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DOS Updates ? 02/10/2010

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Submitted by Chief Editor on Feb 10th 2010

E Visa company registrations - It is advisable for E visa companies to update registration files at post every year although there is no specific regulation.

Following-to-Join for adjustment cases - An applicant who is the principal alien and whose spouse or child now needs to follow to join can now continue to deal directly with posts in paths:

1

. Immigrant visa at the same post as the one where the following-to-join will process;

2

. Immigrant visa at a different post;

The center on the other hand is working on a new process for follow to join for adjustment cases and is creating a separate form which begins at the NVC and then transfers cases to posts.

NVC and original documents - For all F4 (brother or sister of a U.S. citizen) and IR5 (parent of a U.S. citizen) visa classifications the National Visa Center (NVC) requests the petitioner's original or the certified copy from the issuing authority and also the birth and marriage documents. As the IR5 visa classification is not numerically limited visa is always available. On the other hand if the F4 visa classification were to retrogress and the petitioner need the original documents back then they should contact the NVC with a request.

The automatic conversion and priority date retention provisions of the Child Status Protection Act - The above mentioned provision of the Child Status Protection Act, Pub L. No. 107-208, 116 Stat. 927 (2002) is not applicable to an alien who ages out of eligibility for an immigrant visa as the derivative beneficiary of a fourth-preference visa petition, and on

whose behalf a second-preference petition is later filed by a different petitioner, Matter of Wang, 25 I & N Dec. 27 (BIA 2009).

Pending F-2A status - According to the section 6 of the Child Status Protection Act of 2000 (CSPA) allows for an alien pending F-2A status as the unmarried son or daughter of a legal permanent resident alien to opt out of conversion to F-1 status as the son or daughter of a U.S. citizen upon the naturalization of the petitioning parent. NVC will process the applicant under the F2A category following all processing procedures for the F2A visa classification meets the CSPA requirements. However it is the duty of the applicant to obtain approval for this opt-out. For more information the applicant can contact USCIS website or call 1-800-375-5283 (TTY 1-800-767-1833).

9 FAM 40.41 N4.6-2 Evidence of Support When Form I- 864, Affidavit of Support Under Section 213A of the Act, Not Required and 9 FAM 40.41 N5.6 Assets Evidence - If the sponsor seeks to qualify on assets then he/she must demonstrate that said assets are in a form that can be readily converted to cash within one year as per 9 FAM 40.41 N5.6. 9 FAM 40.41 N4.6-2 also provides specific guidelines on the type of evidence required in order to qualify on the basis of assets. To read more about these guidelines click this [PDF](#) [2] file.

9 FAM 41.51 N16.14 Part-Time Employment by E-3 Applicants - An E-3 worker may work full or part-time and remain in status based upon the attestations made on the LCA. Section C.4 on the LCA provides the option to request part time employment and DOL approves LCAs for part-time employment. Although there isn't anything specifically stated in the law/regulation about full-time employment for E-3s, you will need to evaluate the public charge ramifications for any E-3 applicant planning on coming to the United States as a part-time employee. For more information [click here](#) [3].

9 FAM 41.85 N1 U NONIMMIGRANT VISA - The U nonimmigrant classification was created to strengthen the ability of law enforcement agencies to investigate and prosecute such crimes as domestic violence, sexual assault, and trafficking in persons, while offering protection to alien crime victims in keeping with the humanitarian interests of the United States. For more information on this [click here](#) [4] .

9 FAM 42.66 N2.1 Criteria for Appointment of Panel Physician - USPHS/CDC recommends that the following criteria be applied, when

possible, in the appointment of panel physicians:

(1) The physician must have satisfactorily completed medical education and have a medical degree from an accredited medical school;

(2) The physician should have special competence in the diagnosis and treatment of individuals with tuberculosis and sexually transmitted

illnesses (STIs) and should be able to recognize mental illness;

(3) The physician should have demonstrated competence to perform large numbers of examinations for specific purposes, such as

insurance, industrial employment, etc. (this point is less important for a post where there are a limited number of medical

examinations);

(4) The physician should have reliable X-ray facilities or access to such facilities and should be able to make arrangements for laboratory

work to be performed by a laboratory of recognized competence; and

(5) The physician should have reliable storage facilities or have access to such facilities for vaccines, according CDC's 2007 Technical

Instructions for Vaccinations. Proper handling and storage of vaccines are important to ensure their potency.

For more information on this criteria [click here](#) [5].

9 FAM 41.103 N8 APPLICATION BY ALIEN UNABLE TO WRITE - a. If the applicant is illiterate or is otherwise unable to provide a signature,

the placing of the applicant's mark in the space provided on Form DS-156 for signature is acceptable, if done in the presence of the consular officer.

b. If the applicant is using Form DS-160, and is illiterate or unable to complete the application, the applicant must be assisted by a third party.

The third party must be identified in the application. The third party can assist the applicant in completing the application, but must instruct the

applicant on how to endorse the application on his/her behalf by clicking on the "submit application" link to complete the application. For more information on this [click here](#) [6].

