

concerned or another person determined in accordance with guidance issued by the Department to have a legitimate interest.

(b) The primary grounds on which the Department will consider reversing a finding of loss of nationality and vacating a Certificate of Loss of Nationality are:

(1) The law under which the finding of loss was made has been held unconstitutional; or

(2) A major change in the interpretation of the law of expatriation is made as a result of a U.S. Supreme Court decision; or

(3) A major change in the interpretation of the law of expatriation is made by the Department, or is made by a court or another agency and adopted by the Department; and/or

(4) The person presents substantial new evidence, not previously considered, of involuntariness or absence of intent at the time of the expatriating act.

(c) When the Department reverses a finding of loss of nationality, the person concerned shall be considered not to have lost U.S. nationality as of the time the expatriating act was committed, and the Certificate of Loss of Nationality shall be vacated.

(d) Requesting the Department to reverse a finding of loss of nationality and vacate a Certificate of Loss of Nationality is not a prescribed "procedure for administrative appeal" for purposes of § 358 of the Immigration and Nationality Act (8 U.S.C. 1501). The Department's decision in response to such a request is not a prescribed "procedure for administrative appeal" for purposes of § 358 of the Immigration and Nationality Act (8 U.S.C. 1501). The issuance of a Certificate of Loss of Nationality by the Department is a "final administrative determination" and "final administrative denial" for purposes of §§ 358 and 360 of the Immigration and Nationality Act (8 U.S.C. 1501 and 1503), respectively.

[73 FR 41258, July 18, 2008]

## PART 51—PASSPORTS

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SOURCE: 72 FR 64931, Nov. 19, 2007, unless otherwise noted.

### § 51.1 Definitions.

The following definitions are applicable to this part:

- (a) *Department* means the United States Department of State.  
(b) *Electronic passport* means a passport containing an electronically readable device, an electronic chip encoded with the bearer’s personal information printed on the data page, a digitized version of the bearer’s photograph, a unique chip number, and a digital signature to protect the integrity of the stored information.  
(c) *Minor* means an unmarried, unemancipated person under 18 years of age.  
(d) *Passport* means a travel document regardless of format issued under the authority of the Secretary of State attesting to the identity and nationality of the bearer.  
(e) *Passport acceptance agent* means a U.S. national designated by the Department to accept passport applications and to administer oaths and affirmations in connection with such applications.  
(f) *Passport agent* means a U.S. citizen employee of the Department of State,

including consular officers, diplomatic officers and consular agents abroad, and such U.S. citizen Department of State employees or contractors as the Assistant Secretary for Consular Affairs may designate for the purpose of administering oaths and affirmations for passport applications.

(g) *Passport application* means the application form for a United States passport, as prescribed by the Department pursuant to 22 U.S.C. 213 and all documents, photographs, and statements submitted with the form or thereafter in support of the application.

(h) *Passport authorizing officer* means a U.S. citizen employee who is authorized by the Department to approve the issuance of passports.

(i) *Secretary* means the Secretary of State.

(j) *United States* when used in a geographical sense means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, the Virgin Islands of the United States, and all other United States territories and possessions.

(k) *U.S. citizen* means a person who acquired U.S. citizenship at birth or upon naturalization as provided by law and who has not subsequently lost such citizenship.

(l) *U.S. national* means a U.S. citizen or a U.S. non-citizen national.

(m) *U.S. non-citizen national* means a person on whom U.S. nationality, but not U.S. citizenship, has been conferred at birth under 8 U.S.C. 1408, or under other law or treaty, and who has not subsequently lost such non-citizen nationality.

[72 FR 64931, Nov. 19, 2007; 73 FR 5435, Jan. 30, 2008]

### Subpart A—General

#### § 51.2 Passport issued to nationals only.

- (a) A passport may be issued only to a U.S. national.  
(b) Unless authorized by the Department, no person may bear more than one valid passport of the same type.

#### § 51.3 Types of passports.

- (a) *Regular passport*. A regular passport is issued to a national of the United States.

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(b) *Official passport.* An official passport is issued to an official or employee of the U.S. Government traveling abroad to carry out official duties. When authorized by the Department, spouses and family members of such persons may be issued official passports. When authorized by the Department, an official passport may be issued to a U.S. government contractor traveling abroad to carry out official duties on behalf of the U.S. government.

(c) *Diplomatic passport.* A diplomatic passport is issued to a Foreign Service officer or to a person having diplomatic status or comparable status because he or she is traveling abroad to carry out diplomatic duties on behalf of the U.S. Government. When authorized by the Department, spouses and family members of such persons may be issued diplomatic passports. When authorized by the Department, a diplomatic passport may be issued to a U.S. Government contractor if the contractor meets the eligibility requirements for a diplomatic passport and the diplomatic passport is necessary to complete his or her mission.

(d) *Passport card.* A passport card is issued to a national of the United States on the same basis as a regular passport. It is valid only for departure from and entry to the United States through land and sea ports of entry between the United States and Mexico, Canada, the Caribbean and Bermuda. It is not a globally interoperable international travel document.

[72 FR 64931, Nov. 19, 2007, as amended at 72 FR 74173, Dec. 31, 2007]

### § 51.4 Validity of passports.

(a) *Signature of bearer.* A passport book is valid only when signed by the bearer in the space designated for signature, or, if the bearer is unable to sign, signed by a person with legal authority to sign on his or her behalf. A passport card is valid without the signature of the bearer.

(b) *Period of validity of a regular passport and a passport card.* (1) A regular passport or passport card issued to an applicant 16 years of age or older is valid for ten years from date of issue unless the Department limits the validity period to a shorter period.

(2) A regular passport or passport card issued to an applicant under 16 years of age is valid for five years from date of issue unless the Department limits the validity period to a shorter period.

(3) A regular passport for which payment of the fee has been excused is valid for a period of five years from the date issued unless limited by the Department to a shorter period.

