asylum "may" be granted the same status if accompanying or following-to-join the principal applicant (INA 208(b)(3)). This makes clear that a spouse or child is not automatically entitled to the same status as the principal applicant, but that the grant of derivative status is discretionary. In implementing regulations at 8 CFR 208.21 (effective 2/26/98), USCIS has excluded from eligibility spouses and children who have committed certain kinds of acts (e.g., persecution, serious crimes) and/or who constitute a danger to the United States, and persons whose relationship to the principal applicant does not meet certain requirements established in furtherance of the "follow-to-join" requirement. Because the grant of status is discretionary, USCIS may also deny VISAS 92 for other reasons.

9 FAM APPENDIX O, 1202 WHAT IS THE DIFFERENCE BETWEEN V-92 AND V-93?

(CT:VISA-1134; 12-22-2008)

- a. Petitioners of V-93 beneficiaries are admitted to the United States as refugees. Petitioners of V-92 beneficiaries are granted asylum in the United States. V-93 beneficiaries are counted as refugee arrivals and benefit from all U.S. Government-funded services provided to refugees. V-92 beneficiaries are not eligible for U.S. Government-funded International Organization for Migration (IOM) travel loans or other processing benefits accorded to refugees.
- b. Unlike the V-93 process, the cost of medical examinations and treatment to make a V-92 beneficiary travel ready is paid entirely by the applicant. The U.S. Government does not fund medical treatment or examinations for Asylum follow-to-join beneficiaries.

9 FAM APPENDIX O, 1203 CONSULAR RESPONSIBILITY FOR PROCESSING V-92 CASES

(CT:VISA-1134; 12-22-2008)

- a. In countries with a permanent U.S. Citizenship and Immigration Services (USCIS) office, USCIS officers will interview V-92 beneficiaries and prepare the travel packets. The only aspects the consular section may assist USCIS with are the Consular Lookout and Support System (CLASS) namechecks and security advisory opinions (SAOs) if needed.
- b. In countries without a USCIS presence, USCIS delegates the authority to process V-92 beneficiaries to a consular officer, and the consular section will prepare the travel packet.
- c. Consular officers must take care to preserve the confidentiality of the asylum process. The fact that the petitioner of a V-92 case has been granted asylum may not be disclosed to anyone outside the U.S. Government without authorization from the Department.

9 FAM APPENDIX O, 1204 ELIGIBILITY FOR V-92 PROCESSING

(CT:VISA-1170; 03-19-2009)

- a. VISAS 92 beneficiaries are the spouses and children of persons who have been granted asylum in the United States under INA 208, and who are the subject of approved Form I-730, Refugee/Asylee *Relative* Petition. A spouse is a person who meets the definition of "spouse" in INA 101(a)(35). To be eligible for derivative status, the spouse must also meet timing requirements described in 9 FAM Appendix O, 1208.1-2, *Derivative Relationship Between the Petitioner and Beneficiary*. A child is a person who meets the definition of "child" in INA 101(b). To be eligible for derivative status, the child must also meet timing requirements described in 9 FAM Appendix O, 1208.1-2 below.
- b. Each applicant must be the beneficiary of a separate Form I-730 filed by the petitioner.
- c. V-92 beneficiaries are eligible for derivative status on the basis of their relationship to an asylee. They are not required to establish eligibility under the first sentence of INA 101(a)(42) (persons either being persecuted or with a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion) or to prove they are not firmly resettled.

9 FAM APPENDIX O, 1205 VALIDITY OF FORM I-730, REFUGEE/ASYLEE RELATIVE PETITION

(CT:VISA-1170; 03-19-2009)

- a. Under USCIS regulations, persons granted asylum in the United States must file a Form I-730, Refugee/Asylee *Relative* Petition, within two years of their grant of asylum. An eligible V-92 beneficiary may apply on the basis of the Form I-730 until the petitioner becomes a U.S. citizen.
- b. V-92 beneficiaries remain eligible for derivative status even after the petitioner has adjusted from asylum status to lawful permanent resident (LPR). A V-92 petitioner who becomes a U.S. citizen must file Form I-130, Petition for Alien Relative, to petition his spouse and unmarried children under 21 as immediate relatives.

