

Know Your Options at the Border

Tips for Working with CBP at entry

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Featured on the [US Immigration Podcast](#)



When a person enters the U.S. either by plane, car or foot through an inspection station, a Customs and Border Protection (CBP) Agent is the person deciding whether or not one is allowed to enter. Having an approved visa placed in one's passport by a consulate abroad that led to this entry does not guarantee that CBP will let an individual actually in to the US. The consulate is run by a totally different agency, the US Department of State. CBP is run by the U.S. Department of Homeland Security, which is not bound by the decisions of the U.S. Department of State. So just as the immigrant had to convince the consulate officer that s/he was qualified for the visa and would return to their home country before the I-94 entry expired on any given trip, the immigrant has to also convince a CBP officer at the border that the visa was correctly issued and that the immigrant is only coming for a temporary duration and will be unlikely to overstay their visa I-94 period of authorized stay and not violate the terms of their visa, such as by working without permission.

Whether the CBP officer lets an immigrant in is completely discretionary and completely up to that officer. The worst outcome of being denied entry is the potential cancellation of your visa and the issuance of an expedited removal order, a removal order issued by the CBP officer right there at the border that does not allow you to return to the US for at least five years. Immigrants get themselves into trouble at the border out of desperation to tell the CBP officer what the immigrant thinks the officer wants to hear or fails to disclose information that would be relevant to whether CBP thinks the immigrant should be allowed into the U.S. so it looks like the immigrant is hiding information. So what can an immigrant do if the interview at the border is going south quickly and wants to avoid an expedited removal order? Can you call a friend? Not really. You can call but it doesn't mean CBP will let your attorney in or talk to him or her. CBP does not have to allow your attorney in to see you while you are being questioned. You are not in the U.S. yet so you have no due process rights to counsel.

Tips for your CBP entry:

(1) **[Don't lie! Don't dig the hole deeper.](#)** You could obtain not only a removal order but a misrepresentation bar, which is an unwaivable, permanent bar to re-entry for those who are not married to a US citizen or LPR spouse or have a US citizen or LPR parent.

(2) **[If English is not your first language, ask for an interpreter.](#)** If you think that CBP is not understanding you, you can ask for questions in your native language. Do not sign any paperwork unless you can read it first and you fully understand what is being asked of you. When CBP takes a person into secondary inspection, this is where in-depth questioning occurs. The immigrant is put under oath, the immigrant's picture and fingerprint is taken and a formal transcript of what

is being asked and answered is being recorded. The officer asks the immigrant on the record if the immigrant understands English and understands the questions being asked. If the immigrant is not so good at English or gets nervous with English comprehension under pressure, this is not the time to “guess” as to what the officer is asking. If the officer does not allow you to have a translator, then ask for a supervisor. If you believe the officer is not understanding you, you can also ask for a supervisor. Know that CBP can detain you, even overnight, if they don’t have capacity to get to you right away to continue questioning (for instance if it is a very busy airport). This waiting period can be very tiring and some immigrants can get desperate to get out quickly by giving into CBP and admitting to something that is not accurate. When you travel, it is always smart to have snacks and water with you in case you ever do have to wait. Waiting can even happen to permanent residents after trips abroad if there was a criminal background issue or name confusion.

(3) [If you did not realize you were trying to do something in violation of your visa \(entering the US to work on a visitor’s visa, moving to the US on a visitor’s visa\) or just got scared and acted foolishly, you can ask the officer if you can “Withdraw” your admission.](#) This is the second best outcome after actually being allowed entry into the U.S. on your visa. A withdrawal of admission form is not a removal order but an acknowledgement that you are no longer wishing to apply for admission. There is no formal finding of inadmissibility (you lied, you did not have a valid visa, etc.) and legally, it acts as if you were never there to apply for admission in the first place. Most of the time, this is a good outcome. In some circumstances, the CBP officer takes such detailed notes in the system that reflect in the order that consulates and CIS officers who later read this may try to pin the immigrant with harmful admissions to crimes and lies that can be very difficult to fight later despite the lack of formal finding. CBP does not have to give you the option to withdraw your application for admission. It is completely discretionary and usually reserved for those immigrants who CBP believes have no history of immigration violations and did not understand the legal consequences of their actions.



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