9 FAM 42.67 N4 OATH AND SIGNATURE - Upon completing the Form DS-230, the applicant shall read the completed form, or, if the applicant is unable to read, shall be informed of the contents therein. The alien shall be asked to subscribe to the information therein. If the alien is unwilling to subscribe to the information unless changes are made, the required changes shall be made. The application shall be subscribed to or affirmed and signed by or on behalf of the applicant before a consular officer. If the applicant is illiterate, or is otherwise unable to sign the application, the consular officer may witness the applicant placing his or U.S. Department

of State Foreign Affairs Manual Volume 9 - Visas 9 FAM 42.67 Notes Page 2 of 3 her mark in the space provided for signature on Form DS-230. For more information on this [click here](#) [7].

HIV Final Rule - On November 2, the Department of Health and Human Services, Centers for Disease Control and Prevention (HHS/CDC), published a Final Rule in the Federal Register that will remove HIV infection from the list of communicable diseases of public health significance and remove references to HIV from the scope of medical examinations for aliens. The final rule will go into effect on January 4, 2010. This cable provides guidance to posts for handling cases involving HIV after January 4, 2010, and in the interim. For more information on this cable [click here](#) [8].

Application for Waiver of Ground of Inadmissibility (I-601) - An alien who is ineligible to be admitted to the United States as an immigrant or to adjust status in the United States, and certain nonimmigrant applicants who are inadmissible, must file this form to seek a waiver of certain grounds of inadmissibility. According to 8 CFR 212.7(a)(1)(i) states that "upon determination that the alien is admissible except for the grounds for which a waiver is sought, the consular officer shall transmit the Form I-601 to the Service for decision". For more information on I-601 form [click here](#) [9].

NVC and the Instruction Package for Immigrant Visa Applicants (MFL) - When there has been no contact with the National Visa Center (NVC) for at least 12 months AND the immigrant visa has been available for at least 12 months The Follow-Up Instruction Package for Immigrant Visa Applicants (MFL) is mailed. Despite of what stage in the process the case was in since the last contact date the MFC package is sent. An example would be when NVC has received no response from the applicant after the Agent of Choice and Address Letter was sent and the case meets the criteria for sending the MFL described above exist, and then the MFL will be sent. Any contact with the NVC will update the last contact date information in the database and thus extend the 12 month waiting period of inactivity.




NVC and applicants filing I-485 - The center understand that it is USCIS procedure to request the underlying petition from NVC if they do not have it on file when an applicant files the I-485 with USCIS to adjust status. When NVC receives such requests from USCIS NVC returns the petition to CIS. No information is received from CIS to NVC on adjusted applicants. Even though there is no need for the applicant to notify NVC of their intent to adjust status, but by doing so they can be sure that the petition is returned to CIS and no termination letters will be sent.

Attachment	Size
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 86988.pdf [10]	168.55 KB
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 87220.pdf [11]	159.68 KB
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 87411.pdf [12]	118.19 KB
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Attachment	Size
 87891.pdf [13]	60.69 KB
 87895.pdf [14]	75.38 KB
 87428.pdf [15]	99.48 KB

Green Card:

[Form I-485](#) [16]

[Adjustment of Status](#) [17]

[CSPA](#) [18]

Agency:

[NVC](#) [19]

Profession/Occupation:

[Physicians](#) [20]

Nonimmigrant Visas:

[E Visa](#) [21]

[U Visa](#) [22]

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Links:

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[2] http://www.immigration.com/sites/default/files/86988_0.pdf

[3] http://www.immigration.com/sites/default/files/87220_0.pdf

[4] http://www.immigration.com/sites/default/files/87411_0.pdf

[5] http://www.immigration.com/sites/default/files/87891_0.pdf

[6] <http://www.immigration.com/sites/default/files/87428.pdf>

[7] http://www.immigration.com/sites/default/files/87895_0.pdf

[8] http://travel.state.gov/visa/laws/telegrams/telegrams_4631.html

[9] <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=bb515f56ff55d010>

[10] https://immigration.com/sites/default/files/86988_0.pdf

[11] https://immigration.com/sites/default/files/87220_0.pdf

[12] https://immigration.com/sites/default/files/87411_0.pdf

[13] https://immigration.com/sites/default/files/87891_0.pdf

[14] https://immigration.com/sites/default/files/87895_0.pdf

[15] <https://immigration.com/sites/default/files/87428.pdf>

[16] <https://immigration.com/greencard/green-card/form-i-485>

[17] <https://immigration.com/greencard/green-card/adjustment-status>

[18] <https://immigration.com/greencard/green-card/cspa>

[19] <https://immigration.com/agencies/agency/nvc>

[20] <https://immigration.com/profession/professionoccupation/physicians>

[21] <https://immigration.com/visa/nonimmigrant-visas/e-visa>

[22] <https://immigration.com/visa/nonimmigrant-visas/u-visa>