9 FAM APPENDIX O, 1206 EFFECT OF THE CHILD STATUS PROTECTION ACT (CSPA) ON DERIVATIVES OF ASYLEES

(CT:VISA-1134; 12-22-2008)

- a. The Child Status Protection Act (CSPA), Public Law 107-208, 116 Statute 927, effective August 6, 2002, allows some children reaching the age of 21 to continue being classified as a "child" and derive eligibility for V-92 status from a parent.
- b. The CSPA applies to V-92 children who turn 21 years of age while the parent's Form I-589, Application for Asylum and Withholding of Removal (the child must be listed on this Form I-589), or Form I-730, Refugee/Asylee Relative Petition, is pending. For complete guidance on applying the CSPA to refugee processing, see the USCIS memoranda below, both available at USCIS:
 - (1) U.S. Citizenship and Immigration Service Memorandum, Processing Derivative Refugees and Asylees under the Child Status Protection Act, HQIAO 120/5.2, dated July 23, 2003; and
 - (2) U.S. Citizenship and Immigration Service Memorandum, The Child Status Protection Act -- Children of Asylees and Refugees, HWOPRD 70/6.1, dated August 17, 2004.
- c. Children who turned 21 years of age prior to August 6, 2002 are not covered by the CSPA unless either the Form I-730 or the petitioner's Form I-589 was pending on that date. These documents are considered pending if they were approved by August 6, 2002, but the beneficiaries had not yet been issued documentation to travel to the United States.

9 FAM APPENDIX O, 1207 PRELIMINARY PROCESSING STEPS IN V-92 CASES, NATIONAL VISA CENTER (NVC) FORWARDS APPROVED FORM I-730 REFUGEE/ASYLEE RELATIVE PETITION TO POST

(CT:VISA-1170; 03-19-2009)

The National Visa Center (NVC) receives *the* approved Form I-730 from the U.S. Citizenship and Immigration Services (USCIS) and forwards the petition

to the consulate in the country where the V-92 beneficiary resides. If there is no consulate in the country of residence, the petitioner may designate the country where the beneficiary will apply and the approved Form I-730 will be forwarded to that post.

9 FAM Appendix O, 1207.1 Scheduling the Consular Interview for V-92 Beneficiaries

(CT:VISA-1170; 03-19-2009)

- a. The NVC does not notify the petitioner or beneficiary when the approved Form I-730 has been forwarded to post. As soon as possible after receiving the Form I-730 or telegraphic notice of approval from NVC, the consular section should contact the V-92 beneficiary and advise him or her of documentary requirements and schedule an interview. Posts may draft their own letters for this purpose without Department approval.
- b. Each applicant must have eight color photos that meet the current passport application standard; post may take the photos or ask the applicants to provide them at the time of interview.
- c. After the interview is scheduled, post should enter the beneficiaries into the nonimmigrant visa (NIV) Applicant Information window in the same manner as regular visa applicants. Post should then select YY as the visa class and select the following annotation from the dropdown menu: ***“Not a visa. Foil prepared at DHS request. May be boarded without transportation carrier liability.”*** The machine readable visa (MRV) fee and reciprocity fees will default to 0, since there are no fees for asylee follow-to-join transportation letters. (See 9 FAM Appendix O, 1208, *Consular Interview with V-92 Beneficiaries* Processing Steps After V-92 Interview, et seq. for further information on these steps.)

9 FAM Appendix O, 1207.2 No Police Certificate Required in V-92 Processing

(CT:VISA-1134; 12-22-2008)

A police certificate is not required for V-92 cases. The consular officer may, however, request a V-92 beneficiary to present a police certificate for the country of residence, if available. Assess the risk to the applicant or other family members if brought to official attention in the country of origin or first asylum.

9 FAM APPENDIX O, 1208 CONSULAR INTERVIEW WITH V-92 BENEFICIARIES

9 FAM Appendix O, 1208.1 Adjudicating V-92 Cases

(CT:VISA-1134; 12-22-2008)

The purpose of the consular interview with V-92 beneficiaries is to verify the applicant's identity, confirm the relationship between the petitioner and beneficiary, and determine whether any INA 212(a) inadmissibilities or other bars to admission exist. Posts should also collect biometric fingerprints at the interview.

9 FAM Appendix O, 1208.1-1 Verify Identity and Relationship

(CT:VISA-1134; 12-22-2008)

- a. The interview should begin with the applicant(s) taking an oath or affirmation. V-92 applicants should show evidence of identity and family relationship. Consular officers should examine marriage, death, divorce, and/or birth certificates or certificates of adoption, if available. If civil documents are not available, credible oral testimony and secondary documentary evidence may be used. Although specific documentary evidence is not required, burden of proof is on the V-92 beneficiary to verify the existence of qualifying relationship. Keep copies of any evidence provided during the interview to include in the case file. Make notes as to the statements made during the interview.
- b. In cases where fraud is suspected, (see 9 FAM Appendix O, 706.2-5(B) Evidence of Fraud in Identity or Claimed Relationship).