(c) *Period of validity of an official passport.* The period of validity of an official passport, unless limited by the Department to a shorter period, is five years from the date of issue, or so long as the bearer maintains his or her official status, whichever is shorter. An official passport which has not expired must be returned to the Department upon the termination of the bearer's official status or at such other time as the Department may determine.

(d) *Period of validity of a diplomatic passport.* The period of validity of a diplomatic passport, unless limited by the Department to a shorter period, is five years from the date of issue, or so long as the bearer maintains his or her diplomatic status, whichever is shorter. A diplomatic passport which has not expired must be returned to the Department upon the termination of the bearer's diplomatic status or at such other time as the Department may determine.

(e) *Limitation of validity.* The validity period of any passport may be limited by the Department to less than the normal validity period. The bearer of a limited passport may apply for a new passport, using the proper application and submitting the limited passport, applicable fees, photographs, and additional documentation, if required, to support the issuance of a new passport.

(f) *Invalidity.* A United States passport is invalid as soon as:

(1) The Department has sent or personally delivered a written notice to the bearer stating that the passport has been revoked; or

(2) The passport has been reported as lost or stolen to the Department, a U.S. passport agency or a diplomatic or consular post abroad and the Department has recorded the reported loss or theft; or

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(3) The passport is cancelled by the Department (physically, electronically, or otherwise) upon issuance of a new passport of the same type to the bearer; or

(4) The Department has sent a written notice to the bearer that the passport has been invalidated because the Department has not received the applicable fees; or

(5) The passport has been materially changed in physical appearance or composition, or contains a damaged, defective or otherwise nonfunctioning chip, or includes unauthorized changes, obliterations, entries or photographs, or has observable wear or tear that renders it unfit for use as a travel document, and the Department either takes possession of the passport or sends a written notice to the bearer.

[72 FR 64931, Nov. 19, 2007, as amended at 72 FR 74173, Dec. 31, 2007]

### § 51.5 Adjudication and issuance of passports.

(a) A passport authorizing officer may adjudicate applications and authorize the issuance of passports.

(b) A passport authorizing officer will examine the passport application and all documents, photographs and statements submitted in support of the application in accordance with guidance issued by the Department.

### § 51.6 Verification of passports and release of information from passport records.

(a) *Verification.* When required by a foreign government, a consular officer abroad may verify a U.S. passport.

(b) *Release of information.* Information in passport records is subject to the provisions of the Freedom of Information Act (FOIA) and the Privacy Act. Release of this information may be requested in accordance with part 171 or part 172 of this title.

### § 51.7 Passport property of the U.S. Government.

(a) A passport at all times remains the property of the United States and must be returned to the U.S. Government upon demand.

(b) Law enforcement authorities who take possession of a passport for use in an investigation or prosecution must

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return the passport to the Department on completion of the investigation and/or prosecution.

### § 51.8 Submission of currently valid passport.

(a) When applying for a new passport, an applicant must submit for cancellation any currently valid passport of the same type.

(b) If an applicant is unable to produce a passport under paragraph (a) of this section, he or she must submit a signed statement in the form prescribed by the Department setting forth the circumstances regarding the disposition of the passport.

(c) The Department may deny or limit a passport if the applicant has failed to provide a sufficient and credible explanation for lost, stolen, altered or mutilated passport(s) previously issued to the applicant, after being given a reasonable opportunity to do so.

### § 51.9 Amendment of passports.

Except for the convenience of the U.S. Government, no passport may be amended.

### § 51.10 Replacement passports.

A passport issuing office may issue a replacement passport without payment of applicable fees for the reasons specified in § 51.54.

## Subpart B—Application

### § 51.20 General.

(a) An application for a passport, a replacement passport, extra visa pages, or other passport related service must be completed using the forms the Department prescribes.

(b) The passport applicant must truthfully answer all questions and must state every material matter of fact pertaining to his or her eligibility for a passport. All information and evidence submitted in connection with an application is considered part of the application. A person providing false information as part of a passport application, whether contemporaneously with the form or at any other time, is subject to prosecution under applicable Federal criminal statutes.

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### § 51.21 Execution of passport application.

(a) *Application by personal appearance.* Except as provided in § 51.28, to assist in establishing identity, a minor, a person who has never been issued a passport in his or her own name, a person who has not been issued a passport for the full validity period of 10 years in his or her own name within 15 years of the date of a new application, or a person who is otherwise not eligible to apply for a passport by mail under paragraphs (b) and (c) of this section, must apply for a passport by appearing in person before a passport agent or passport acceptance agent (see § 51.22). The applicant must verify the application by oath or affirmation before the passport agent or passport acceptance agent, sign the completed application, provide photographs as prescribed by the Department, provide any other information or documents requested and pay the applicable fees prescribed in the Schedule of Fees for Consular Services (see 22 CFR 22.1).

(b) *Application by mail—persons in the United States.* (1) A person in the United States who previously has been issued a passport valid for 10 years in his or her own name may apply for a new passport by filling out, signing and mailing an application on the form prescribed by the Department if:

(i) The most recently issued previous passport was issued when the applicant was 16 years of age or older;

(ii) The application is made not more than 15 years following the issue date of the previous passport, except as provided in paragraph (e) of this section; and

(iii) The most recently issued previous passport of the same type is submitted with the new application.

(2) The applicant must also provide photographs as prescribed by the Department and pay the applicable fees prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1).

(c) *Application by mail—persons abroad.* (1) A person in a foreign country where the Department has authorized a post to receive passport applications by mail who previously has been issued a passport valid for 10 years in his or her own name may apply for a new passport in that country by filling

out, signing and mailing an application on the form prescribed by the Department if:

(i) The most recently issued previous passport was issued when the applicant was 16 years of age or older;

(ii) The application is made not more than 15 years following the issue date of the previous passport, except as provided in paragraph (e) of this section; and

(iii) The most recently issued previous passport of the same type is submitted with the new application.

