

## **9 FAM 42.41 Procedural Notes**

*(TL:VISA-388; 04-09-2002)*

### **9 FAM 42.41 PN1 Notifying Beneficiary of Approved Visa Petition**

#### **9 FAM 42.41 PN1.1 Beneficiaries of Immediate Relative or Preference Petitions**

*(TL:VISA-170; 10-01-1997)*

Upon receipt of an approved petition granting an alien immediate relative or preference status, the National Visa Center (NVC) shall send the alien beneficiary the Packet 3 or Packet 3A notifying the beneficiary of receipt of the petition and advising the alien what steps, if any, to take in applying for a visa. [See 9 FAM 42.63 PN5.]

#### **9 FAM 42.41 PN1.2 Beneficiaries of Orphan Petitions**

*(TL:VISA-170; 10-01-1997)*

Where required or when requested, INS will cable or fax directly to the post or the INS officer abroad information on immigrant petitions for orphans and approval of Form I-600A, Application for Advance Processing of Orphan Petition. Upon receipt of the cable or fax, the consular officer shall notify the petitioner of the steps to be taken for further processing of the case.

### **9 FAM 42.41 PN2 Attaching Petition and Supporting Documents to Visa**

*(TL:VISA-333; 11-15-2001)*

See 9 FAM 42.73 PN2 and 9 FAM 42.73 PN3.

### **9 FAM 42.41 PN3 Transferring Petition to Another Post**

#### **9 FAM 42.41 PN3.1 Transferring Files**

*(TL:VISA-170; 10-01-1997)*

See 9 FAM 42.61 PN1.

#### **9 FAM 42.41 PN3.2 Record of Transfer by Transferring Post**

*(TL:VISA-388; 04-09-2002)*

*All cases must be transferred using the procedures contained in the Automated Immigrant Visa Processing System. In no case should a paper file be transferred without following proper procedures in the automated system. [See 9 FAM 42.61 PN1.3.]*

## **9 FAM 42.41 PN4 Use of Genetic Testing to Verify Relationships**

### **9 FAM 42.41 PN4.1 When to Recommend Genetic Testing**

*(TL:VISA-333; 11-15-2001)*

Genetic testing is a useful tool for verifying an alleged blood relationship when no other form of credible evidence is available. Genetic testing is most commonly used to verify a parent/child relationship in conjunction with a citizenship case or an immigrant visa application. However, due to the expense, complexity and logistical delays inherent in parentage testing, genetic testing should be used only if no other credible proof of the relationship exists. When genetic testing appears warranted, the consular officer should advise the applicant that genetic testing may establish the validity of the relationship; that such testing is entirely voluntary; and that all costs of testing and related expenses must be borne by the petitioner and/or beneficiary and paid to the laboratory in advance. In addition, the consular officer should caution the applicant that submitting to testing does not guarantee the subsequent issuance of a U.S. passport or an immigrant visa.

### **9 FAM 42.41 PN4.2 Genetic Testing as Basis for I-130 Petition for Alien Relative**

*(TL:VISA-351; 01-29-2002)*

Consular officers may not accept Form I-130, Petition for Alien Relative which is based on the results of genetic testing. Such petitions should be forwarded to INS as not clearly approvable. The accompanying memorandum should explain why other evidence of alleged relationship is unavailable or not credible, to alert INS to the need for genetic testing.

INS, on the other hand, can approve a petition based on genetic testing, and may request a post's assistance in ensuring that the potential beneficiary submits to such testing under appropriate safeguards. INS may also approve an Form I-130 contingent upon verification of an alleged relationship through genetic testing. Consular officers should return to INS any petitions which have been disproven by DNA test results.

### **9 FAM 42.41 PN4.3 Establishing Procedural Safeguards**

*(TL:VISA-333; 11-15-2001)*

To assure the integrity of DNA testing results, all stages of DNA testing must be conducted under appropriate safeguards. These safeguards must include strict controls concerning protection of the chain of custody of blood or tissue samples, identification of the parties to be tested (generally including photographing and even fingerprinting of the individuals tested), and correct preparation of test results. Additionally, some posts have instituted internal controls over the handling of IV or citizenship cases involving DNA testing, based on the local context and working conditions. Post specific internal controls involving DNA testing should be reported to CA/VO/F/P in case there are questions from the public. These post specific internal controls should also be posted on the post's websites as general information to the public.

#### **9 FAM 42.41 PN4.4 Genetic Testing Procedures**

*(TL:VISA-333; 11-15-2001)*

a. The petitioner and/or parent must select a laboratory, contact the laboratory directly, and make the necessary arrangements (including payment) for conducting the genetic test. The laboratory will send a testing kit and explicit instructions to the post's panel physician, either directly or through the consular section. While Department of State medical officers and facilities may not be used for the collection of blood or tissue samples, consular officers are responsible for taking necessary safeguards against tampering with the process. Consular managers have discretion, based on local fraud conditions and the vulnerability of panel physicians to outside pressure, to determine whether or not the presence of a consular officer (or associate) is required to ensure adherence to proper safeguards.

b. Following the blood draw or tissue sampling process, the panel physician should return the test kit directly to the appropriate laboratory by the most secure and expedient method (generally, express mail). The panel physician should ensure that full documentation, including supporting forms, fingerprints, photos of the drawees, and signatures of the drawees, phlebotomist etc., requested in the test kit, accompany the form. This documentation is needed to prove the chain of custody. Under no circumstances may posts use the diplomatic pouch to return samples to the testing laboratory.

#### **9 FAM 42.41 PN4.5 Communicating the Results of the Tests**

*(TL:VISA-333; 11-15-2001)*

In all phases of testing, communication of the results of the test must be directly between the laboratory or panel physician and the consular officer. The laboratory or panel physician should ensure that all test results are delivered to the consular officer in a manner which precludes tampering. Under no circumstances should any other party, including those being tested, be permitted to carry or transport blood or tissue samples or test results. Since the applicant or sponsor is bearing full financial responsibility for testing, however, Department has no objection to that person also receiving a copy of the results directly from the laboratory or panel physician.

### **9 FAM 42.41 PN4.6 Choosing a Testing Facility**

*(TL:VISA-333; 11-15-2001)*

The Department requires that any DNA for visa and citizenship purposes must be done by a lab that is accredited by the American Association of Blood Banks (AABB). Names of AABB accredited labs can be provided to post on request by contacting CA/VO/F/P, or found on the internet at [www.aabb.org](http://www.aabb.org). *At present*, when one arrives at that site, the names can be discovered by selecting "about the AABB," followed by selecting "standards and accreditation," scrolling down, go to "parentage testing accreditation program," and then selecting "AABB accredited parentage testing laboratories."

### **9 FAM 42.41 PN4.7 Types of Tests and Methods that can be Used**

*(TL:VISA-333; 11-15-2001)*

The Department states that while DNA tests cannot be required, we can determine which tests are acceptable for use. The types of tests used by the DNA scientific community continues to evolve, but currently, the Polymerase Chain Reaction-Short Tandem Repeat (PCR-STR) and the Restriction Fragment Length Polymorphism (RFLP) methods are the two tests that the Department believes to be the most advanced, offering the best results. Test samples can be acquired either through the use of buccal swabs or through the drawing of blood. The Department recommends using buccal swabs when possible, as this method eliminates many issues that can arise with transporting the samples to approved laboratories. If, in the future, new tests are developed which achieve, or surpass the qualities of these two tests, the Department will change this guidance.