9 FAM Appendix O, 1208.1-2 Derivative Relationship Between the Petitioner and Beneficiary

(CT:VISA-1170; 03-19-2009)

- a. Note that in order to derive status under 8 CFR 208.21:
 - (1) The qualifying relationship must have existed at the time *that* the petitioner's asylum application was approved and must continue to exist at the time of filing for accompanying benefits and at the time of the spouse or child's subsequent admission to the United States; and

- (2) If the asylee is the parent of a child who was born after asylum was granted, but who was in utero on the date of the asylum grant, the child shall be eligible for follow-to-join status. The child's mother only qualifies as a beneficiary if married to the petitioner at the time the principal acquires asylee status.
- b. Even if the applicant is a spouse or unmarried child of the petitioner and meets the criteria in the above paragraph, the applicant is not eligible to derive status if:
 - (1) He/she was previously granted asylum or refugee status;
 - (2) An adopted child whose adoption took place after the age of 16, or who has not been in the legal custody of and living with the parent(s) for at least two years;
 - (3) A stepchild from a marriage that occurred after the child was 18 years old;
 - (4) A husband or wife who was not physically present at the marriage ceremony and whose marriage was not consummated; or
 - (5) A husband or wife determined by USCIS to have attempted or conspired to enter into a marriage for the purpose of evading immigration laws.
 - c. A parent, sister, brother, grandparent, grandchild, uncle, aunt, nephew, niece, cousin, or in-law does not have a qualifying relationship.
 - d. See 8 CFR 208.21 for further guidance.

9 FAM Appendix O, 1208.1-3 Effect of Death of Petitioner

(CT:VISA-1134; 12-22-2008)

- a. If information that the petitioner is deceased develops during the application process, obtain the death certificate or other evidence that the petitioner is deceased (if available). The approval on the petition is no longer valid when the petitioner is deceased. No derivative asylee benefits may be issued and the petition should be returned to USCIS for the case to be reopened and denied.
- b. While the beneficiaries lose eligibility to apply for Form I-730 benefits when the petitioner dies before derivative family members arrive in the United States, the beneficiaries may apply for humanitarian parole with USCIS in order to travel to the United States.

9 FAM Appendix O, 1208.1-4 Marriage of V-92 Beneficiary Prior to Travel

(CT:VISA-1134; 12-22-2008)

Consistent with procedures for immigrant visa (IV) derivatives, unmarried children approved as beneficiaries of Form I-730 petitions lose eligibility if they marry after approval of their visa but prior to arrival in the United States.

9 FAM Appendix O, 1208.1-5 Preparation of Forms Required for Admission

(CT:VISA-1134; 12-22-2008)

The forms below are required in the travel packet that the V-92 beneficiary will present for inspection at the port of entry (POE). They should be prepared and executed at the time of the interview.

9 FAM Appendix O, 1208.1-6 U.S. Citizenship and Immigration Services (USCIS) Form I-590, Registration for Classification as Refugee

(CT:VISA-1170; 03-19-2009)

- a. Complete a Form I-590, Registration for Classification as Refugee, for each applicant. The interviewing officer should administer the oath or affirmation at the time of the interview and each applicant must sign. A parent may sign for a child under 14 years of age. Attach one photo securely to the Form I-590.
- b. After all clearances have been received and the applicant is ready to travel, the consular officer should sign in the middle box on the back page of the Form I-590, indicating, "Documented for travel pursuant to approval under 208(b)(3) of the INA."

9 FAM Appendix O, 1208.1-7 Other U.S. Citizenship and Immigration Services (USCIS) Forms

(CT:VISA-1134; 12-22-2008)

Prepare for signature at the interview the following Department of Homeland Security (DHS) forms that must be included in each beneficiary's travel packet:

- (1) Form G-325-C, Biographic Information, required for each applicant 14 years old or older; and
- (2) Form G-646, Sworn Statement of Refugee Applying for Admission to the United States, concerning the grounds of inadmissibility and bars to asylee status, required for each applicant 14 years of age or older.

9 FAM Appendix O, 1208.2 Determining Inadmissibility in V-92 Cases

9 FAM Appendix O, 1208.2-1 Determine if Exclusion of INA 101(a)(42) Applies

(CT:VISA-1134; 12-22-2008)

V-92 applicants who "ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion" are excluded under 101(a)(42) of the INA.