(2) The applicant must also provide photographs as prescribed by the Department and pay the applicable fees prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1).

(d) Nothing in this part shall prohibit or limit the Department from authorizing an overseas post to accept a passport application or applications from persons outside the country or outside the person's country of residence in circumstances which prevent provision of these services to the person where they are located or in other unusual circumstances as determined by the Department.

(e) A senior passport authorizing officer may authorize acceptance of an application by mail where the application is made more than 15 years following the issue date of the previous passport as appropriate and in accordance with guidance issued by the Department.

[72 FR 64931, Nov. 19, 2007; 73 FR 4078, Jan. 24, 2008]

### § 51.22 Passport agents and passport acceptance agents.

(a) *U.S. citizen employees of the Department authorized to serve as passport agents.* The following employees of the Department are authorized by virtue of their positions to serve as passport agents unless the Department in an individual case withdraws authorization:

(1) A passport authorizing officer;

(2) A consular officer, or a U.S. citizen consular agent abroad;

(3) A diplomatic officer specifically authorized by the Department to accept passport applications; and

(4) Such U.S. citizen Department of State employees and contractors as the Assistant Secretary for Consular Affairs may designate for the purpose of

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administering oaths and affirmations for passport applications.

(b) *Persons designated by the Department to serve as passport acceptance agents.* When designated by the Department, the following persons are authorized to serve as passport acceptance agents unless the Department in an individual case withdraws authorization.

(1) An employee of the clerk of any Federal court;

(2) An employee of the clerk of any state court of record;

(3) A postal employee at a United States post office that has been selected to accept passport applications;

(4) An employee of the Department of Defense at a military installation that has been authorized to accept passport applications;

(5) An employee of a federal agency that has been selected to accept passport applications; and

(6) Any other person specifically designated by the Department.

(c) *Qualifications of persons designated by the Department to serve as passport acceptance agents.* Before the Department will designate a person described in § 51.22(b) as a passport acceptance agent, his or her employer must certify that the person:

(1) Is a U.S. citizen or a U.S. non-citizen national;

(2) Is 18 years of age or older;

(3) Is a permanent employee, excluding ad hoc, contractual, and volunteer employees; and

(4) Does not have a record of either:

(i) A Federal or State felony conviction; or

(ii) A misdemeanor conviction for crimes involving moral turpitude or breach of trust, including but not limited to embezzlement, identity theft, misappropriation, document fraud, drug offenses, or dishonesty in carrying out a responsibility involving public trust.

(d) *Training.* A passport acceptance agent described in § 51.22(b) must be trained to apply procedures and practices as detailed in guidance provided by the Department. Training must be successfully completed before accepting passport applications.

(e) *Responsibilities.* The responsibilities of a passport acceptance agent de-

scribed in § 51.22(b) include but are not limited to the following:

(1) Certifying the identity of each applicant. Passport acceptance agents must certify that they have personally witnessed the applicant signing his or her application, and that the applicant has:

(i) Personally appeared;

(ii) Presented proper identification, as documented on the application;

(iii) Submitted photographs that are a true likeness; and

(iv) Taken the oath administered by the acceptance agent.

(2) Safeguarding passport application information under the Privacy

Act of 1974. Passport acceptance agents described in § 51.22(b) must not retain copies of executed applications, nor release passport application information to anyone other than the applicant and the Department.

(3) Avoiding conflict of interest. Passport acceptance agents described in § 51.22(b) must not participate in any relationship that could be perceived as a conflict of interest, including but not limited to providing commercial services related to the passport process.

(f) *Documentation.* Passport acceptance facilities within the United

States must maintain a current listing of all passport acceptance agents designated under § 51.22(b) working at its facility. This list must be updated at least annually and a copy provided to the officer specified by the Department at the appropriate passport issuing office.

(1) The current listing of all designated passport acceptance agents must include the passport acceptance agents':

(i) Names; and

(ii) Signatures.

(2) Any addition to or deletion from the current listing of designated passport acceptance agents is subject to prior approval by the Department.

### § 51.23 Identity of applicant.

(a) The applicant has the burden of establishing his or her identity.

(b) The applicant must establish his or her identity by the submission of a previous passport, other state, local, or federal government officially issued identification with photograph, or

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other identifying evidence which may include an affidavit of an identifying witness.

(c) The Department may require such additional evidence of identity as it deems necessary.

### § 51.24 Affidavit of identifying witness.

(a) An identifying witness must execute an affidavit in the form prescribed by the Department before the person who accepts the passport application.

(b) A person who has received or expects to receive a fee for his or her services in connection with executing the application or obtaining the passport may not serve as an identifying witness.

### § 51.25 Name of applicant to be used in passport.

(a) The passport shall be issued in the full name of the applicant, generally the name recorded in the evidence of nationality and identity.

(b) The applicant must explain any material discrepancies between the name on the application and the name recorded in the evidence of nationality and identity. The name provided by the applicant on the application may be used if the applicant submits the documentary evidence prescribed by the Department.

(c) A name change will be recognized for purposes of issuing a passport if the name change occurs in one of the following ways.

(1) *Court order or decree.* An applicant whose name has been changed by court order or decree must submit with his or her application a copy of the order or decree.

Acceptable types of court orders and decrees include but are not limited to:

(i) A name change order;

(ii) A divorce decree specifically declaring the return to a former name;

(2) Certificate of naturalization issued in a new name.

(3) *Marriage.* An applicant who has adopted a new name following marriage must present a copy of the marriage certificate.

(4) *Operation of state law.* An applicant must present operative government-issued legal documentation declaring the name change or issued in the new name.

