

## “VISA” vs. “STATUS”

Perhaps the most widely misunderstood document and the most commonly misused term related to immigration is the “visa”. Rarely a day goes by that someone somewhere isn’t overheard talking about people who have “*overstayed their visa*”, or who are in trouble because their “*visa expired*”. You’ll read about it in newspapers, hear it on the radio, on the TV, or even between two people talking on the street corner. The fact is, though, that a “*visa*” usually has nothing to do with what these people are describing. They are misinformed.

### ***What exactly is a “visa”?***

Very simply, a “visa” is an entry document issued to foreign nationals by the US Dept of State at a diplomatic visa-issuing post abroad (embassy or consulate office). This document, which is usually placed in the person’s passport, gives the individual consideration for admittance to the US. It shows that the visa holder has indicated a specific intent in coming to the US and that he or she has met the criteria to enter the US for that purpose. There are over 50 different categories of visas and each one is issued for a designated reason to come into the country. However, possession of a valid visa does not guarantee permission to enter the country. The actual determination of admissibility is left to the discretion of the examining immigration officer at the port of entry.

### ***Then what is “status”?***

When legally admitted to the country, a foreign national is assigned a “status”. This status is the person’s condition of legal presence in the US. It indicates why that person is here and prescribes which set of regulations the person must follow during his or her stay here. The type of “status” a person is given usually corresponds to the type of “visa” that was presented when entering the country. For example, someone using an “F-1” or “J-1” visa to come into the country will usually be assigned F-1 or J-1 status. This is not always the case though, as the immigration officer at the port of entry makes the determination of which “status” a person is placed on the basis of the evidence presented at that time. The I-94 (a small card issued upon entry to the country) will show to which status you have been assigned for your current stay in the US.

Just like “visa” categories, there are more than 50 different types of non-immigration “status”, which basically correspond to the various visa types. It is very important to note that each “status” has its own set of rules. Some types permit employment, some do not. Some types allow a person to attend school, while others do not. Likewise, even within a given “status” certain activities may be allowed at one time that are not allowed at other times. Therefore, you should make every possible effort to learn what is required to remain legal in your particular “status”. You should not trust the advice of friends on this issue. The consequences of violating the rules of your “status” can be very severe, and could even result in deportation.

### ***But what happens if my “visa” expires?***

All it means when your visa expires is that if you leave the country, then you will need to get a new visa before you can be readmitted. Contrary to popular belief, the expiration date of a visa has absolutely nothing to do with how long a person can stay in the US. Since it is merely an entry document, a visa only needs to be valid at the time of entry. The length of visa validity varies depending upon the visa classification and the diplomatic relationship between the US and the country in which the visa is being issued. It might expire in a month, or it could be valid for several years. Similarly, visa may be valid for a single entry, dual entry, or multiple entries. Regardless, once a person is admitted into the US, the validity of the visa has no bearing upon that person’s legal presence. A visa may expire or even be cancelled at the time of entry, but as long as the person has gained legal admittance, he or she may remain in the US until status expires. The visa expiration date and number of entries mean only that you may continue to use that visa to reenter the country until it expires and/or the number of allocated entries has been used.

### ***So when and how can I renew my “visa”?***

Since you only need to have a valid visa to enter the US, there is no need to worry about applying for a new one until the next time you travel out of the US. In fact, if you are in “F”, “J” and most all other types of status, you

cannot even apply for a new visa from within the US. To obtain a new visa, the process is basically a repeat of the initial application process. It is sometimes possible to apply for a new visa in a country other than your own, but the preference is for you to apply in your home country.

***Then how long can I stay?***

Based on the person's assigned status, the inspecting officer at the port of entry initially establishes the length of time a person is allowed to stay in the country. Some types of status have a limited period of stay with a predetermined date of departure. Others have a flexible expiration date. The expiration of stay will be noted on the I-94 along with the indication of the assigned status.

Those in "F" and "J" status have "duration of status". This is indicated by the letters "D/S" written on the I-94. "D/S" means that as long as you are continuing to do what you need to do to maintain your status, then you may remain here legally until you are finished with your program, plus a designated "grace" period allowed for the purpose of preparing to leave the country or do a little traveling in the US to see the country. For "F" status that extra period is 60 days beyond the program completion date; for "J" status, it is 30 days.

***Can I do anything to stay longer?***

"F" status students might extend their stay if they begin a new program within the time limits of their status. Depending on their program restrictions, those in "J" status might also be able to continue their program at a different level. It is sometimes, but not always, possible for those in another status to apply to the USCIS for an extension of stay, depending on the rules regulating your status. Changing to another status is likewise sometimes an alternative, too.

***Can I change my "status"?***

Depending on the type of "status" you have, you may be able to apply to USCIS for a change to another status from within the US. This process can take several months and requires a bit of paperwork to accomplish. It is also sometimes possible to travel out of the US, obtain a visa for the type of desired status and reenter the US in that new status.

IF you have questions or need assistance regarding your visa or you status, please contact an ISSO/GEO advisor.

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