9 FAM Appendix O, 1208.2-2 Determine if INA 212(a) Inadmissibilities Apply

(CT:VISA-1134; 12-22-2008)

Inadmissibilities that apply to immigrants under INA 212(a) apply to V-92 beneficiaries, except as follows:

- (1) The public charge exclusion under INA 212(a)(4) does not apply to V-92 beneficiaries;
- (2) The requirements to have a labor certification under INA 212(a)(5) do not apply to V-92 beneficiaries; and
- (3) The immigrant documentation requirement of INA 212(a)(7)(A) does not apply to V-92 beneficiaries.

9 FAM Appendix O, 1208.2-3 What To Do if Applicant May Be Inadmissible

(CT:VISA-1141; 01-13-2009)

- a. If a V-92 applicant appears to be barred as a persecutor under INA

101(a)(42) or may be inadmissible under 212(a) other than medical grounds, report the facts and any assessment to the overseas USCIS office with jurisdiction by telegram asking for guidance. The USCIS will assume responsibility for determining whether to make a formal finding of inadmissibility.

- b. Inform the applicant in writing that the case is being submitted to the USCIS.
- c. Enter the case into Consular Lookout and Support System (CLASS) with the appropriate suspected ineligibility code and file the case file in the post's Category 1 files.
- d. If USCIS confirms a finding of inadmissibility:
 - (1) Update the CLASS entry;
 - (2) Forward the original case file with a copy of the USCIS finding to the overseas USCIS office with jurisdiction; and
 - (3) Maintain a copy of the original case file in the consular Category 1 files.

9 FAM Appendix O, 1208.2-4 When to Report Possible Inadmissibilities to the Department

(CT:VISA-1134; 12-22-2008)

- a. Consular officers must review all V-92 cases carefully for possible inadmissibilities. In most cases in which a possible inadmissibility is identified, the consular officer must report the facts and his or her assessment to the USCIS District Office abroad with jurisdiction, which will assume responsibility for determining whether a formal USCIS finding of inadmissibility should be made. Because of the Department's responsibility for foreign policy, human rights, and worldwide narcotics and counter terrorism policies, consular officers must report to the Department's Coordination Division (CA/VO/L/C) any case in which the officer believes that the beneficiary may warrant review for possible inadmissibility under any of the following grounds:
 - (1) INA 212(a)(2)(C) (controlled substance traffickers); and
 - (2) INA 212(a)(3)(A) (espionage/tech transfer/unlawful activity), (B) (terrorism), (C) (foreign policy), or (E) (Nazi persecution/genocide); the second sentence of INA 101(a)(42) (persons who have engaged in persecution).

- b. The Department may choose to review such cases for purposes of making a recommendation to USCIS or a formal finding under INA 212(a)(3)(C).

9 FAM Appendix O, 1208.2-5 Evidence of Fraud in V-92 Cases

9 FAM Appendix O, 1208.2-5(A) Evidence that Petitioner's Asylum Claim Fraudulent or Invalid

(CT:VISA-1170; 03-19-2009)

- a. Officers should report all cases involving overwhelming evidence that a petitioner's claim to asylum status appears to be fraudulent. A fraud report should be limited to verifiable or factual information, provided during the normal course of the Visas 92 interview, which contradicts the petitioner's claim. Suspected fraud should not be reported simply if a claim of persecution is inconsistent with a country's political environment.
- b. When reporting suspected fraud in the original asylum claim, address the cable to the Post Liaison Division (CA/VO/F/P), and the USCIS Headquarters Asylum Branch. *The appropriate cable address for the USCIS Headquarters Asylum Branch is, HQ CIS IAO Washington DC (write "For Asylum Office" on a separate line).* Include the appropriate overseas USCIS district office and the Office of Fraud Protection Programs (CA/FPP) as information addressees on the cable.
- c. When reporting suspected fraud, officers should keep in mind that Visas 92 beneficiaries are eligible for derivative status solely on the basis of their relationship to the asylee. Beneficiaries are not required to establish a separate claim of being persecuted or having a well-founded fear of persecution. Consular officers may not suspend processing of V-92 cases even if the beneficiary provides information that casts doubt on the petitioner's right to asylum status. Process the case to completion unless the beneficiary's identity, the qualifying relationship is in question or it is determined that the beneficiary is inadmissible or otherwise barred from obtaining V-92 benefits.

9 FAM Appendix O, 1208.2-5(B) Evidence of Fraud in Identity or Claimed Relationship

(CT:VISA-1134; 12-22-2008)

- a. If the interview with the V-92 applicant reveals strong evidence that the relationship claimed on the Form I-730 is fraudulent, the consular officer

must return the original petition with all supporting documents and a covering memorandum to the USCIS Service Center that approved the petition through the NVC.

