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What is the Difference between a “Visa” and “Visa Status”?

What is a Visa?

A visa is a travel document that is issued by a consulate to someone who wishes to visit the United States. A visa is placed in your passport and shows the Visa Type, such as F1, E2 or H-1B and it allows a person to apply for admission to the United States at a port of entry (eg. an airport). One key thing to note is that **having a visa in your passport does not guarantee admission to the United States**. The inspector at the United States port of entry will examine the visa and any other relevant documents brought by the visa holder and will decide whether to let the visa holder enter the United States. For example, the inspector may ask the visa holder why they are coming to the U.S. If for example, the applicant has a B Visa and says that they are visiting for tourism but the inspector believes that the applicant wishes to work in the U.S. or plans to marry, the inspector may deny admission. If you are denied entry to the U.S., you cannot appeal the decision. Once the inspector admits the visa holder into the United States, the act of admission confers a “status” upon the visa holder and the visa becomes largely irrelevant until the next time the applicant wishes to enter the United States.

What is A Status?

After a person has been inspected at a port of entry and lawfully admitted to the United States they are granted a status, which gives them certain rights and controls the activities they may lawfully engage in while they are in the U.S. The status refers to the classification under which the person entered the United States (F1, E2, H-1B, etc.) and the length of time the person is permitted to stay in the United States. The status is based on regulation and does not have anything to do with the expiration date on the Visa.

In order to be in lawful status, a person must obey the regulations relating to their particular status. For example, if a person enters the U.S. with a B visa for tourism purposes, they cannot begin attending school unless they go through the process of changing their status. If they continue to be in the United States on a B visa and start to attend Harvard University they will be considered “out of status” and will not have a lawful basis to remain in the United States.

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Which Dates are Important and What do They Mean?

One area of confusion that arises over the visa/status distinction is which expiration dates are important and what those expiration dates mean. The validity of a person's status in the United States is not tied to their visa expiration date. In fact, validity of status and validity of a visa are entirely separate from one another, meaning it is possible to have an expired visa but be in valid status and it is also possible to be out of status but have a valid visa that permits future entries into the U.S. For example, if you enter the U.S. on an E-2 visa that is valid for 5 years, you are granted 2 years of E-2 status when you enter. This is the case even if you enter the U.S. on the last day of your E-2 visa.

Visa Expiration Date

The visa expiration date is important when a person is trying to enter or re-enter the United States. It is not necessary to have a valid visa while inside the United States. However, if the visa expires and the person departs from the U.S., they will have to apply for a new visa if they wish to re-enter the United States.

I-94, Status Expiration Dates & Duration of Status

When a person is admitted to the United States they receive a stamp in their passport or an I-94 Arrival/Departure Record. The stamp or I-94 shows the person's entry date, their immigration status (F1, H-1B, etc.) and the expiration date of their status. Usually it will have a specific expiration date but sometimes it says D/S, which stands for Duration of Status. This means the person's status will end when an underlying document, such as an I-20 or DS-2019 expires. After the date on your stamp or I-94 passes, your status ends and you must leave the U.S. If you remain in the U.S. after this date passes you will be considered "out of status" and will begin to accrue unlawful presence, which could lead to future bars to entry. You can always access your I-94 online and see exactly when your status expires and you should access the online system and print out your I-94 when you arrive.

Conclusion

To conclude, a visa is a travel document that allows you to apply for entry to the U.S. A status is conferred on you based on government regulation once you are admitted to the U.S. and governs what you are allowed to do while you are in the U.S. Your visa can expire while you are in the U.S. without causing you any problems, but you must maintain your status by ensuring your documents are valid and adhering to the regulations that govern your status.

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For more practical or legal advice contact **Scott Legal Services, P.C.** We offer services in a number of business areas including, Immigration, New Business set up, Contract review and development and entrepreneurial support. Call 212-223-2964 or email iscott@legalservicesincorporated.com for a consultation.