(5) *Customary usage.* An applicant who has adopted a new name other than as prescribed in paragraphs (c)(1) through (4) of this section must submit evidence of public and exclusive use of the adopted name for a long period of time, in general five years, as prescribed in guidance issued by the Department. The evidence must include three or more public documents, including one government-issued identification with photograph and other acceptable public documents prescribed by the Department.

### § 51.26 Photographs.

The applicant must submit with his or her application photographs as prescribed by the Department that are a good likeness of and satisfactorily identify the applicant.

### § 51.27 Incompetents.

A legal guardian or other person with the legal capacity to act on behalf of a person declared incompetent may execute a passport application on the incompetent person's behalf.

### § 51.28 Minors.

(a) *Minors under age 16—(1) Personal appearance.* Minors under 16 years of age applying for a passport must appear in person, unless the personal appearance of the minor is specifically excused by a senior passport authorizing officer, pursuant to guidance issued by the Department. In cases where personal appearance is excused, the person(s) executing the passport application on behalf of the minor shall appear in person and verify the application by oath or affirmation before a person authorized by the Secretary to administer oaths or affirmations, unless these requirements are also excused by a senior passport authorizing officer pursuant to guidance issued by the Department.

(2) *Execution of passport application by both parents or by each legal guardian.* Except as specifically provided in this section, both parents or each of the minor's legal guardians, if any, whether applying for a passport for the first time or for a renewal, must execute the application on behalf of a minor under

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age 16 and provide documentary evidence of parentage or legal guardianship showing the minor's name, date and place of birth, and the names of the parent or parents or legal guardian.

(3) *Execution of passport application by one parent or legal guardian.* A passport application may be executed on behalf of a minor under age 16 by only one parent or legal guardian if such person provides:

(i) A notarized written statement or affidavit from the non-applying parent or legal guardian, if applicable, consenting to the issuance of the passport, or

(ii) Documentary evidence that such person is the sole parent or has sole custody of the minor. Such evidence includes, but is not limited to, the following:

(A) A birth certificate providing the minor's name, date and place of birth and the name of only the applying parent;

(B) A Consular Report of Birth Abroad of a Citizen of the United States of America or a Certification of Report of Birth of a United States Citizen providing the minor's name, date and place of birth and the name of only the applying parent;

(C) A copy of the death certificate for the non-applying parent or legal guardian;

(D) An adoption decree showing the name of only the applying parent;

(E) An order of a court of competent jurisdiction granting sole legal custody to the applying parent or legal guardian containing no travel restrictions inconsistent with issuance of the passport; or, specifically authorizing the applying parent or legal guardian to obtain a passport for the minor, regardless of custodial arrangements; or specifically authorizing the travel of the minor with the applying parent or legal guardian;

(F) An order of a court of competent jurisdiction terminating the parental rights of the non-applying parent or declaring the non-applying parent or legal guardian to be incompetent.

(G) An order of a court of competent jurisdiction providing for joint legal custody or requiring the permission of both parents or the court for important decisions will be interpreted as requir-

ing the permission of both parents or the court, as appropriate. Notwithstanding the existence of any such court order, a passport may be issued when compelling humanitarian or emergency reasons relating to the welfare of the minor exist.

(4) *Execution of passport application by a person acting in loco parentis.* (i) A person may apply in loco parentis on behalf of a minor under age 16 by submitting a notarized written statement or a notarized affidavit from both parents or each legal guardian, if any, specifically authorizing the application.

(ii) If only one parent or legal guardian provides the notarized written statement or notarized affidavit, the applicant must provide documentary evidence that an application may be made by one parent or legal guardian, consistent with § 51.28(a)(3)

(5) *Exigent or special family circumstances.* A passport may be issued when only one parent, legal guardian or person acting in loco parentis executes the application, in cases of exigent or special family circumstances.

(i) "Exigent circumstances" are defined as time-sensitive circumstances in which the inability of the minor to obtain a passport would jeopardize the health and safety or welfare of the minor or would result in the minor being separated from the rest of his or her traveling party. "Time sensitive" generally means that there is not enough time before the minor's emergency travel to obtain either the required consent of both parents/legal guardians or documentation reflecting a sole parent's/legal guardian's custody rights.

(ii) "Special family circumstances" are defined as circumstances in which the minor's family situation makes it exceptionally difficult for one or both of the parents to execute the passport application; and/or compelling humanitarian circumstances where the minor's lack of a passport would jeopardize the health, safety, or welfare of the minor; or, pursuant to guidance issued by the Department, circumstances in which return of a minor to the jurisdiction of his or her home state or habitual residence is necessary



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to permit a court of competent jurisdiction to adjudicate or enforce a custody determination. A passport issued due to such special family circumstances may be limited for direct return to the United States in accordance with § 51.60(e).

(iii) A parent, legal guardian, or person acting in loco parentis who is applying for a passport for a minor under age 16 under this paragraph must submit a written statement with the application describing the exigent or special family circumstances he or she believes should be taken into consideration in applying an exception.

(iv) Determinations under § 51.28(a)(5) must be made by a senior passport authorizing officer pursuant to guidance issued by the Department.

(6) Nothing contained in this section shall prohibit any Department official adjudicating a passport application filed on behalf of a minor from requiring an applicant to submit other documentary evidence deemed necessary to establish the applying adult's entitlement to obtain a passport on behalf of a minor under the age of 16 in accordance with the provisions of this regulation.

(b) *Minors 16 years of age and above.*  
(1) A minor 16 years of age and above applying for a passport must appear in person and may execute the application for a passport on his or her own behalf unless the personal appearance of the minor is specifically excused by a senior passport authorizing officer pursuant to guidance issued by the Department, or unless, in the judgment of the person before whom the application is executed, it is not advisable for the minor to execute his or her own application. In such case, it must be executed by a parent or legal guardian of the minor, or by a person in loco parentis, unless the personal appearance of the parent, legal guardian or person in loco parentis is excused by the senior passport authorizing officer pursuant to guidance issued by the Department.

