

Legal Authorities

1. [8 U.S.C. § 1101\(a\)\(30\)](#)

The term “passport” means any travel document issued by competent authority showing the bearer’s origin, identity, and nationality if any, which is valid for the admission of the bearer into a foreign country.

2. [22 U.S.C. § 211a](#)

§ 211a. Authority to grant, issue, and verify passports

The Secretary of State may grant and issue passports, and cause passports to be granted, issued, and verified in foreign countries by diplomatic and consular officers of the United States, and by such other employees of the Department of State who are citizens of the United States as the Secretary of State may designate, and by the chief or other executive officer of the insular possessions of the United States, under such rules as the President shall designate and prescribe for and on behalf of the United States, and no other person shall grant, issue, or verify such passports. Unless authorized by law, a passport may not be designated as restricted for travel to or for use in any country other than a country with which the United States is at war, where armed hostilities are in progress, or where there is imminent danger to the public health or the physical safety of United States travelers.

3. [22 U.S.C. § 2651a \(a\)\(4\)](#)

§ 2651a. Organization of the Department of State

(4) The Secretary is authorized to promulgate such rules and regulations as may be necessary to carry out the functions of the Secretary of State and the Department of State. Unless otherwise specified in law, the Secretary may delegate authority to perform any of the functions of the Secretary or the Department to officers and employees under the direction and supervision of the Secretary. The Secretary may delegate the authority to redelegate any such functions.

4. [22 C.F.R § 51.28](#)

This regulation implements the statutory two parent consent requirement and prescribes the bases for an exception.

5. [22 C.F.R. § 51.28\(c\)\(1\)](#)

Provides that a person having legal custody of a minor or other authority to object may object to issuance of a passport to that minor any time prior to issuance, and that the Department may deny issuance upon receipt of a written objection to issuance.

6. [22 C.F.R. § 51.28\(a\)\(3\)](#)

Provides that a passport may be denied to a minor on the basis of a court order prohibiting the minor’s travel without permission of both parents or the court, or where a parent with sole or

joint legal custody objects to issuance, or where a court order requires permission of both parents or a court for important decisions regarding the minor.

7. [22 C.F.R. § 51.28\(c\)\(5\)](#) and [22 C.F.R. § 171.32\(c\)\(1\) and \(2\)](#)

Parents are permitted access to the passport records of their minor children pursuant to both of these regulatory provisions.

8. [Public Law 106-113, Div. B, §1000\(a\)\(7\) \[Div. A., Title II, §236\] of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001.](#)

TITLE II--DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES

SEC. 236. ISSUANCE OF PASSPORTS FOR CHILDREN UNDER AGE 14.

(a) IN GENERAL-

(1) REGULATIONS- Not later than 1 year after the date of the enactment of this Act, the Secretary of State shall issue regulations providing that before a child under the age of 14 years is issued a passport the requirements under paragraph (2) shall apply under penalty of perjury.

(2) REQUIREMENTS-

(A) Both parents, or the child's legal guardian, must execute the application and provide documentary evidence demonstrating that they are the parents or guardian; or

(B) the person executing the application must provide documentary evidence that such person--

(i) has sole custody of the child;

(ii) has the consent of the other parent to the issuance of the passport; or

(iii) is in loco parentis and has the consent of both parents, of a parent with sole custody over the child, or of the child's legal guardian, to the issuance of the passport.

(b) EXCEPTIONS- The regulations required by subsection (a) may provide for exceptions in exigent circumstances, such as those involving the health or welfare of the child, or when the Secretary determines that issuance of a passport is warranted by special family circumstances.

9. [Executive Order 11295 \(August 5, 1966\)](#)

The Executive Order authorizes the Department of State to establish rules for the issuance of passports.

Drafter: CA/OCS/PRI: DARivers 03-15-2012

Clearances:

CA/OCS/PRI:EBetancourt (OK)

L/CA:CFlood (OK)

L/M:AKottmyer (OK)