

9 FAM 41.26 NOTES

(CT:VISA-1323; 09-24-2009)
(Office of Origin: CA/VO/L/R)

9 FAM 41.26 N1 DIPLOMATIC VISAS ESTABLISHED BY REGULATION

(CT:VISA-1323; 09-24-2009)

Visa type (diplomatic, official and regular) is distinct from visa classification (A, B, C, D, E etc.). An otherwise eligible applicant would qualify for a diplomatic *type* visa if within one of the categories listed in 22 CFR 41.26(c), regardless of the visa classification.

9 FAM 41.26 N1.1 Qualifying for a Diplomatic Visa Under 22 CFR 41.26(c)(1)

(CT:VISA-1323; 09-24-2009)

- a. The majority of diplomatic visas are issued pursuant to 22 CFR 41.26(c)(1). In order to qualify for a diplomatic *type* visa under this section of the regulation, an applicant must be in possession of a diplomatic passport or the equivalent (*see 22 CFR 41.26(a)(3)*), and be in one of the categories listed in 22 CFR 41.26(c)(1)(i) through (c)(1)(xvi). Thus, possession of a diplomatic passport or the equivalent, is not by itself sufficient to qualify for a diplomatic *type* visa under 22 CFR 41.26(c)(1). *However, a diplomatic passport or the equivalent is required in order to issue a diplomatic type visa under 22 CFR 41.26(c)(1).*
- b. Consular officers should note that the purpose of travel, which usually determines visa classification, is generally irrelevant for purposes of qualifying for a diplomatic *type* visa under 22 CFR 41.26(c)(1). For example, if the presiding officer of national legislature applied for a nonimmigrant visa to travel to the United States for pleasure using a diplomatic passport or the equivalent (*see 22 CFR 41.26(c)(1)(v)*), he or she would be issued a diplomatic B-2 (or B-1/B-2) visa if otherwise qualified. However, if any other member of a national legislature applied under the same circumstances, he or she would be issued an official, not diplomatic, B-2 (or B-1/B-2) visa if otherwise qualified (*see 9 FAM 41.27 for official visas*).
- c. Consular officers should also bear in mind that a diplomatic note is not

required in order for an applicant to be issued a diplomatic type visa.

9 FAM 41.26 N1.2 Qualifying for a Diplomatic Visa Under 22 CFR 41.26(c)(2)

(TL:VISA-396; 04-16-2002)

Aliens classified G-4, if otherwise qualified, are eligible to receive a diplomatic visa if accompanying one of the specific United Nations officers listed in 22 CFR 41.26(c)(2).

9 FAM 41.26 N1.3 Qualifying for a Diplomatic Visa Under 22 CFR 41.26(c)(3)

(CT:VISA-1323; 09-24-2009)

22 CFR 41.26(c)(3) permits the Department, the Chief of a U.S. Diplomatic Mission, the *Deputy Chief of Mission (DCM)*, the Counselor for Consular Affairs or the principal officer of a consular post not under the jurisdiction of a diplomatic mission to authorize the issuance of a diplomatic *type* visa to any alien who is otherwise qualified for a visa. In practice, this authority is used very rarely, in exceptional cases. Officers are strongly encouraged to consult the Department (CA/VO/F/P) before exercising their authority under this section of the regulation.

9 FAM 41.26 N2 PRIVILEGES AND COURTESIES ATTACHED TO DIPLOMATIC VISA

(CT:VISA-1323; 09-24-2009)

- a. Designating a visa as a "diplomatic" *type* visa does not accord diplomatic privileges and immunities to the visa holder. Rather, the Vienna Convention and other instruments of international law determine whether an alien benefits from diplomatic privileges and immunities. While neither visa classification nor visa type determines eligibility for privileges and immunities, in general, individuals falling within the A, C-3, G, and NATO categories would normally be entitled to diplomatic privileges, exemptions and immunities of some kind, and such privileges and immunities would attach regardless of whether the individual were issued a diplomatic, official or regular *type* visa.
- b. Consular officers should process applications for diplomatic visas as quickly as possible. In addition to the exemption from fees (see 9 FAM 41.26 N4), there is also the waiver of personal appearance that consular

officers, at their discretion, may grant to diplomatic visa applicants (see 9 FAM 41.26 N5).

- c. At the port of entry (*POE*), the holder of a diplomatic visa may receive expeditious examination but otherwise must qualify for admission like other nonimmigrants.

9 FAM 41.26 N3 DIPLOMATIC RELATIONS REQUIRED FOR DIPLOMATIC VISA

(CT:VISA-1323; 09-24-2009)

A consular officer must not issue a diplomatic visa to any national of a country whose government does not have diplomatic relations with the United States unless the Department has provided authorization in reply to a request for advisory opinion (*AO*) from post to CA/VO/L/A.

9 FAM 41.26 N4 EXEMPTION FROM FEES

(CT:VISA-1323; 09-24-2009)

- a. In accordance with 22 CFR 41.107(c)(1), all qualifying applicants for diplomatic visas are exempt from both the application (MRV) and issuance (reciprocity) fees, regardless of visa classification. This includes applications submitted for either official or non-official travel. The word "qualifying" refers to an applicant who, if issued a visa, would receive a diplomatic visa as defined in 22 CFR 41.26. In this context, the word "qualifying" is not related to whether the visa is actually issued or refused. Thus, if, for example, a foreign diplomat applied for a visa using a diplomatic passport or the equivalent (which would qualify him or her for a diplomatic visa under 22 CFR 41.26(c)(vii)) in order to travel to the United States for pleasure (B visa classification), and the consular officer determined that the applicant were ineligible for a visa under, say, INA 214(b), the applicant would nevertheless be exempt from paying the MRV fee. If the visa were issued, it would be a diplomatic *type* B visa, and the applicant would be exempt from paying the MRV fee and any reciprocity fee.
- b. As stated in 9 FAM 42.26 N1 above, visa type is distinct from visa classification. In addition to the fee exemptions based on visa type in the preceding paragraph, there are also exemptions based on visa classification. Consular officers should note that, under 22 CFR 41.107(c)(1), there are no application (MRV) or issuance (reciprocity) fees for applicants classifiable under the visa symbols A, C-2, C-3, G, or NATO, regardless of whether such visas qualify for "diplomatic" designation under 22 CFR 41.26. These exemptions also apply to

applicants in the A-3, G-5, or NATO-7 visa categories. The MRV fee exemption based on visa classification is granted regardless of whether the visa is issued or refused. See 9 FAM 41.21 PN11.

9 FAM 41.26 N5 EXEMPTION FROM PERSONAL APPEARANCE

(TL:VISA-396; 04-16-2002)

At the consular officer's discretion, a personal appearance may be waived for a diplomatic visa applicant. See 9 FAM 41.102 N2(3).