(2) The passport authorizing officer may at any time require a minor 16 years of age and above to submit the notarized consent of a parent, a legal guardian, or a person in loco parentis to the issuance of the passport.

(c) *Rules applicable to all minors—(1) Objections.* At any time prior to the issuance of a passport to a minor, the application may be disapproved and a passport may be denied upon receipt of a written objection from a parent or legal guardian of the minor, or from another party claiming authority to object, so long as the objecting party provides sufficient documentation of his or her custodial rights or other authority to object.

(2) An order from a court of competent jurisdiction providing for joint legal custody or requiring the permission of both parents or the court for important decisions will be interpreted as requiring the permission of both parents or the court as appropriate.

(3) The Department will consider a court of competent jurisdiction to be a U.S. state or federal court or a foreign court located in the minor's home state or place of habitual residence.

(4) The Department may require that conflicts regarding custody orders, whether domestic or foreign, be settled by the appropriate court before a passport may be issued.

(5) *Access by parents and legal guardians to passport records for minors.* Either parent or any legal guardian of a minor may upon written request obtain information regarding the application for and issuance of a passport to a minor, unless the requesting parent's parental rights have been terminated by an order of a court of competent jurisdiction, a copy of which has been provided to the Department. The Department may deny such information to a parent or legal guardian if it determines that the minor objects to disclosure and the minor is 16 years of age or older or if the Department determines that the minor is of sufficient age and maturity to invoke his or her own privacy rights.

### Subpart C—Evidence of U.S. Citizenship or Nationality

#### § 51.40 Burden of proof.

The applicant has the burden of proving that he or she is a U.S. citizen or non-citizen national.

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### § 51.41 Documentary evidence.

The applicant must provide documentary evidence that he or she is a U.S. citizen or non-citizen national.

### § 51.42 Persons born in the United States applying for a passport for the first time.

(a) *Primary evidence of birth in the United States.* A person born in the United States generally must submit a birth certificate. The birth certificate must show the full name of the applicant, the applicant's place and date of birth, the full name of the parent(s), and must be signed by the official custodian of birth records, bear the seal of the issuing office, and show a filing date within one year of the date of birth.

(b) *Secondary evidence of birth in the United States.* If the applicant cannot submit a birth certificate that meets the requirement of paragraph (a) of this section, he or she must submit secondary evidence sufficient to establish to the satisfaction of the Department that he or she was born in the United States. Secondary evidence includes but is not limited to hospital birth certificates, baptismal certificates, medical and school records, certificates of circumcision, other documentary evidence created shortly after birth but generally not more than 5 years after birth, and/or affidavits of persons having personal knowledge of the facts of the birth.

### § 51.43 Persons born outside the United States applying for a passport for the first time.

(a) *General.* A person born outside the United States must submit documentary evidence that he or she meets all the statutory requirements for acquisition of U.S. citizenship or non-citizen nationality under the provision of law or treaty under which the person is claiming U.S. citizenship or non-citizen nationality.

(b) *Documentary evidence.* (1) Types of documentary evidence of citizenship for a person born outside the United States include:

- (i) A certificate of naturalization.
- (ii) A certificate of citizenship.
- (iii) A Consular Report of Birth Abroad.

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(2) An applicant without one of these documents must produce supporting documents as required by the Department, showing acquisition of U.S. citizenship under the relevant provisions of law.

### § 51.44 Proof of resumption or retention of U.S. citizenship.

An applicant who claims to have resumed or retained U.S. citizenship must submit with the application a certificate of naturalization or evidence that he or she took the steps necessary to resume or retain U.S. citizenship in accordance with the applicable provision of law.

### § 51.45 Department discretion to require evidence of U.S. citizenship or non-citizen nationality.

The Department may require an applicant to provide any evidence that it deems necessary to establish that he or she is a U.S. citizen or non-citizen national, including evidence in addition to the evidence specified in 22 CFR 51.42 through 51.44.

### § 51.46 Return or retention of evidence of U.S. citizenship or non-citizen nationality.

The Department will generally return to the applicant evidence submitted in connection with an application for a passport. The Department may, however, retain evidence when it deems it necessary for anti-fraud or law enforcement or other similar purposes.

## Subpart D—Fees

### § 51.50 Form of payment.

Passport fees must be paid in U.S. currency or in other forms of payments permitted by the Department.

### § 51.51 Passport fees.

The Department collects the following passport fees in the amounts prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1):

- (a) An application fee, which must be paid at the time of application, except as provided in § 51.52, and is not refundable, except as provided in § 51.53.
- (b) An execution fee, except as provided in § 51.52, when the applicant is

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required to execute the application in person before a person authorized to administer oaths for passport purposes. The execution fee is collected at the time of application and is not refundable (see § 51.55). When execution services are provided by an official of a State or local government or of the United States Postal Service (USPS), the State or local government or USPS may retain the fee if authorized to do so by the Department.

(c) A fee for expedited passport processing, if applicable (see § 51.56).

(d) A surcharge in the amount of twenty-two dollars (\$22) on the filing of each application for a passport book, in the amount of twenty-two dollars (\$22) on the filing of each application for a passport card for an applicant age 16 or over, and in the amount of fifteen dollars (\$15) on the filing of each application for a passport card for an applicant under age 16, in order to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108-458 (8 U.S.C. 1185 note). The surcharge will be recovered by the Department of State from within the passport application fee reflected in the Schedule of Fees for Consular Services.

(e) An “enhanced border security” surcharge on the filing of each application for a regular passport in an amount set administratively by the Department and published in the Schedule of Fees for Consular Services.

(f) Any other fee that the Department is authorized or required by law to charge for passport services.

(g) The foregoing fees are applicable regardless of the validity period of the passport.

