

The Visa Issuance Process

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What is a visa?

- Stamp placed in a passport by a U.S. Consular officer
- Stamp does not mean status
- Valid stamp allows a person to request entry to the U.S.
- Two types: immigrant and non-immigrant
- Like a ticket to enter a theater; it only matters when you're outside and wanting in

Non-Immigrant Visas

- Presumes that the stay in the U.S. is temporary and the person has a residence abroad to which they will return
- Section 214(b) of INA presumes immigrant intent unless applicant proves otherwise
- Means the applicant is “guilty before they are innocent”
- Demonstrating strong ties to home country is highly subjective

Immigrant Visas

- Permanent intent in U.S.
- No need to demonstrate residence abroad
- Eliminates eligibility for any temporary status

Non-immigrant Classifications Common to Universities

- B-1/B-2 Visitors for Business or Pleasure
- F-1 Student
- J-1 Exchange Visitor
- H-1B Temporary Worker
- O Extraordinary Ability
- TN Trade NAFTA

B visa

- Visitors for pleasure is B-2
- Visitors for business is B-1
- Scholars can be paid an honorarium for an occasional lecture
- Academic intent would violate status

F Visa

- Students in full time degree programs
- Students in full time non-degree programs (like ESL)
- Vocational students use the M visa
- Requires school to issue I-20 form
- Role of the Designated School Official
- Dependents hold F-2 status

J Visa

- Exchange visitor program is cultural exchange
- Department of State administers program
- Requires school to issue DS-2019 form
- Many categories includes: students, teachers, professor/research scholars, short term scholars, trainees, au pairs, camp counselors, alien physicians, international visitors, government visitors, specialists, flight trainees
- Each category has special features

H Visa

- Temporary workers:
- H-1B for specialty occupations
- Other H visas include: DOD research projects, fashion models, registered nurses, seasonal agricultural workers, non-agricultural seasonal workers and specialized training programs

O visa

- Workers of extraordinary ability
- Must demonstrate sustained international acclaim in science, art, education, business, athletics or tv/motion pictures

TN Status

- Trade NAFTA
- Canadian professionals
- Mexican professionals

Length of visa

- Determined by Consul
- Reciprocity issues: fees and duration
- Reciprocity Tables:
<http://travel.state.gov/reciprocity/index.htm>
- Determining single vs. multiple entry
- Examples: China, India, Japan

Getting Started: Admission to School

- Student applies to school
- International applicants must verify financial support and demonstrate language ability in addition to academic standards
- School issues I-20 form upon granting admission to an international applicant

What is an I-20?

- Certificate of Eligibility for F visa
- Confirmation from school that non-immigrant student has been admitted
- Lists starting date, level of degree, field of study and expected degree completion date
- Student abroad needs form to apply for visa

What is a DS-2019?

- Certificate of eligibility for the J visa
- Change of J visa category not allowed inside U.S.
- Coding of form is complex to get program purpose, source of funding, etc.
- Exchange visitor needs form to apply for visa

What is the process to create a form and get it to a student?

- Institutions provide data to the DHS' SEVIS
- SEVIS permits school to print I-20 form
- Two systems of SEVIS: RTI and Batch
- When form is printed, school mails I-20 form to student
- Electronic system relies on technology
- Visa application is a paper process

SEVIS Issues

- Total reliance on government technology
- Two parts of program:
 1. creating forms
 2. Reporting requirements
- Periodic reporting each term
- Event reporting per incident

Applying for a Visa

- Scheduling an appointment
- Student completes visa application Form DS 156
- Visa fee is \$100 plus any reciprocity fees
- Support documents include passport, I-20 form and evidence of finance
- Personal interview

Interview Considerations

- Artificial environment
- Average time per interview is three minutes
- Applicants can get nervous and flustered
- Pressure

From the Consul Perspective

- Interpret INA section 214(b)
- Must see evidence of a residence abroad to which they will return
- Must judge adequacy and reliability of funding
- Can judge language ability
- Possible visa delay factors: name and field of study checks, visa type, age/gender, travel history, place of application

CLASS

- Consular Lookout and Support System
- First effort at name checking
- Required of all visa applicants
- If negative information is discovered, the Consul will refer application to office in Washington, DC for additional inquiry

From the Applicant's Perspective

- Guilt before innocence when demonstrating strong ties to home country
- Must demonstrate economic ties
- Future job opportunities
- Family and social ties
- Pattern of return by others from that country
- Process is highly subjective

Tips for Success:

- Consistent spelling of name and name order can be a problem
- Advise students to follow suggestions from websites of local embassies and consulates
- Help departments write succinct descriptions of programs of study

Security Considerations

- Visas Mantis, Condor
- Revised Technology Alert List (TAL)
- Requesting a Security Advisory Opinion (SAO)

Issues with Third Country Nationals (TCN's)

- Applying in Canada and Mexico
- VARS (Visa Appointment Reservation System)
- Automatic revalidation of visas not in effect if person applies for a visa

Responding to Visa Denials

- Consuls have the final say in decisions
- Most denials are due to Section 214(b)
- DHS is final judge under Section 428 of Homeland Security Act
- Reconsideration only with new evidence
- Congressional advocacy: are they effective?

Following Lengthy Visa Delays

- Most delays result from security checks
- Reporting delays with: usvisa@state.gov and SAOInquiries@state.gov
- NAS: visas@nas.edu
- NAFSA: www.nafsa.org/visadelay
- Legalnet@state.gov
- White House OSTP contact is Wendy Hall
- FBI contact is David Hardy: dhardy@fbi.gov

Special Issues

- State Sponsors of Terrorism list: Cuba, Syria, Libya, Sudan, Iran, Iraq, North Korea
- List of 26 countries

Other Issues

- Training of Consular officers
- Training of DHS staff
- Professionalizing the national welcoming

Q & A