



BUSINESS IMMIGRATION SOLUTIONS

CLIENT ALERT: STRATEGIC U.S. ENTRY PLANNING FOR WORK-AUTHORIZED NONIMMIGRANTS

OVERVIEW

This alert outlines key considerations for nonimmigrant workers entering or reentering the U.S. amid increased border enforcement. While the legal framework for admission remains unchanged, CBP officers are applying heightened scrutiny at ports of entry. If you are entering the U.S. in a work-authorized status (e.g., H-1B, O-1, L-1, E-1, E-2, TN, etc.), thoughtful preparation is essential.

MEDIA ATTENTION VS. REALITY

There has been a surge in reports about visa holders being detained or denied entry at U.S. borders. These cases, while newsworthy, often lack critical context. In many instances, travelers had prior immigration violations, criminal histories, or misrepresentation issues that are not disclosed publicly in the media. Immigration enforcement has occurred under every administration, but it's currently receiving increased attention. The rules haven't changed, but increased visibility and the administration's tone may be emboldening some CBP officers to take a more aggressive approach at ports of entry. Still, hundreds of thousands of nonimmigrants are admitted into the U.S. every day.

Nonimmigrant workers should be prepared to clearly explain the purpose of their entry and provide documentation to support it. Understand the classification you're requesting at entry and be ready to present evidence that aligns with your approved status. Preparedness makes all the difference.

BEST PRACTICES FOR WORK-AUTHORIZED NONIMMIGRANTS ENTERING THE U.S.

- **Ensure your activities align with your visa classification.** Carry a valid passport, visa, and original I-797 approval notice. A current employment letter or recent paystubs can help confirm ongoing employment. If your job title, duties, worksite, or employer has changed since your visa was approved, check in with your attorney before you travel. Publicly available information (e.g. LinkedIn, company websites, or press releases) can conflict with information reported in your application. Mismatches between public information and government records can lead to questions, delays, or even denial of entry.
- **Ensure dependents have proper documentation.** Spouses and children in derivative status (e.g., H-4, O-3, L-2, etc.) should carry a marriage or birth certificate with a certified English translation, if applicable. If traveling separately from the principal visa holder, they should also carry copies of the primary's I-797 approval notice or visa stamp.
- **Be strategic about the timing of travel.** If your work authorization is expiring soon, consult your immigration attorney before leaving the U.S. to avoid disrupting a filing strategy or affecting

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eligibility for future benefits. If you have unresolved legal issues or were denied entry in the past six months, seek legal guidance before traveling.

- **When in doubt, consult an immigration attorney.** If you've experienced prior refusals, visa denials, repeated secondary inspections, or significant personal or professional changes since your last approval, speak with counsel before you travel.

PITFALLS TO AVOID

- **Overstaying or violating the terms of your status.** Past immigration violations—like staying past your I-94 expiration or working outside the scope of your admission category—can trigger red flags during reentry and be cause for denial of admission. *Always check your I-94 admission record after each entry to the U.S. and ensure your activities remain fully compliant with your entry classification.* Your I-94 may be accessed here: <https://i94.cbp.dhs.gov/>.
- **Making inconsistent or unclear statements.** Consular officers and border inspectors compare your statements to immigration records and filings. Inconsistencies—such as your job title, employer, worksite, or purpose of travel—can be interpreted as misrepresentation, even if unintentional. This can result in admission denial, expedited removal and a five-year bar from reentry. Be clear, honest, and consistent.
- **Posting politically sensitive or controversial content online.** CBP may review public social media, and content that appears anti-U.S., violent, discriminatory, or inflammatory—even as a joke or repost—can be misinterpreted and raise security concerns. This can lead to increased scrutiny, denial of entry, or even visa revocation. Review your digital footprint before you travel.

ENTRY REALITIES FOR NONIMMIGRANTS

1. **There is no guaranteed right of entry or reentry to the U.S.** CBP officers have broad discretion to determine admissibility at a port-of-entry. Nonimmigrant visa holders are not entitled to automatic admission, even with a valid visa or approval notice. Entry may be denied for various reasons, including suspected misrepresentation, insufficient ties to the home country, criminal issues, or national security concerns.
2. **Referral to secondary inspection does not necessarily indicate a problem.** It's often a routine process used to verify documentation or clarify details. CBP can ask detailed questions about your job, employer, visa, and purpose of travel. Stay calm and professional; be truthful and answer only what is asked. Inconsistent or unclear responses may be treated as misrepresentation; refusal to answer may lead to denial of entry.
3. **Electronic devices may be searched by CBP without your consent.** Officers are permitted to inspect and copy data from phones, laptops, and tablets without a warrant. This includes emails, texts, documents, photos, and social media activity. Refusing access may result in delays, denial

of entry, or device seizure. Travelers should review the contents of their devices and limit unnecessary or sensitive material before travel.

4. **There is no right to legal representation at the border.** CBP is not required to let you speak to a lawyer, even during extended questioning.

CONCLUSION

Despite the noise in the media, most nonimmigrant visa holders who maintain valid status, have not violated immigration laws, and carry proper documentation should not face problems entering the U.S. That said, immigration enforcement can be unpredictable, and discretion lies entirely with the CBP officer at the port of entry. Careful preparation, compliance with admission terms, and strategic travel planning are your best protections.

If you have any specific concerns about your case or travel plans, we strongly recommend a pre-travel consultation to assess risks and prepare documentation accordingly.

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