[72 FR 64931, Nov. 19, 2007; 73 FR 5435, Jan. 30, 2008, as amended at 75 FR 36535, June 28, 2010]

### § 51.52 Exemption from payment of passport fees.

(a) A person who is exempt from the payment of passport fees under this section may obtain a passport book only for no charge. A passport card will not be issued for no charge to the individuals exempt from the payment of passport fees under this section.

(b) The following persons are exempt from payment of passport fees except for the passport execution fee, unless their applications are executed before a federal official, in which case they are also exempt from payment of the passport execution fee:

(1) An officer or employee of the United States traveling on official business and the members of his or her immediate family. The applicant must submit evidence of the official purpose of the travel and, if applicable, authorization for the members of his or her immediate family to accompany or reside with him or her abroad.

(2) An American seaman who requires a passport in connection with his or her duties aboard a United States flag vessel.

(3) A widow, widower, child, parent, brother or sister of a deceased member of the United States Armed Forces proceeding abroad to visit the grave of such service member or to attend a funeral or memorial service for such member.

(4) Other persons whom the Department determines should be exempt from payment of passport fees for compelling circumstances, pursuant to guidance issued by the Department; or

(5) Other categories of persons exempted by law.

[72 FR 74173, Dec. 31, 2007]

### § 51.53 Refunds.

(a) The Department will refund the passport application fee and the security surcharge to any person exempt from payment of passport fees under 22 CFR 51.52 from whom the fee was erroneously collected.

(b) The Department will refund an expedited passport processing fee if the Department fails to provide expedited passport processing as provided in 22 CFR 51.56.

(c) For procedures on refunds of \$5.00 or less, see 22 CFR 22.6(b).

### § 51.54 Replacement passports without payment of applicable fees.

A passport issuing office may issue a replacement passport for the following reasons without payment of applicable fees:

(a) To correct an error or rectify a mistake of the Department;

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(b) When the bearer has changed his or her name or other personal identifier listed on the data page of the passport, and applies for a replacement passport within one year of the date of the passport's original issuance.

(c) When the bearer of an emergency full fee passport issued for a limited validity period applies for a full validity passport within one year of the date of the passport's original issuance.

(d) When a passport is retained by U.S. law enforcement or judiciary for evidentiary purposes and the bearer is still eligible to have a passport.

(e) When a passport is issued to replace a passport with a failed electronic chip for the balance of the original validity period.

### § 51.55 Execution fee not refundable.

The fee for the execution of a passport application is not refundable.

### § 51.56 Expedited passport processing.

(a) Within the United States, an applicant for passport service (including issuance, replacement or the addition of visa pages) may request expedited processing. The Department may decline to accept the request.

(b) Expedited passport processing shall mean completing processing within the number of business days published on the Department's Web site, <http://www.travel.state.gov>, commencing when the application reaches a Passport Agency or, if the application is already with a Passport Agency, commencing when the request for expedited processing is approved. The processing will be considered completed when the passport is ready to be picked up by the applicant or is mailed to the applicant, or a letter of passport denial is transmitted to the applicant.

(c) A fee is charged for expedited passport processing (see 22 CFR 51.51(c)). The fee does not cover any costs of mailing above the normal level of service regularly provided by the Department. The cost of expedited mailing must be paid by the applicant.

(d) The Department will not charge the fee for expedited passport processing if the Department's error, mis-

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take or delay caused the need for expedited processing.

[72 FR 64931, Nov. 19, 2007, as amended at 74 FR 47727, Sept. 17, 2009]

### Subpart E—Denial, Revocation, and Restriction of Passports

#### § 51.60 Denial and restriction of passports.

(a) The Department may not issue a passport, except a passport for direct return to the United States, in any case in which the Department determines or is informed by competent authority that:

(1) The applicant is in default on a loan received from the United States under 22 U.S.C. 2671(b)(2)(B) for the repatriation of the applicant and, where applicable, the applicant's spouse, minor child(ren), and/or other immediate family members, from a foreign country (see 22 U.S.C. 2671(d)); or

(2) The applicant has been certified by the Secretary of Health and Human Services as notified by a state agency under 42 U.S.C. 652(k) to be in arrears of child support in an amount determined by statute.

(b) The Department may refuse to issue a passport in any case in which the Department determines or is informed by competent authority that:

(1) The applicant is the subject of an outstanding Federal warrant of arrest for a felony, including a warrant issued under the Federal Fugitive Felon Act (18 U.S.C. 1073); or

(2) The applicant is subject to a criminal court order, condition of probation, or condition of parole, any of which forbids departure from the United States and the violation of which could result in the issuance of a Federal warrant of arrest, including a warrant issued under the Federal Fugitive Felon Act; or

(3) The applicant is subject to a U.S. court order committing him or her to a mental institution; or

(4) The applicant has been legally declared incompetent by a court of competent jurisdiction in the United States; or

(5) The applicant is the subject of a request for extradition or provisional request for extradition which has been

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presented to the government of a foreign country; or

(6) The applicant is the subject of a subpoena received from the United States pursuant to 28 U.S.C. 1783, in a matter involving Federal prosecution for, or grand jury investigation of, a felony; or

(7) The applicant is a minor and the passport may be denied under 22 CFR 51.28; or

(8) The applicant is subject to an order of restraint or apprehension issued by an appropriate officer of the United States Armed Forces pursuant to chapter 47 of title 10 of the United States Code; or

(9) The applicant is the subject of an outstanding state or local warrant of arrest for a felony; or

(10) The applicant is the subject of a request for extradition or provisional arrest submitted to the United States by a foreign country.

