

US immigration law changes are making social media quite unsocial

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As of May 30, 2019, those filing both Forms DS-160 and DS-260 will have an additional question to answer. This question, which requires applicants to disclose their social media identifiers for all accounts active within the past five years, appears on all forms completed by nonimmigrant and immigrant visa applicants. This presents applicants with brand new and potentially negative outcomes, regardless of whether the applicant is applying for immigrant status or not. Recently, the U.S. government has been increasing its efforts in scrutinizing those seeking entry to the U.S. Recent examples include President Trump's Memorandum from March 2017 that implemented more intense vetting and screening protocols for visa applicants, as well as the notices published in the Federal Register by the U.S. Department of State one year later requesting public comment after the proposals made to modify Forms DS-160 and DS-260. These proposals, which have just been implemented as of May 30, 2019, would require the visa applicant to disclose all of their social media handles and identifiers that had been used during the five years preceding the date on the application.

The added question appears in a section of the application called "Social Media," which is under the larger "Address and Phone Information Page" section. When seeking help, the provided instructions direct applicants to provide anything associated with their presence online, including commonly used social media platforms, applications, websites, and providers that are used to connect, collaborate, interact, and communicate with others, as well as sharing information to and from around the world. Visa applicants are asked to provide usernames, handles, screennames, and/or other identifiers associated with the applicant and their social media accounts.

The U.S. Department of State has publicly stated that they will only use this information for "identity resolution and vetting purposes based on statutory visa eligibility standards." This means that they will generally be used to validate the identity of the applicant as well as confirm the accuracy of the information provided on the application. Consular officers have been instructed on how to follow the Department of State guidelines when assessing an applicant's social media presence.

While this addition to the application may allow for the U.S. Department of State to be more rigorous when evaluating security concerns, it has been pointed out that the information found by consular officers on applicants' social media pages may be misunderstood and possibly used against applicants during visa review and processing. It is recommended that anyone applying for these forms use good judgement when posting and sharing on social media, as well as the knowledge and awareness that the Department of State can access and review whatever is posted. There is a chance that officers might misunderstand or misinterpret content. In today's day and age where social media is often used as something akin to a public journal or diary, with users posting their day-to-day thoughts and opinions and musings, an individual might not be aware that what they post online has a large impact on their visa applications. A casual post may seem innocuous or have good intentions, but it could be the difference between an approved

application and a denied one. Applicants should use discretion in regards to what they say and share on social media.

In order to avoid inconsistencies between applications and social media profiles, applicants should make sure that their social media profiles are up-to-date concerning employment history. If the applicant does not provide their social media accounts at all, the application will most likely be considered a misrepresentation, which could easily result in a substantial delay, rejection of the visa application, or even denial of any and all further applications for immigration. As a less drastic consequence, a material misrepresentation on an application could result in a fraud charge that requires a waiver to bypass.

Prior to the amendments to DS-160 and DS-260, consular officers were only permitted to request social media handles with discretion, specifically to confirm the applicant's identity or in cases requiring more scrutiny due to concerns of terrorism or for national security. In 2017, the request for social media handles was added to the Electronic System for Travel Authorization (ESTA) screening process by U.S. Customs and Border Protection for Visa Waiver Visitors applying for admission to the U.S.

If you should have any questions or need more information about the ways in which the U.S. Immigration and Nationality Laws may impact you, your family, your friends or your colleagues, please contact the U.S. Immigration and Nationality Lawyers at the NPZ Law Group – VISASERVE – U.S. Immigration and Nationality Lawyers by e-mailing us at info@visaserve.com or by calling us at 201-670-0006 (x107). You can also visit our Law Firm's website at www.visaserve.com