

## Department of State

## § 42.67

opposed to normal delay and inconvenience.

(2) If the consular officer determines that a supporting document, as described in paragraph (b) of this section, is in fact unobtainable, although the catalogue of available documents shows it is available, the officer shall affix to the visa application a signed statement describing in detail the reasons for considering the record or document unobtainable and for accepting the particular secondary evidence attached to the visa.

(e) *Authenticity of records and documents.* If the consular officer has reason to believe that a required record or document submitted by an applicant is not authentic or has been altered or tampered with in any material manner, the officer shall take such action as may be necessary to determine its authenticity or to ascertain the facts to which the record or document purports to relate.

(f) *Photographs.* Every alien shall furnish color photographs of the number and specifications prescribed by the Department, except that, in countries where facilities for producing color photographs are unavailable as determined by the consular officer, black and white photographs may be substituted.

[52 FR 42613, Nov. 5, 1987, as amended at 55 FR 29015, July 17, 1990; 56 FR 49682, Oct. 1, 1991]

### § 42.66 Medical examination.

(a) *Medical examination required of all applicants.* Before the issuance of an immigrant visa, the consular officer shall require every alien, regardless of age, to undergo a medical examination in order to determine eligibility to receive a visa.

(b) *Examination by physician from approved panel.* The required examination shall be conducted in accordance with requirements and procedures established by the United States Public Health Service and by a physician selected by the alien from a panel of physicians approved by the consular officer.

(c) *Facilities required for panel physician.* A consular officer shall not include the name of a physician on the panel of physicians referred to in para-

graph (b) of this section unless the physician has facilities to perform required serological and X-ray tests or is in a position to refer applicants to a qualified laboratory for such tests.

### § 42.67 Execution of application, registration, and fingerprinting.

(a) *Execution of visa application—(1) Application fee.* A fee is prescribed for each application for an immigrant visa. It shall be collected prior to the execution of the application and a receipt shall be issued.

(2) *Oath and signature on Form DS-230.* The applicant shall be required to read the Form DS-230, Application for Immigrant Visa and Alien Registration, when it is completed, or it shall be read to the applicant in the applicant's language, or the applicant shall otherwise be informed of its full contents. Applicants shall be asked whether they are willing to subscribe thereto. If the applicant is not willing to subscribe to the application unless changes are made in the information stated therein, the required changes shall be made. The application shall then be sworn to or affirmed and signed by or on behalf of the applicant before a consular officer, or a designated officer of the American Institute of Taiwan, who shall then sign the application over the officer's title.

(3) *Oath and signature on Form DS-260.* The applicant shall be required to read the Form DS-260, Electronic Application for Immigrant Visa and Alien Registration, when it has been completed, or it shall be read to the applicant in the applicant's language, or the applicant shall otherwise be informed of its full contents, before the applicant electronically signs and submits the application to the Department. At the time of the applicant's interview the applicant shall be asked whether they are willing to subscribe thereto to the information provided on Form DS-260. If the alien is not willing to subscribe to the application unless changes are made in the information stated therein, the required changes shall be made. The application shall then be sworn to or affirmed and signed, biometrically, by or on behalf of the applicant before

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a consular officer, or a designated officer of the American Institute of Taiwan, who shall then electronically sign the application.

(b) *Registration.* The alien shall be considered to be registered for the purposes of INA 221(b) and 203(g) upon the filing of Form DS-230 or Form DS-260, when duly executed, or the transmission by the Department to the alien of a notification of the availability of an immigrant visa, whichever occurs first.

(c) *Fingerprinting.* Every applicant for an immigrant visa must furnish fingerprints prior to the execution of Form DS-230 or Form DS-260.

[75 FR 45476, Aug. 3, 2010]

## § 42.68 Informal evaluation of family members if principal applicant precedes them.

(a) *Preliminary determination of visa eligibility.* If a principal applicant proposes to precede the family to the United States, the consular officer may arrange for an informal examination of the other members of the principal applicant's family in order to determine whether there exists at that time any mental, physical, or other ground of ineligibility on their part to receive a visa.

(b) *When family member ineligible.* In the event the consular officer finds that any member of such family would be ineligible to receive an immigrant visa, the principal applicant shall be informed and required to acknowledge receipt of this information in writing.

(c) *No guarantee of future eligibility.* A determination in connection with an informal examination that an alien appears to be eligible for a visa carries no assurance that the alien will be issued an immigrant visa in the future. The principal applicant shall be so informed and required to acknowledge receipt of this information in writing. The question of visa eligibility can be determined definitively only at the time the family member applies for a visa.

## 22 CFR Ch. I (4–1–11 Edition)

### Subpart H—Issuance of Immigrant Visas

#### § 42.71 Authority to issue visas; visa fees.

(a) *Authority to issue visas.* Consular officers may issue immigrant visas at designated consular offices abroad pursuant to the authority contained in INA 101(a)(16), 221(a), and 224. (Consular offices designated to issue immigrant visas are listed periodically in Visa Office Bulletins published at [www.travel.state.gov](http://www.travel.state.gov) by the Department of State.) A consular officer assigned to duty in the territory of a country against which the sanctions provided in INA 243(d) have been invoked must not issue an immigrant visa to an alien who is a national, citizen, subject, or resident of that country, unless the officer has been informed that the sanction has been waived by DHS in the case of an individual alien or a specified class of aliens.

(b) *Immigrant visa fees.* The Secretary of State prescribes a fee for the processing of immigrant visa applications. An individual registered for immigrant visa processing at a post designated for this purpose by the Deputy Assistant Secretary for Visa Services must pay the processing fee upon being notified that a visa is expected to become available in the near future and being requested to obtain the supporting documentation needed to apply formally for a visa. A fee collected for the processing of an immigrant visa application is refundable only if the principal officer of a post or the officer in charge of a consular section determines that the application was not adjudicated as a result of action by the U. S. Government over which the alien had no control and for which the alien was not responsible, that precluded the applicant from benefiting from the processing.

[67 FR 38893, June 6, 2002]

#### § 42.72 Validity of visas.

(a) *Period of validity.* With the exception indicated herein, the period of validity of an immigrant visa shall not exceed six months, beginning with the date of issuance. Any visa issued to a child lawfully adopted by a U.S. citizen and spouse while such citizen is serving