(c) The Department may refuse to issue a passport in any case in which:

(1) The applicant has not repaid a loan received from the United States under 22 U.S.C. 2670(j) for emergency medical attention, dietary supplements, and other emergency assistance, including, if applicable, assistance provided to his or her child(ren), spouse, and/or other immediate family members in a foreign country; or

(2) The applicant has not repaid a loan received from the United States under 22 U.S.C. 2671(b)(2)(B) or 22 U.S.C. 2671(b)(2)(A) for the repatriation or evacuation of the applicant and, if applicable, the applicant's child(ren), spouse, and/or other immediate family members from a foreign country to the United States; or

(3) The applicant has previously been denied a passport under this section or 22 CFR 51.61, or the Department has revoked the applicant's passport or issued a limited passport for direct return to the United States under 22 CFR 51.62, and the applicant has not shown that there has been a change in circumstances since the denial, revocation or issuance of a limited passport that warrants issuance of a passport; or

(4) The Secretary determines that the applicant's activities abroad are causing or are likely to cause serious

damage to the national security or the foreign policy of the United States.

(d) The Department may refuse to issue a passport in a case in which the Department is informed by an appropriate foreign government authority or international organization that the applicant is the subject of a warrant of arrest for a felony.

(e) The Department may refuse to issue a passport, except a passport for direct return to the United States, in any case in which the Department determines or is informed by a competent authority that the applicant is a minor who has been abducted, wrongfully removed or retained in violation of a court order or decree and return to his or her home state or habitual residence is necessary to permit a court of competent jurisdiction to determine custody matters.

### **§51.61 Denial of passports to certain convicted drug traffickers.**

(a) A passport may not be issued in any case in which the Department determines or is informed by competent authority that the applicant is subject to imprisonment or supervised release as the result of a felony conviction for a Federal or state drug offense, if the individual used a U.S. passport or otherwise crossed an international border in committing the offense, including a felony conviction arising under:

(1) The Controlled Substances Act (21 U.S.C. 801 *et seq.*) or the Controlled Substances Import and Export Act (21 U.S.C. 951 *et seq.*); or

(2) Any Federal law involving controlled substances as defined in section 802 of the Controlled Substances Act (21 U.S.C. 801 *et seq.*); or

(3) The Bank Secrecy Act (31 U.S.C. 5311 *et seq.*) or the Money Laundering Act (18 U.S.C. 1956 *et seq.*) if the Department is in receipt of information that supports the determination that the violation involved is related to illicit production of or trafficking in a controlled substance; or

(4) Any state law involving the manufacture, distribution, or possession of a controlled substance.

(b) A passport may be refused in any case in which the Department determines or is informed by competent authority that the applicant is subject to

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imprisonment or supervised release as the result of a misdemeanor conviction of a Federal or state drug offense if the individual used a U.S. passport or otherwise crossed an international border in committing the offense, other than a first conviction for possession of a controlled substance, including a misdemeanor conviction arising under:

(1) The Federal statutes described in § 51.61(a); or

(2) Any State law involving the manufacture, distribution, or possession of a controlled substance.

(c) Notwithstanding paragraph (a) of this section, the Department may issue a passport when the competent authority confirms, or the Department otherwise finds, that emergency circumstances or humanitarian reasons exist.

### § 51.62 Revocation or limitation of passports.

(a) The Department may revoke or limit a passport when

(1) The bearer of the passport may be denied a passport under 22 CFR 51.60 or 51.61; or 51.28; or any other provision contained in this part; or,

(2) The passport has been obtained illegally, fraudulently or erroneously; was created through illegality or fraud practiced upon the Department; or has been fraudulently altered or misused;

(b) The Department may revoke a passport when the Department has determined that the bearer of the passport is not a U.S. national, or the Department is on notice that the bearer's certificate of citizenship or certificate of naturalization has been canceled.

### § 51.63 Passports invalid for travel into or through restricted areas; prohibition on passports valid only for travel to Israel.

(a) The Secretary may restrict the use of a passport for travel to or use in a country or area which the Secretary has determined is:

(1) A country with which the United States is at war; or

(2) A country or area where armed hostilities are in progress; or

(3) A country or area in which there is imminent danger to the public health or physical safety of United States travelers.

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(b) Any determination made and restriction imposed under paragraph (a) of this section, or any extension or revocation of the restriction, shall be published in the FEDERAL REGISTER.

(c) A passport may not be designated as valid only for travel to Israel.

### § 51.64 Special validation of passports for travel to restricted areas.

(a) A U.S. national may apply to the Department for a special validation of his or her passport to permit its use for travel to, or use in, a restricted country or area. The application must be accompanied by evidence that the applicant falls within one of the categories in paragraph (c) of this section.

(b) The Department may grant a special validation if it determines that the validation is in the national interest of the United States.

(c) A special validation may be determined to be in the national interest if:

(1) The applicant is a professional reporter or journalist, the purpose of whose trip is to obtain, and make available to the public, information about the restricted area; or

(2) The applicant is a representative of the International Committee of the Red Cross or the American Red Cross traveling pursuant to an officially-sponsored Red Cross mission; or

(3) The applicant's trip is justified by compelling humanitarian considerations; or

(4) The applicant's request is otherwise in the national interest.

### § 51.65 Notification of denial or revocation of passport.

(a) The Department will notify in writing any person whose application for issuance of a passport has been denied, or whose passport has been revoked. The notification will set forth the specific reasons for the denial or revocation, and, if applicable, the procedures for review available under 22 CFR 51.70 through 51.74.

(b) An application for a passport will be denied or treated as abandoned if an applicant fails to meet his or her burden of proof under 22 CFR 51.23(a) and 51.40 or otherwise does not provide documentation sufficient to establish entitlement to passport issuance within

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ninety days of notification by the Department that additional information from the applicant is required. Thereafter, if an applicant wishes to pursue a claim of entitlement to passport issuance, he or she must submit a new application and supporting documents, photographs, and statements in support of the application, along with applicable application and execution fees.

### § 51.66 Surrender of passport.

The bearer of a passport that is revoked must surrender it to the Department or its authorized representative upon demand.

