

Four common reasons for being refused entry to the U.S.

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There are lots of obvious reasons why someone might be turned away at the border (such as drug trafficking, smuggling, having committed a violent felony, etc.). However, many well-meaning individuals can also get caught in the U.S.'s net of inadmissibility due to far less deliberate or insidious acts.

When this occurs, it can be both surprising and embarrassing. Many people who are inadmissible due to past actions are not even aware they are inadmissible and may even have been admitted to the U.S. before without issue. But as the U.S. recommits to enforcement at its borders, as well as at U.S. embassies and consulates abroad, more individuals are finding themselves facing admissibility issues they never even knew existed. Increased use of technology and the free sharing of information online are also bringing admissibility concerns to light much faster than in the past and making information related to admissibility much more accessible to immigration officers.

A few of the more common issues that can trigger inadmissibility to the U.S. include:

Engaging in fraud or misrepresenting facts to an immigration officer

Very few actions will get you barred faster from entering the United States than fraud or misrepresentation. Well-meaning Canadians might easily answer a seemingly innocent question with an honest answer that could get them in trouble, but some foreign nationals also think that a “small lie” is more likely than not to keep them out of trouble.

For example, a Canadian looking to enter the United States for business purposes might not be sure whether her activity is permissible as a B-1 business visitor, and to avoid any chance of not being admitted without a visa, instead tells an admitting officer that she is coming in to go shopping or visit family. Immigration officials have many methods of rooting out the truth, and what may have seemed an innocent or harmless misrepresentation could result in extensive questioning, search of electronic devices and/or her vehicle and even a permanent bar to admission to the U.S.

Overstaying a previously authorized entry

Overstaying your authorized time in the U.S. can have consequences no matter how long you overstayed — whether it is one day or 10 years. However, the most severe consequences tend to be for those who have overstayed their authorized status for a period of more than 180 consecutive days.

Unlawful presence in the United States for more than six months but less than one year can result in a bar to readmission for three years from the date of the overstaying foreign national's departure or removal. Staying unlawfully in the U.S. for a year or more (consecutively) can result in a 10-year bar to re-entry from the date of

departure or removal from the U.S.

Violating the terms of previously authorized employment or a specific visa

Employment authorization for foreign nationals in the U.S. is highly restricted, so violating the terms of your employment or visa is a horrible idea. Since President Trump took office, there has been a strong focus on enforcement of immigration rules and requirements, as well as unprecedented scrutiny of visa holders and petitioning sponsors.

Violating the terms of your employment authorization or visa can get your visa cancelled, you deported and ineligibility for future visas or certain processes leading to a green card. Even unpaid internships and volunteer work can constitute “employment” requiring a visa, if the position is one that would normally be paid.

Mental health and addiction concerns or history

This category is the dark horse candidate for immigration officials seeking a means by which to deny entry to the United States, as U.S. immigration laws consider mental health issues — including addiction — conditions that can render you inadmissible, if coupled with harmful behaviour. Even if the addiction or other mental health issue is in the past, it can still serve as a present ground of inadmissibility, depending on the circumstances, timing and frequency of the problems caused by the issue.

Since harmful behaviour is defined as behaviour that may pose, or has posed, a threat to the property, safety or welfare of the individual or others, something as simple as a few drunk driving-related offences (or even one, with aggravating factors) could make it exceedingly difficult if not impossible to enter the U.S., depending on the circumstances of the case.

Because Canadians are visa exempt in most instances, past offences or records may not arise when being inspected by an immigration officer for eligibility for admission. However, some processes — such as an E visa application, which requires applicants to obtain a visa before entering the U.S. even if they are Canadian — could bring an otherwise dormant ground of inadmissibility to the attention of the U.S. government.

Canadians who are concerned about whether they may be rendered inadmissible to the United States should reach out to an immigration lawyer well ahead of their intended entry, to see if a waiver is available to them or if there is some other means by which they can overcome their inadmissibility.

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