AILA BLOG

Think Immigration: Valid Visa, Denied Entry: Secondary Inspection and Visa Cancellations at U.S. Airports

11/3/26 | AILA Doc. No. 26110306. | Admissions & Border



Travelers with valid U.S. visas are increasingly concerned about what can happen when they arrive at a U.S. airport. A traveler may be referred to secondary inspection, questioned about prior travel or activities in the United States, and, in more serious cases, have a visa canceled or be refused admission.

This can be surprising to travelers who assume that an unexpired visa guarantees entry. It does not.

A U.S. visa generally allows a foreign national to travel to a port of entry and apply for admission. U.S. Customs and Border Protection (CBP) makes the admission decision after reviewing the traveler's visa classification, purpose of travel, immigration history, and admissibility.

Why Are Travelers Referred to Secondary Inspection?

Most travelers begin at primary inspection, where a CBP officer reviews the passport and visa and may ask about the purpose and duration of the trip.

When additional review is considered necessary, the traveler may be referred to secondary inspection. A referral does not itself mean that the traveler committed a violation or will be denied entry. It may result from documentation issues, inconsistent answers, system alerts, prior immigration history, arrests, suspected unauthorized employment, or other circumstances requiring further review.

One important issue is whether a traveler's actual conduct is consistent with the visa being used.

Multiple trips on a B-1/B-2 visa, for example, are not automatically problematic. But the overall travel pattern matters. Long stays in the United States followed by short periods abroad may cause CBP to question whether the traveler is genuinely making temporary visits or is effectively living or working in the United States.

F-1 students may face different questions. A valid F-1 visa does not replace the requirement to maintain student status, remain properly enrolled, and comply with employment restrictions. E-2, O-1, and other nonimmigrant visa holders may likewise face scrutiny if their current activities or circumstances appear inconsistent with their classification.

A prior arrest also does not automatically mean that admission will be denied, but it may lead to additional questioning and review.

What Happens During Secondary Inspection?

CBP may ask detailed questions about the traveler's purpose of entry, intended length of stay, employment, income, education, U.S. family or business connections, previous travel, and immigration history. In certain circumstances, electronic devices may also be examined.

What a traveler says during this process matters. Statements made to CBP, including sworn statements in some cases, may become part of the immigration record and later be reviewed in connection with future visa applications or immigration proceedings.

Secondary inspection itself is not a criminal arrest. However, depending on what CBP determines, the process can result in very different immigration consequences.

Can CBP Cancel a Valid Visa at the Airport?

A visa that was valid when the traveler boarded the aircraft does not prevent CBP from taking action when an admissibility issue arises at the port of entry.

Depending on the circumstances, the traveler may ultimately be admitted, permitted to withdraw the application for admission, have the visa canceled, be found inadmissible, or be placed in expedited removal proceedings.

These outcomes should not be confused with one another.

When someone later says, "CBP canceled my visa and sent me back," counsel needs to determine precisely what occurred. A visa cancellation alone, a withdrawal of application for admission, and an expedited removal order can have very different consequences for future travel.

Expedited removal can be particularly significant because it may result in a removal order without ordinary immigration court proceedings and may create a period of inadmissibility. By contrast, withdrawal of an application for admission is discretionary and carries a different legal analysis.

If a traveler expresses fear of returning to their country or indicates an intention to seek asylum, the process may change and credible fear procedures may become relevant.

Why Preparation Before Travel Matters

Once a traveler is in primary or secondary inspection, an immigration attorney's ability to intervene may be limited. An applicant for admission generally does not have a right to have counsel physically present during routine CBP inspection.

For someone with a potentially complicated history, the better time to identify the problem is therefore before travel.

Prior overstays, unauthorized employment, arrests, previous CBP encounters, prior removals, visa cancellations, frequent or lengthy stays, and changes in employment or student status may all warrant review.

This is not about teaching travelers what to say. The purpose is to understand the immigration history, identify potential admissibility problems, prepare relevant documentation, and ensure that the traveler can explain the facts truthfully and consistently.

What Happens After Someone Is Turned Away?

The first step is determining what CBP actually did. Counsel should review any CBP documents, signed statements or forms, passport annotations, visa cancellation markings, and other records from the encounter.

If the record is unclear, a Freedom of Information Act (FOIA) request may help obtain relevant government records. Only after understanding the prior CBP action should counsel evaluate another visa application, possible inadmissibility grounds, or available waivers.

For some nonimmigrant applicants, INA §212(d)(3) may provide a discretionary waiver commonly associated with Matter of Hranka. The Hranka framework considers factors including the risk of harm to society if the applicant is admitted, the seriousness of the prior immigration or criminal violation, and the reasons for seeking admission. The reason for entry does not necessarily have to be "compelling."

A Hranka waiver is not a universal solution. The particular ground of inadmissibility, visa classification, prior CBP action, and complete immigration history must first be analyzed.

Conclusion

The consequences of a port of entry encounter may extend far beyond a single trip. A visa cancellation, withdrawal, or expedited removal can affect future visa applications and attempts to enter the United States, making it critical to understand exactly what occurred and why.

As airport inspections receive greater attention, travelers with prior immigration issues or other potential admissibility concerns should not wait until they are standing before a CBP officer to address them. Careful review before travel and an accurate assessment of the CBP record after an adverse encounter can be critical in determining the appropriate path forward.

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