

Immigrant Visa Fee Exemption for Applicants Previously Refused under Presidential Proclamations 9645 and 9983

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On January 20, 2021, the President issued Presidential Proclamation 10141, titled “Ending Discriminatory Bans on Entry to the United States.” This Proclamation revoked Presidential Proclamations (P.P.) 9645 and 9983, which had suspended entry into the United States of certain nationals, based on visa type, from Burma, Eritrea, Iran, Kyrgyzstan, Libya, Nigeria, North Korea, Somalia, Sudan, Syria, Tanzania, Venezuela, and Yemen. The Department of State has amended its regulations at 22 C.F.R. 22.1 and 42.71, governing immigrant visa (IV) fees, to exempt from IV fees certain applicants previously denied an IV solely due to P.P. 9645 and 9983. Effective immediately, all IV applicants previously denied an IV on or between December 8, 2017, and January 19, 2020, with the sole ground of ineligibility based on P.P. 9645 or 9983, are exempted from paying a new IV application fee or affidavit of support fee if applying again for an IV.

Applicants do not need to pay a second fee if the following conditions are met:

1. The IV applicant was previously denied an IV on or between December 8, 2017, and January 19, 2020; and
2. the sole ground of ineligibility was based on P.P. 9645 or P.P. 9983; and
3. the applicant is applying again for an IV.

This amendment is not retroactive and no refunds will be distributed based on this change to the regulations. This provision provides for a one-time exemption of the applicable fees per applicant.

Prior to this amendment, Department regulations at 22
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C.F.R. 42.81(e) already provided that an IV applicant is not required to pay a new application fee when seeking reconsideration of a visa refusal within one year of the refusal date by providing additional evidence that overcomes the ineligibility on which the visa was denied. Individuals who were refused on or after January 20, 2020, may benefit under that regulation and fee exemption, because they are presumed to have sought reconsideration of their prior refusals on January 20, 2021, when the President issued P.P. 10141.

FAQS

I already paid a second immigrant visa application fee. Can I get a refund based on this new regulation?

This amended regulation took effect on January 19, 2022, and only applies to applicants who applied for their IV for the second time on or after the effective date of the new regulation. No refunds will be distributed based on this change to the regulations.

My visa application was refused pursuant to Presidential Proclamation 9645 or 9983, but I was also refused on additional grounds. Am I still eligible for the fee exemption?

Some applicants may have been initially denied IVs under P.P. 9645 or 9983 and additional refusal grounds. These applicants are not eligible for the fee exemption, unless a consular officer had previously determined that the refusal on other grounds had been overcome and the only impediment to issuance of an IV on January 20, 2021, was due to P.P. 9645 or 9983.

My visa application was refused based solely on Presidential Proclamation 9645 or 9983, but my visa application was refused after January 20, 2020. Am I still eligible for the fee exemption?

Although this final rule does not apply to IV applicants who were refused on or after January 20, 2020, Department regulations at 22 C.F.R. 42.81(e) already provided for the reconsideration of their previously filed application without an additional application fee. That regulation allows IV applicants to have their case reconsidered, without payment of an additional fee, by providing additional evidence that overcomes the ineligibility on which the visa was denied. Individuals who were refused on or after January 20, 2020, may benefit under that regulation and fee exemption, because they are presumed to have sought reconsideration of their prior refusals on January 20, 2021, when the President issued P.P. 10141. (Posted 1/20/22)

or an additional fee, by providing further evidence tending to overcome the ground of ineligibility on which the refusal was based" within one year of the date of refusal. The Department considers Presidential Proclamation 10141, issued January 20, 2021, as the presentation of evidence overcoming the ineligibility, thus allowing cases refused within the prior year to be reconsidered under 22 C.F.R. 42.81(e) without a new application fee.

My DV-2020 application was refused pursuant to Presidential Proclamation 9645 or 9983. Am I exempted from paying a new fee?

Generally, U.S. law requires diversity visa (DV) selectees to obtain a DV before the end of the fiscal year (i.e. September 30) for which they were selected. For that reason, DV selectees from the 2017, 2018, and 2019 program years are not eligible to make a new application and cannot benefit from this rule. However, the Department of State is aware of a court order in *Gomez v. Trump* regarding the reservation and adjudication of DV-2020 diversity visas by September 30, 2022. A DV-2020 applicant who was refused solely under Presidential Proclamation 9645 or 9983 may benefit from the fee exception provision discussed here. We will publish additional public guidance regarding the Department's compliance with the Gomez court order as it becomes available here: <https://travel.state.gov/content/travel/en/News/visas-news/diversity-visa-2020-and-2021-updates.html>. DV applicants from the 2021 program year cannot benefit as they would have been refused after January 20, 2020; the fee exemption only applies to those refused on January 19, 2020, or earlier.