

DOS UPDATE FOR THE VISA APPLICANTS TRAVELING TO THE UNITED STATES DURING ADMINISTRATIVE PROCESSING.

When a nonimmigrant submits a visa application to a U.S. Consulate, the Consulate has three options: (1) approve the application, (2) deny the application, or (3) place the application in administrative processing. The term "administrative processing" refers to virtually any delay in the issuance of a visa. Some visa applications require further administrative processing, which takes additional time after the visa applicant's interview by a Consular Officer. Applicants are advised of this requirement when they apply. Most administrative processing is resolved within 60 days of the visa interview. When administrative processing is required, the timing will vary based on individual circumstances of each case. Visa applicants are reminded to apply early for their visa, well in advance of the anticipated travel date.

If a visa application is refused under INA section 221(g), the Consulate may be able to issue the visa once the applicant produces a missing document or information, or if the Consulate receives the necessary clearances. Such administrative processing delays may take from a few days to several months to be resolved.

Recently, the Department of State (DOS), the DOS Visa Office (VO) announced that, assuming no derogatory information is available to the Consulate, an existing visa would not be cancelled while a new application is pending administrative processing. Accordingly, if an applicant is in possession of a valid, previously issued nonimmigrant visa, it may be presented at a Port-of-Entry to apply for admission to the U.S.

The DOS VO confirmed that an existing visa normally would not be cancelled and can be used to apply for admission to the U.S. regardless of whether it is in the same or different visa category. Of course, the visa must support the purpose of the travel to the U.S. A nonimmigrant worker, for example, should not present an existing B-1/B-2 visitor visa to apply for admission to resume employment in the U.S. while issuance of the work visa is delayed by administrative processing.

The Visa Office stressed, however, that an application for admission to the U.S. is made to U.S. Customs and Border Protection (CBP) which has its own authority to determine admissibility. CBP may deny admission even if the existing visa has not been cancelled. Thus, providing a client with travel advice should take into account this risk when evaluating whether to recommend applying for readmission to the U.S. based upon an existing visa while an application for a new visa is delayed at a U.S. Consulate by administrative processing.

If you should have any questions about Administrative Processing or need more information about the way that the U.S. Immigration and Nationality Laws may impact you, your family, your friends or your colleagues, please feel free to contact the U.S. Immigration and Nationality Lawyers and Attorneys at the NPZ Law Group – VISASERVE – U.S. Immigration and Nationality Lawyers by e-mailing to us at info@visaserve.com or by calling us at [201-670-0006 \(x107\)](tel:201-670-0006) or by visiting our Law Firm's website at <http://www.visaserve.com>