

9 FAM 40.6 BASIS FOR REFUSAL

(CT:VISA-1301; 09-16-2009)
(Office of Origin: CA/VO/L/R)

9 FAM 40.6 RELATED STATUTORY PROVISIONS

(CT:VISA-1301; 09-16-2009)

See INA 221(g) (8 U.S.C. 1201(g)).

INA 221(g) *Nonissuance of Visas or Other Documents*

No visa or other documentation shall be issued to an alien if

- (1) it appears to the consular officer, from statements in the application, or in the papers submitted therewith, that such alien is ineligible to receive a visa or such other documentation under section 212, or any other provision of law,
- (2) the application fails to comply with the provisions of this Act, or the regulations issued thereunder, or
- (3) the consular officer knows or has reason to believe that such alien is ineligible to receive a visa or such other documentation under section 212, or any other provision of law: Provided, That a visa or other documentation may be issued to an alien who is within the purview of section 212(a)(4), if such alien is otherwise entitled to receive a visa or other documentation *under section 212 or any other provision of law: Provided , That a visa or other documentation*, upon receipt of notice by the consular officer from the Attorney General of the giving of a bond or undertaking providing indemnity as in the case of aliens admitted under section 213: Provided further, That a visa may be issued to an alien defined in section 101(a)(15) (B) or (F), if such alien is otherwise entitled to receive a visa, upon receipt of a notice by the consular officer from the Attorney General of the giving of a bond with sufficient surety in such sum and containing such conditions as the consular officer shall prescribe, to insure that at the expiration of the time for which such alien has been admitted by the Attorney General, as provided

in section 214(a), or upon failure to maintain the status under which he was admitted, or to maintain any status subsequently acquired under section 248 of the Act, such alien will depart from the United States.

9 FAM 40.6 RELATED REGULATORY PROVISIONS

(CT:VISA-983; 07-25-2008)

See 22 CFR 40.6

§40.6 Basis for refusal.

A visa can be refused only upon a ground specifically set out in the law or implementing regulations. The term "reason to believe", as used in INA 221(g), shall be considered to require a determination based upon facts or circumstances which would lead a reasonable person to conclude that the applicant is ineligible to receive a visa as provided in the INA and as implemented by the regulations. Consideration shall be given to any evidence submitted indicating that the ground for a prior refusal of a visa may no longer exist. The burden of proof is upon the applicant to establish eligibility to receive a visa under INA 212 or any other provision of law or regulation.