- b. The memorandum to request denial of the V-92 benefit should be comprehensive and show factual and concrete reasons for the request. Because USCIS may release all unclassified information provided in support of its intention to deny the benefit, provide information in a form that protects the identity of confidential sources.
- c. Inform the V-92 applicant in writing that the petition has been returned to USCIS for reconsideration.
- d. Enter the applicant's name, as well as date and place of birth, in CLASS under the P6C lookout code in case the applicant applies for a visa while the petition is pending reconsideration. Retain post's case file in the consular Category 1 files. If the applicant's petition is reaffirmed and subsequently processed to completion, the consular officer must submit a Visas CLOK request to remove the P6C from CLASS.

9 FAM Appendix O, 1208.3 Waivers of Inadmissibility in V-92 Cases

9 FAM Appendix O, 1208.3-1 Authority to Grant Waivers

(CT:VISA-1134; 12-22-2008)

- a. The Secretary of Homeland Security has delegated authority to U.S. Citizenship and Immigration Services (USCIS) Officers-in-Charge (OIC) overseas to waive inadmissibilities of INA 212(a) as they apply V-92 beneficiaries. Waivers are available for all inadmissibilities except:
 - (1) Inadmissibilities relating to traffickers in controlled substances under INA 212(a)(2)(C) applies to V-92 beneficiaries and cannot be waived; and
 - (2) The security inadmissibilities under INA 212(a)(3)(A), (B), (C), (E), and (F) apply to V-92 beneficiaries and cannot be waived. These inadmissibilities relate to espionage, terrorism, genocide, and other security matters.
- b. USCIS may grant waivers on an individual basis after investigation for humanitarian purposes, for family unity, or when in the public interest.

9 FAM Appendix O, 1208.3-2 Requesting a Waiver of Inadmissibility

(CT:VISA-1134; 12-22-2008)

- a. To apply for a waiver of inadmissibility under INA 212(a), the V-92 applicant must submit Form I-602, Application by Refugee for Waiver of Grounds of Excludability. The Form I-602 fee applies to V-92 applicants. Send Form I-602 to the Officer-in-Charge (OIC) of the overseas USCIS office with jurisdiction over the case. Consular officers may send the information in Form I-602 by telegram to the USCIS office with jurisdiction.
- b. USCIS will notify the applicant and the post in writing of the decision. If the application is denied, the letter will give the reason for the denial. The decision cannot be appealed.
- c. If the waiver application is approved, include the waiver in the travel packet.

9 FAM Appendix O, 1208.3-3 Special Procedures for Waivers of Medical Inadmissibilities

9 FAM Appendix O, 1208.3-3(A) Waivers for HIV-Positive V-92 Applicants

(CT:VISA-1170; 03-19-2009)

- a. V-92 applicants who are HIV-positive must satisfy three criteria developed to ensure public health, safety, and welfare:
 - (1) The danger to the public health created by the applicant's admission is minimal;
 - (2) The possibility of the spread of the infection created by the applicant's admission is minimal; and
 - (3) No expense will be incurred by any Government agency without that agency's prior consent.
- b. Under guidance issued in 1999, USCIS considers that V-92 applicants already meet the third requirement for prior consent based on their eligibility for federally funded programs and the assurances provided by the Department of Health and Human Services (HHS).
- c. To satisfy the first two requirements, HIV-positive V-92 applicants must

submit an addendum to USCIS with the Form I-602, Application by Refugee for Waiver of Grounds of Excludability. The panel physician should assist the applicant to fill the top of page one of the waiver application. (See State 033614 dated February 24, 2000, or 9 FAM Appendix O, Exhibit I, *Addendum to Assurance for Refugees with Class A Medical Conditions* for the text of the addendum.)

- (1) The addendum includes statements that must be signed by the physician that performs the medical examination and by the applicant to certify that the physician has provided counseling and the applicant understands how to prevent spread of the HIV infection.
- (2) To continue the waiver process, the V-92 applicant must also sign the "Statement of Release of Confidential Information" (included in the addendum form). This release allows the Government to share information about the applicant's HIV status with health personnel in the United States.
- (3) If the applicant refuses to sign the statement allowing release of confidential information to health authorities, the waiver applicant cannot be completed and processing stops.
 - (a) In this case, USCIS does not need to confirm the finding of inadmissibility.
 - (b) Enter the applicant's name in the CLASS system with the code "1-A-1" for a communicable disease.

NOTE: HIV is not the only disease linked to this code.
 - (c) Other family members may continue to be processed with their own petitions.
 - (d) HIV-positive applicants do not need to fill out the second and third pages of the Form I-602 unless they also have tuberculosis.
- (4) The applicant or applicant's sponsor is responsible for completing pages 1, 2, and 4 of Form I-602 and returning the completed form to the consular section.

