

9 FAM APPENDIX K, 200 REFERRAL PROCEDURES

(CT:VISA-1264; 08-04-2009)
(Office of Origin: CA/VO/L/R)

9 FAM APPENDIX K, 201 SUMMARY OF STANDARD OPERATING PROCEDURES

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- a. It is senior management's responsibility, in conjunction with the consular section, to develop formal written visa referral **procedures** consistent with the instructions in this appendix. **Individual referral policies are not authorized**; however, all posts should have **procedures** tailored to the individual and special circumstances of each mission. These procedures are not meant to circumvent the official referral policy process, but rather assist in the communication and transfer of referrals between mission sections and the consular section.
- b. Referral cases arise when a United States direct hire encumbering an officer position, who is approved to submit referrals, is approached by a foreign national for assistance in obtaining a United States visa. The officer then decides whether a referral is merited and if so, decides whether a Class A category referral or Class B category referral is appropriate. The officer then follows the referral submission procedures in the Worldwide Visa Referral Policy (9 FAM Appendix K, Exhibit I).

9 FAM APPENDIX K, 202 REFERRAL CASE ADJUDICATION

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- a. Because of the importance the Department and chiefs of mission (COM) place on this key consular function, senior consular officers at each post must be responsible for the adjudication of visa referral cases. All Class A referrals **must** be adjudicated by the consular section chief, or someone acting officially in that capacity. Class B referrals **must** be adjudicated by a tenured mid-level supervisory consular officer or the consular chief of section, or someone acting officially in one of those capacities. It is never appropriate for referral cases to be adjudicated by an entry-level officer, unless there is no tenured mid-level consular officer at post. Adjudicating

officers should periodically check with referring officers to verify referrals and signatures.

- b. Posts with large Class B referral workloads who encounter difficulties due to the absence of supervisory officers at post may contact Post Liaison (CA/VO/F/P) for assistance in determining proper adjudication arrangements.

c. Adjudication steps:

- (1) Once complete referral packets are received, the consular section must follow standard operating procedures to ensure that referrals are identified properly in the nonimmigrant visa NIV system and that supporting documentation is scanned properly into the system. An NIV staffer enters the referral case into the NIV system, using the referral function, and completing all fields (see 9 FAM Appendix K, 105). The referrals function in the NIV system is used to track visa referrals submitted by individual referrers. Referral data in NIV is comprised of two sets of information – the referrer’s information, and the beneficiary applicant’s information. These two sets of information are associated with one another using the referral information window. How and when these sets of information are entered into NIV determines whether the process is initiated in the applicant information window or the referral information window. (Chapter 16 of the NIV User Manual contains further information on how to properly indicate referrals in the NIV system.)
- (2) Once the case is entered into the system, the NIV staffer **must** scan all documentation for the cases into the NIV system. For referral cases, posts must scan Form DS-156, Nonimmigrant Visa Application if post is not using Form DS-160, Electronic Nonimmigrant Visa Application, Form DS-4034, Class A Nonimmigrant Visa Referral, or Form DS-4035, Class B Nonimmigrant Visa Referral, and if applicable, Form DS-157, Supplemental Nonimmigrant Visa Application and Form DS-158, Contact Information and Work History for Nonimmigrant and other documentation relevant to the case. The original visa referral form must be filed with the approved or refused visa application. (See 9 FAM Appendix F, Section 100 for further details on records retention and scanning requirements.)
- (3) The case is brought to the appropriate adjudicating officer (see above). The officer adjudicates the case, noting his or her decision on the Form DS-156 or in the comments field of the Form DS-160, and in the NIV system. The remarks field must be used to explain any refusal or unusual circumstances.
- (4) If the visa is approved, then the case is returned to an NIV staffer

for printing and distribution and/or delivery. If the visa is refused, the passport is returned to an NIV staffer for distribution/delivery and feedback regarding the decision is provided to the referring officer by the consular chief.

9 FAM APPENDIX K, 203 FEEDBACK

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- a. Referring and approving officers must be provided timely feedback for any case in which the referral is rejected or the referral applicant is refused. Form DS-5500, Referral Rejection/Refusal, is the appropriate mechanism for providing such feedback.
- b. Similarly, any derogatory information regarding the applicant that becomes available after visa issuance must be brought to the referring officer's attention, or to the section chief if the referring officer has left post. The referring officer is required to notify the consular section, regional security officer (RSO), and the referral approving officer immediately when he or she becomes aware or has reason to suspect that any referral applicant has failed to comply with the terms of his or her visa, violated status in the United States, or misrepresented him or herself in any manner in relation to the visa process. Failure to do so is abuse of the referral system, and can result in loss of referral privileges and/or disciplinary action.
- c. Communication regarding a visa referral may be made only to the consular section chief, or in the case of Class B referrals, the designated managerial consular supervisor.