

SUPPLEMENT TO PASSPORT REGULATIONS

"TITLE 22 - FOREIGN RELATIONS

"Chapter I - Department of State

"Part 51 - Passports

"Subpart B -- Regulations of the Secretary of State

"Pursuant to the authority vested in me by paragraph 126 of Executive Order No. 7856, issued on March 31, 1938 (3 F.R. 681; 22 CFR 51.77), under authority of section 1 of the Act of Congress approved July 3, 1926 (44 Stat. 887; 22 USC 211 (a)), the regulations issued on March 31, 1938 (Departmental Order 749) as amended (22 CFR 51.101 to 51.134) are hereby further amended by the addition of new sections 51.135 to 51.143 as follows:

"§ 51.135 Limitation on Issuance of Passports to Persons Supporting Communist Movement. In order to promote the national interest by assuring that persons who support the world Communist movement of which the Communist Party is an integral unit may not, through use of United States passports, further the purposes of that movement, no passport, except one limited for direct and immediate return to the United States, shall be issued to:

"(a) Persons who are members of the Communist Party or who have recently terminated such membership under such circumstances as to warrant the conclusion -- not otherwise rebutted by the evidence -- that they continue to act in furtherance of the interests and under the discipline of the Communist Party;

"(b) Persons, regardless of the formal state of their affiliation with the Communist Party, who engage in activities which support the Communist movement under such circumstances as to warrant the conclusion -- not otherwise rebutted by the evidence -- that they have engaged in such activities as a result of direction, domination, or control exercised over them by the Communist movement.

"(c) Persons, regardless of the formal state of their affiliation with the Communist Party, as to whom there is reason to believe, on the balance of all the evidence, that they are going abroad to engage in activities which will advance the Communist movement for the purpose, knowingly and willfully of advancing that movement.

"§ 51.136 Limitations on Issuance of Passports to Persons Likely to Violate Laws of the United States. In order to promote the national interest by assuring that the conduct of foreign relations shall be free from unlawful interference, no passport, except one limited for direct and immediate return to the United States, shall be issued to persons as to whom there is reason to believe, on the balance of all the evidence, that they are going abroad to engage in activities while abroad which would violate the laws of the United States, or which if carried on in the United States would violate such laws designed to protect the security of the United States.

"§ 51.137 Notification to Person Whose Passport Application Is Tentatively Disapproved. A person whose passport application is tentatively disapproved under the provisions of § 51.135 or § 51.136 will be notified in writing of the tentative refusal, and of the reasons on which it is based, as specifically as in the judgment of the Department of State security considerations permit. He shall be entitled, upon request, and before such refusal becomes final, to present his case and all relevant information informally to the Passport Division. He shall be entitled to appear in person before a hearing officer of the Passport Division, and to be represented by counsel. He will, upon request, confirm his oral statements in an affidavit for the record. After the applicant has presented his case, the Passport Division will review the record, and after consultation with other interested offices, advise the applicant of the decision. If the decision is adverse, such advice will be in writing and shall state the reasons on which the decision is based as specifically as within the judgment of the Department of State security limitations permit. Such advice shall also inform the applicant of his right to appeal under § 51.138.

"§ 51.138 Appeal by Passport Applicant. In the event of a decision adverse to the applicant, he shall be entitled to appeal his case to the Board of Passport Appeals provided for in § 51.139.

"§ 51.139 Creation and Functions of Board of Passport Appeals. There is hereby established within the Department of State a Board of Passport Appeals, hereinafter referred to as the Board, composed of not less than three officers of the Department to be designated by the Secretary of State. The Board shall act on all appeals under § 51.138. The Board shall adopt and make public its own rules of procedures, to be approved by the Secretary, which shall provide that its duties in any case may be performed by a panel of not less than three members acting by majority determination. The rules shall accord applicant the right to a hearing and to be represented by counsel, and shall accord applicant and each witness the right to inspect the transcript of his own testimony.

"§ 51.140 Duty of Board to Advise Secretary of State on Action for Disposition of Appealed Cases. It shall be the duty of the Board, on all the evidence, to advise the Secretary of the action it finds necessary and proper to the disposition of cases appealed to it, and to this end the Board may first call for clarification of the record, further investigation, or other action consistent with its duties.

"§ 51.141 Bases for Findings of Fact by Board. (a) In making or reviewing findings of fact, the Board, and all others with responsibility for so doing under §§ 51.135--51.143, shall be convinced by a preponderance of the evidence, as would a trial court in a civil case.

"(b) Consistent and prolonged adherence to the Communist Party line on a variety of issues and through shifts and changes of that line will suffice, prima facie, to support a finding under § 51.135 (b).

"§ 51.142 Oath or Affirmation by Applicant as to Membership in Communist Party. At any stage of the proceedings in the Passport Division or before the Board, if it is deemed necessary, the applicant may be required, as a part of his application, to subscribe, under oath or affirmation, to a statement with respect to present or past membership in the Communist Party. If applicant states that he is a Communist, refusal of a passport in his case will be without further proceedings.

"§ 51.143 Applicability of Sections 51.135--51.142. When the standards set out in § 51.135 or § 51.136 are made relevant by the facts of a particular case to the exercise of the discretion of the Secretary under § 51.75, the standards in §§ 51.135 and 51.136 shall be applied and the procedural safeguards of §§ 51.137-51.142 shall be followed in any case where the person affected takes issue with the action of the Department in granting, refusing, restricting, withdrawing, cancelling, revoking, extending, renewing, or in any other fashion or degree affecting the ability of a person to use a passport through action taken in a particular case.

"For the Secretary of State

W. K. SCOTT
"Acting Deputy Under Secretary"

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