NOTE: If page 3 (for TB cases) or page 4 (for HIV-positive cases) is not completed for applicants requesting TB or HIV waivers, USCIS will consider the application incomplete and will not take action on the rest.

- (5) The post will send copies (not the originals) of the completed Form I-602 waiver and supporting documents (including the Form DS-2053, Medical Examination for Immigrant or Refugee Applicant, and supporting worksheets, and if provided, a supporting letter or statement from a U.S. health care provider) via mail to the Centers for Disease Control and Prevention (CDC) at the following address:

Immigrant, Refugee and Migrant Health Branch,
Attention: Waivers
Division of Global Migration and Quarantine (E-03)
Centers for Disease Control and Prevention (CDC)
1600 Clifton Road
Atlanta, GA. 30333

Routine requests should be sent via mail. For those cases warranting expeditious review (i.e., emergency cases) post may fax the waiver form and supporting documents to CDC on fax number (404) 639-4441. The fax cover sheet should be marked Attention: Waivers and should also indicate that it is urgent and request that the CDC response be sent via fax to the post.

- (6) The CDC will establish a file on the waiver case, ensure that identify a U.S health-care provider or physician is identified by the applicant's sponsor for the follow up medical evaluation, and return a response letter to post indicating results of the review.
- (7) When the CDC response letter is received, any missing information should be completed by the applicant or applicant's sponsor and returned to post.
- (8) Once the post receives the missing information, the post should send the entire waiver package, which includes all forms, the CDC response letter, and any other evidence submitted by the applicant to establish waiver eligibility, to the USCIS office abroad having jurisdiction over the consular district.
- (9) The post will collect from the applicant the USCIS waiver fee indicated in 8 CFR 103.7, either in the form of a cashier's check in the amount payable to USCIS or in cash, and provide the applicant with a receipt.
- (10) If USCIS approves the waiver and the applicant has no other ineligibilities, the consular officer may issue the visa.

9 FAM Appendix O, 1208.3-3(B) Waivers of Other Class A Medical Inadmissibilities

(CT:VISA-1134; 12-22-2008)

- a. V-92 applicants found inadmissible because of infectious tuberculosis or Hansen's disease usually receive treatment to reduce their medical conditions from Class A to Class B status before they are processed for travel to the United States. (See 9 FAM Appendix O, 707.3-4 Who Pays for Necessary Medical Treatment for V-93 Beneficiaries?)
- b. As soon as the panel physician has confirmed that the disease is no longer communicable, and indicates on the medical forms that the applicant's medical condition is now a Class B status, the consular officer may continue to process the applicant for V-92 benefits. No V-92 applicant with a Class B medical condition is considered inadmissible under Section 212(a)(1)(A) of the INA. (Once treated, the Form I-602 is no longer needed.)

9 FAM APPENDIX O, 1209 PROCESSING STEPS AFTER V-92 INTERVIEW

(CT:VISA-1170; 03-19-2009)

After the consular interview with the V-92 beneficiary, the consular officer must conduct all applicable checks (i.e., *Consular Lookout and Support System (CLASS)*, *Automated Biometric Identification System (IDENT)*, *Facial Recognition (FR)*), and resolve any inadmissibilities. The applicant should proceed with medical examinations. Once all of these steps are completed, the V-92 beneficiary will be "travel-ready" and travel arrangements can be made by the beneficiary. This section describes these steps in more detail. (See 9 FAM, Appendix O, Section 1300, *Checklist of Visas 92 Processing Steps for Consular Officers* reference for a summary checklist of processing steps for V-92 cases.)

9 FAM Appendix O, 1209.1 Security Clearances for V-92 Applicants

(CT:VISA-1134; 12-22-2008)

Applicants processed for asylee follow-to-join admission are subject to the same security clearances as immigrant visa (IV) applicants. Post should send security advisory opinion (SAO) requests through the nonimmigrant visa (NIV) system, and follow established procedures for the National Crime Information Center (NCIC), Wanted Persons (WP) and Violent Gang and Terrorist Organizations (VGTO) hits. All inadmissibilities must be resolved

through standard channels before the foil is printed. SAOs for V-92s are sent as Merlin 92s.

9 FAM Appendix O, 1209.1-1 Requesting Consular Lookout and Support System (CLASS) Name Check in V-92 Cases

(CT:VISA-1134; 12-22-2008)

Each applicant must clear the CLASS name check; i.e., the CLASS name check does not uncover any potential ground of inadmissibility.

