

Visa Processing Pitfalls: Mistakes to Avoid when Applying



By [Elizabeth M. Klarin](#)

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Applying for a U.S. visa can be a stressful process for foreign nationals worldwide - particularly in the post-pandemic environment. Visas are issued by the U.S. Department of State through officers at U.S. embassies and consulates worldwide, and this agency has been one of the most severely impacted by the COVID-19 shutdowns and restrictions over the past three-and-a-half years.

It is still difficult to get a visa appointment for some of the most common types of visas - such as visitor visas - with few exceptions and long waits for visa appointments and lengthy processing times can create tension for both officers and applicants. Remembering a few useful tips can make the difference between visa approval, and going home uncertain if or when a visa will be issued for you.

Why the hardship in obtaining a visa?

During the height of the COVID-19 pandemic, federal and local governments around the world put restrictions in place regarding travel and business. These varied from location to location, but most were far more restrictive than any in place in the U.S. The Department of State's policy was to mirror local and federal restrictions - resulting in their workers not working, or working from home with limited capability to process visa requests, for long stretches

of time.

While the business world had to find a way to function, pivoting to conducting business mostly online during this time, the Department of State refused to conduct interviews via teleconference, citing security concerns and other roadblocks. As a result of effectively not operating in most jurisdictions worldwide for long stretches of time, the department ended up with an enormous backlog of cases, once they resumed normal operations in most places roughly a year ago. This backlog has largely been resolved for many work-authorized visas, but not for intending visitors.

Likewise, legacy training of Department of State officers on how to handle certain visa processes such as E (treaty investor and treaty trader) visas appears to have been patchy at best. Consular staff regularly rotates every few years, and with the outgoing team never having had a chance to process the normal volume of applications and learn from the exercise, we are seeing very inconsistent adjudications and flawed policy requirements for visa issuance at consulates in Canada and elsewhere worldwide.

Avoiding problems when applying and getting a timely appointment

Avoiding problems involves some common-sense preparation and solid stress management. While the visa application process can be extremely stressful, it is crucial that you remain calm and composed during your visa interview. Be sure you have read all instructions on what to bring (and not bring) with you to your interview, and be prepared with the appropriate documentation. If you have a question as to whether something would be useful/helpful to your case, bring it with you as "backpocket" evidence; do not present it unless you are specifically asked for it or asked a question that can be answered most effectively by the documentation.

Backpocket evidence can include documentation backing up your travel plans and need to work or visit the U.S., such as letters from clients you plan to meet with, itineraries for travel, plane tickets or rental car information, etc. It can also include evidence of your ties to your home country, such as a copy of your lease or deed, proof of employment, evidence of participation in an educational program, or proof of family ties in the country.

The most important tip is to be honest and answer only the question asked, directly and succinctly. If an officer wants more information, let them ask for it. Honesty is of utmost importance, as fraud incurs some of the worst consequences assignable under immigration laws. Keeping calm and respectful is also critical. Remember that the officer adjudicating your visa request is a person and will respond to aggressive behaviour or impatience like most people do. When they hold the power to issue your visa, hold it up indefinitely, or deny your request, whatever your concern is with their line of questioning or how you are being treated may not be the hill you want to die on.

Regardless of what kind of visa you are applying for, schedule the first possible appointment available - even if it is a year out. Once you have an appointment for a visa interview, check back regularly in the scheduling system to see if there have been cancellations or if a new block of appointments has been released. Clients who are diligent in checking the system every day (sometimes multiple times a day) are often able to get visa appointments sooner than originally scheduled.

If you encounter a problem with obtaining a visa, please reach out to a qualified immigration lawyer for assistance. Someone who deals professionally with these types of frustrations and situations every day will understand how to address a Department of State concern efficiently and effectively and be able to walk you through options and challenges.

If you or someone you know is in need of additional assistance regarding visa application, contact [Elizabeth M. Klarin](#) (eklarin@lippes.com) or [Eileen M. Martin](#) (emartin@lippes.com) of the Lippes Mathias LLP immigration practice team.

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Related Team



Elizabeth M. Klarin
Partner



Eileen M. Martin
Partner | Team Co-
Leader - Immigration
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