## Subpart F—Procedures for Review of Certain Denials and Revocations

### § 51.70 Request for hearing to review certain denials and revocations.

(a) A person whose passport has been denied or revoked under 22 CFR 51.60(b)(1) through (10), 51.60(c), 51.60(d), 51.61(b), 51.62(a)(1) where the basis for the adverse action would entitle the applicant to a hearing under this section, or § 51.62(a)(2) may request a hearing to the Department to review the basis for the denial or revocation within 60 days of receipt of the notice of the denial or revocation.

(b) The provisions of §§ 51.70 through 51.74 do not apply to any action of the Department taken on an individual basis in denying, restricting, revoking, or invalidating a passport or in any other way adversely affecting the ability of a person to receive or use a passport for reasons excluded from § 51.70(a) including:

- (1) Non-nationality;
- (2) Refusal under the provisions of 51.60(a);
- (3) Refusal to grant a discretionary exception under emergency or humanitarian relief provisions of § 51.61(c);
- (4) Refusal to grant a discretionary exception from geographical limitations of general applicability.

(c) If a timely request for a hearing is made, the Department will hold it within 60 days of the date the Department receives the request, unless the person requesting the hearing asks for a later date and the Department and the hearing officer agree.

(d) The Department will give the person requesting the hearing not less than 10 business days' written notice of the date and place of the hearing.

### § 51.71 The hearing.

(a) The Department will name a hearing officer, who will make findings of fact and submit recommendations based on the record of the hearing as defined in § 51.72 to the Deputy Assistant Secretary for Passport Services in the Bureau of Consular Affairs.

(b) The person requesting the hearing may appear in person, or with or by his designated attorney. The attorney must be admitted to practice in any state of the United States, the District of Columbia, any territory or possession of the United States, or be admitted to practice before the courts of the country in which the hearing is to be held.

(c) The person requesting the hearing may testify, offer evidence in his or her own behalf, present witnesses, and make arguments at the hearing. The person requesting the hearing is responsible for all costs associated with the presentation of his or her case. The Department may present witnesses, offer evidence, and make arguments in its behalf. The Department is responsible for all costs associated with the presentation of its case.

(d) Formal rules of evidence will not apply, but the hearing officer may impose reasonable restrictions on relevancy, materiality, and competency of evidence presented. Testimony will be under oath or by affirmation under penalty of perjury. The hearing officer may not consider any information that is not also made available to the person requesting the hearing and made a part of the record of the proceeding.

(e) If any witness is unable to appear in person, the hearing officer may, in his or her discretion, accept an affidavit from or order a deposition of the witness, the cost for which will be the responsibility of the requesting party.

### § 51.72 Transcript and record of the hearing.

A qualified reporter will make a complete verbatim transcript of the hearing. The person requesting the hearing and/or his or her attorney may review

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and purchase a copy of the transcript. The hearing transcript and the documents received by the hearing officer will constitute the record of the hearing.

### § 51.73 Privacy of hearing.

Only the person requesting the hearing, his or her attorney, the hearing officer, official reporters, and employees of the Department directly concerned with the presentation of the case for the Department may be present at the hearing. Witnesses may be present only while actually giving testimony or as otherwise directed by the hearing officer.

### § 51.74 Final decision.

After reviewing the record of the hearing and the findings of fact and recommendations of the hearing officer, the Deputy Assistant Secretary for Passport Services will decide whether to uphold the denial or revocation of the passport. The Department will promptly notify the person requesting the hearing in writing of the decision. If the decision is to uphold the denial or revocation, the notice will contain the reason(s) for the decision. The decision is final and is not subject to further administrative review.

## PART 52—MARRIAGES

Sec.

- 52.1 Celebration of marriage.
- 52.2 Authentication of marriage and divorce documents.
- 52.3 Certification as to marriage laws.

AUTHORITY: Sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 2658.

### § 52.1 Celebration of marriage.

Foreign Service officers are forbidden to celebrate marriages.

[31 FR 13546, Oct. 20, 1966]

### § 52.2 Authentication of marriage and divorce documents.

(a) Whenever a consular officer is requested to authenticate the signature of local authorities on a document of marriage when he was not a witness to the marriage, he shall include in the body of his certificate of authentication the qualifying statement, "For

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the contents of the annexed document, the Consulate (General) assumes no responsibility."

(b) A consular officer shall include the same statement in certificates of authentication accompanying decrees of divorce.

[31 FR 13546, Oct. 20, 1966. Redesignated at 51 FR 26247, July 22, 1986]

### § 52.3 Certification as to marriage laws.

Although a consular officer may have knowledge respecting the laws of marriage, he shall not issue any official certificate with respect to such laws.

[31 FR 13546, Oct. 20, 1966. Redesignated at 51 FR 26247, July 22, 1986]

## PART 53—PASSPORT REQUIREMENT AND EXCEPTIONS

Sec.

- 53.1 Passport requirement; definitions.
- 53.2 Exceptions.
- 53.3 Attempt of a citizen to enter without a valid passport.
- 53.4 Optional use of a valid passport.

AUTHORITY: 8 U.S.C. 1185; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458); E.O. 13323, 69 FR 241 (Dec. 30, 2003).

SOURCE: 71 FR 68430, Nov. 24, 2006, unless otherwise noted.

### § 53.1 Passport requirement; definitions.

(a) It is unlawful for a citizen of the United States, unless excepted under 22 CFR 53.2, to enter or depart, or attempt to enter or depart, the United States, without a valid U.S. passport.

(b) For purposes of this part "United States" means "United States" as defined in section 215(c) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1185(c)).

### § 53.2 Exceptions.

(a) U.S. citizens, as defined in § 41.0 of this chapter, are not required to bear U.S. passports when traveling directly between parts of the United States as defined in § 51.1 of this chapter.

(b) A U.S. citizen is not required to bear a valid U.S. passport to enter or depart the United States:

(1) When traveling as a member of the Armed Forces of the United States