9 FAM Appendix O, 1209.1-2 Requesting Security Advisory Opinion (SAO) in V-92 Cases

(CT:VISA-1134; 12-22-2008)

- a. The consular officer must request an SAO for V-92 applicants, if required by current Department guidance. As with visa applicants, no V-92 beneficiaries may be issued either a travel packet or boarding foil before receiving the Department's reply to an SAO.
- b. If the applicant appears to be inadmissible to the United States under INA 212(a), CA/VO/L/C will advise the consular officer.

9 FAM Appendix O, 1209.1-3 Validity of CLASS Name Check and SAO Clearance in V-92 Cases

(CT:VISA-1134; 12-22-2008)

CLASS name checks and security advisory opinion (SAO) clearances for V-92 beneficiaries are valid for travel only within **one year** from the date of clearance. Follow standard visa procedure to request a new name check and SAO clearance if the V-92 beneficiary has not traveled within **one year**, and the boarding foil expires.

9 FAM Appendix O, 1209.2 Medical Requirements for V-92 Beneficiaries

(CT:VISA-1170; 03-19-2009)

- a. All derivatives of asylees entering the United States must have the same medical examination as immigrant visa applicants have under INA 221(d) and 234. The medical examination for V-92 beneficiaries must be conducted by a panel physician.

- b. The result of the medical exam must be reported on Form DS-2053, Medical Examination for Immigrant or Refugee Applicant. Include three copies in the refugee travel packet, along with the refugee's X-rays. (See 9 FAM 42.66 Medical Examination and Notes.)
- c. All INA 212(a)(1) medical inadmissibilities apply to V-92 beneficiaries. For more information on applying for waivers of medical inadmissibilities in follow-to-join cases, (see 9 FAM Appendix O, 1208.3-3, *Special Procedures for* Waivers of Medical Inadmissibilities).
- d. Consular officers should assist applicants to apply to USCIS for waivers, using Form I-602, Application by Refugee for Waiver of Grounds of Excludability.

9 FAM Appendix O, 1209.2-1 What are the Vaccination Requirements for V-92 Beneficiaries?

(CT:VISA-1134; 12-22-2008)

V-92 beneficiaries are not required to meet the immunization requirements for immigrants until after one year when they apply for adjustment of status to become permanent residents in the United States. However, whenever available, vaccination records should be included as part of the V-92 travel packet using the Form DS-3025, Vaccination Documentation Worksheet or copies of the applicant's personal vaccination records.

9 FAM Appendix O, 1209.2-2 May the Medical Examination Be Scheduled Before the Consular Interview?

(CT:VISA-1134; 12-22-2008)

The exam may take place before the consular interview if the V-92 applicant is known to have what may be an excludable medical condition or if the processing is being expedited. However, medical exams should usually be scheduled after the consular officer has interviewed and approved V-92 applicants.

9 FAM Appendix O, 1209.2-3 Who Pays for the V-92 Medical Examination and Treatment?

(CT:VISA-1141; 01-13-2009)

See 9 FAM Appendix O, 707.3-4.

9 FAM Appendix O, 1209.2-4 Validity of V-92 Medical Clearance

(CT:VISA-1134; 12-22-2008)

- a. Medical examinations are valid for 12 months from the date of the exam, except for persons with Class A medical conditions.
- b. If a V-92 applicant has a Class A medical condition, the medical exam is valid only for six months from the date of exam.

9 FAM APPENDIX O, 1210 V-92 TRAVEL PACKET

(CT:VISA-1134; 12-22-2008)

Each departing V-92 beneficiary must hand-carry a travel packet. The travel packet includes the documents that the immigration officer will require on entry. V-92 beneficiaries processed by consular officers must also possess a travel document (passport or Form DS-232, Unrecognized Passport or Waiver Cases) bearing a V-92 boarding foil. This section gives information on travel documentation and explains how to prepare the travel packet.

9 FAM Appendix O, 1210.1 Preparing the Travel Packet

(CT:VISA-1170; 03-19-2009)

- a. The travel packet is a large envelope containing several smaller envelopes. The contents of each are listed below. Label and seal the envelopes as indicated. Attach the applicant's photo to the outside of the travel packet.
- b. Staple the envelopes together in the top left-hand corners, in the following order, top to bottom:
 - (1) Medical Envelope, addressed to: The Public Health Officer, U.S. Department of Health and Human Services (USPHS), at Port of Entry. (Seal envelope and stamp sealed edges with post's rubber seal);
 - (2) If applicable, include a separate envelope to the USPHS containing the original and four copies of the Form I-602 waiver;

- (3) Case File Envelope, addressed to U.S. Immigration Officer, Port of Entry. (Seal envelope and stamp sealed edges with post's rubber seal);
- (4) Customs/Form I-94 Arrival and Departure Record (Seal envelope normally); and
- (5) X-Rays.

c. The contents of each internal envelope are described below.

MEDICAL	Medium Brown Envelope
Contents	<ul style="list-style-type: none"> • Three copies each of the medical exam forms (DS-2053, DS-3025, DS-3026, and DS-3024, if applicable)

CASE FILE	Large Brown Envelope
<p>Content</p> <p>(Staple one photo to the inside left cover of the case file.)</p>	<ul style="list-style-type: none"> • Form I-730, <i>Refugee/Asylee Relative Petition</i> or V-92 notification cable if no petition was sent to post • Copies of all interview notes and/or supporting documents presented to verify applicant's identity and relationship to the petitioner • Medical forms (DS-2053, DS-3025 and DS-3026) • DS-3024 with chest x-rays, for applicants 14 years old or older • Completed Form G-325-C, Biographic Information • Completed Form I-590, <i>Registration for Classification as Refugee</i> approved and signed by the interviewing DHS or consular officer. The back page of the Form I-590, middle box, should indicate, "Documented for travel pursuant to approval under 208(b)(3) of the INA," and be signed by the DHS or consular officer • Completed Form G-646, Sworn Statement <i>of</i>

	<p><i>Refugee Applying for Admission to the United States</i> (concerning grounds of exclusion)</p> <ul style="list-style-type: none"> • Completed Form I-765, Application for Employment Authorization • Form DS-1810, Notice of Duty to Register with U.S. Selective Service System notice, if applicable • Approved Form I-602, Application by Refugee for Waiver of Grounds of Excludability, if applicable
CBP	Small Envelope
	<ul style="list-style-type: none"> • Completed Form I-94, Arrival and Departure Record • (Birth date should be dd/mm/yy. Indicate the alien number on the back of the card. Annotate the Form I-94 appropriately if the applicant has a waiver of inadmissibility.) • Completed U.S. Customs declaration
X-RAYS	Extra Large Envelope

9 FAM Appendix O, 1210.2 Delivery of Travel Packet

(CT:VISA-1134; 12-22-2008)

The travel packet(s) and travel document(s) with boarding foil(s) should be given directly to the applicant(s). V-92 applicants are responsible for scheduling and financing their own travel to the United States.

9 FAM Appendix O, 1210.3 What To Do If A V-92 Travel Packet Is Lost or Stolen

(CT:VISA-1134; 12-22-2008)

If a V-92 travel packet is lost or stolen, report this immediately by email or telegram to the overseas Office of the U.S. Citizenship and Immigration Services (USCIS) with jurisdiction over the case. Include the Post Liaison Division (CA/VO/F/P) as an information addressee. Lost boarding foils

should be reported immediately to CA/VO/F/P.

9 FAM Appendix O, 1210.4 Does a V-92 Need a Passport?

(CT:VISA-1134; 12-22-2008)

A V-92 beneficiary does not need a passport to enter the United States. The travel packet includes the documents necessary for admission. However, for purposes of security, uniformity, and workload tracking, all V-92 cases processed by consular officers must be issued V-92 foils. These foils will also facilitate the boarding of beneficiaries by airlines flying to the United States.

9 FAM Appendix O, 1210.4-1 What May a V-92 Show to Board a Flight?

(CT:VISA-1134; 12-22-2008)

Airlines flying to the United States are required to examine travel documents before boarding passengers to avoid fines imposed by the U.S. Government. Airlines will sometimes ask for a boarding letter or other document if the V-92 beneficiary does not have a passport. For V-92 beneficiaries processed by consular officers, the V-92 boarding foil will satisfy this request. Once the V-92 boarding foil is processed, it must be placed either in a passport on or a Form DS-232, Unrecognized Passport or Waiver Cases. The beneficiary may show this foil to the airline to board the flight. For V-92 cases processed by Overseas Processing Entities (OPEs) and adjudicated by DHS/USCIS, the boarding letter will be issued by DHS/USCIS. (See 9 FAM Appendix O, Exhibit III, Sample Boarding Letter.)

9 FAM Appendix O, 1210.4-2 How to Prepare a Boarding Foil If Required by Airline

(CT:VISA-1134; 12-22-2008)

OPEs handling a V-92 case should not issue a boarding letter. When V-92 cases are processed by OPEs and adjudicated by DHS/USCIS, DHS/USCIS will issue the boarding letter. (See 9 FAM Appendix O, Exhibit III, Sample Boarding Foil.) No fee is charged for issuing a boarding letter to a V-92 beneficiary.