

MYTHS ABOUT CONSULAR PROCESS FOR U.S. VISAS –
WHAT IS YOUR B&G SPOT?
PART II

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There are a lot of myths and misconceptions that people have relating to the U.S. visas this is especially the case for India who apply for visas and receive random denials on bases of 221(g) & 214(b). This is part II of the series of Articles about the common myths that relate to various types of visa processing.

1. The United States sets a quota on visas to limit the number of foreign students entering the country.

FACT: This is a myth. There is no limit to the number of student visas issued by U.S. embassies and consulates around the world. If you are a qualified student visa applicant who has gained admission to bona fide U.S. institution, the State Department wants you to pursue that opportunity. Recently, two schools in U.S. have been rated and found to be fraudulent academic organization & unable to issue that valid I-20 forms, some of the students who obtained students visas based upon admission in such fraudulent institution encountered serious problems after entry in the U.S. You should be sure that the academic organization is bona fide.

2. I can improve my chances of obtain a visa if I hire an Education Agent.

FACT: This is a Myth. Do not believe anyone who tells you they can help get a visa. Do not pay money or enter into an agreement with any such person. Self-proclaimed visas “fixers” have no special access to the U.S. government.

3. A visa applicant needs to document a minimum income level.

FACT: As a student visa applicant, you should be able to provide financial evidence that shows you, your parents, or your sponsor have sufficient funds to cover your tuition and living expenses during the period of your intended study. There is no minimum income or availability of funds required.

4. Only the academic superstars get visas.

FACT: This is a myth. Visas are not reserved for the very best students. Getting a visa depends first upon having gained acceptance to a college or university in the United States. Once you have been admitted to the academic institution or accepted as a participant in an approved exchange program, the academic institution will provide you with the appropriate form required by the Student and Exchange Visitor Information System (SEVIS). You will be required to submit this form to the U.S. Consulate when

you apply for a visa. You will need to demonstrate to the Consular Officer who conducts your interview that you are a bona fide student who intends to enroll in a program in a admitting institution. You also need to show that you have a well-developed plan of study and that you are knowledgeable about the subject you are studying. Also, that after completing the studies you will return to your home country.

5. During your visa interview, the consular officer will be waiting to hear the “right” answers.

FACT: The Consular Officer is looking for you to articulate clear & concise responds to his/her questions and to provide clear description of personal circumstances to establish that you are a bonafide non-immigrant and going to U.S. for specific purpose and period of time and you non-immigrant status which may lead him/her to believe that you will settle in the U.S. permanently and not return to home country upon competition of the purpose for which you are applying for the visa.

6. You’ll get a visa only if you have relatives in the United States.

FACT: This is a myth. This is not true. The interviewing Consular Officer may ask about relatives in the United States during the visa interview, just as he or she may ask about your family situation in your home country. As a matter of fact, Consular Officials may deny a nonimmigrant visa subject to Section 214(b) if the applicant has close family relatives in the U.S.

7. International students are not permitted to work while visiting the United States on a student visa.

FACT: This is a myth. There are several way in which a foreign student is abroad to work in the U.S. First, a foreign student can work on campus for 20 hours a week with authorization from the International Student Office (ISC). Second, an intern student can work in a work study program using Circular Practice Training (CPT). Third, a foreign student can engage in one full year of work following their full time course of study. This is called Optional Practical Training (OPT). There may be other methods by which a foreign student can work in the U.S. with “special permission” from USCIS.

8. You must have your entire future planned out to get an F-1 Student Visa.

FACT: This is a myth. You need to be able to discuss a realistic study plan, but not a detailed plan for your entire career. Consular Officials are not supposed to look at the crystal ball to make a decision about applicant’s nonimmigrant intent. As a matter of fact, the Consular Official should look at your intent only at the time of your present application and not guess about your future plans. In most situations, student themselves don’t know about their future and such decision is made only upon competition of their

studies. Unfortunately, some Consular Officials are looking at the long term intent of the applicant rather than intent at the time of the application is made.

9. You must return to your home country immediately upon completion of your degree.

FACT: This is a myth. You may apply for Optional Practical Training (OPT) to work for up to one year in your field in the United States to gain practical experience or change your status to some other type of nonimmigrant visa, such as H-1B visa, if you are eligible. While it is required that the student should not have pre-concerned intent to remain in the U.S. permanently, when applying for the visa, there is no requirement that the change of mind cannot take place, while the student is pursuing their studies in the U.S.

10. One must travel within 6 months of visa grant or else the visa will become invalid.

FACT: This is completely untrue. A nonimmigrant visa has an expiry date and is valid to travel any time before the expiry date, unless it is revoked or cancelled by the U.S. Immigration authorities for some reason, in accordance with the applicable law.

11. There is a limit on the number of visas given out per year.

FACT: There is no limit on nonimmigrant visitor/tourist or student visas. There is however, limitation on immigrant visas and some other types of nonimmigrant visas.

12. If all children are in the U.S., then visa will not be granted for the parents.

FACT: If any children are in the U.S. then this may present a valid concern for the Consular Officer. However, there may be other reasons for the Consulate Officials to deny visa application. It is strictly within the discretion of the consul, to issue or deny the visa. Having family members in the U.S. is potentially evidence of and intent of the applicant to immigrate which may go to section 214(b).

13. If a visa was refused in the past, a letter from a U.S. Congress person or Senator can help you to obtain your visa.

FACT: This is a myth. The United States law assigns the responsibility for issuance or refusal to representatives of the Bureau of Consular Affairs in the U.S. Department of State (DOS). This organization is directly responsible for the management of the Consular Officers overseas. The Consular Officers have the final say on all visa cases. Additionally, the U.S. law is designed to insulate the decisions in visa cases from outside influences. An applicant can influence a reversal of a prior denial only through the presentation of new and/or convincing evidence of strong ties.

14. If any Child is a U.S. Citizen, then a Visitor's Visa will be denied for the Parent applicants.

FACT: This is only a myth. Any genuine case that appropriately demonstrates (1) the purpose of the applicant's travel; and (2) that the travel by the applicant will be temporary; and (3) that the applicant has no intention to immigrate to the U.S., then he/she should be able to obtain the visa. While it is certainly the case, that if children are in the U.S. (Citizens), there is a "presumption" that the Parent may not return to their home country. However, this "presumption" can be overcome by the Parent applicants by showing that they have strong family, social or economic ties to return to India.

15. If a visa applicant requests a six (6) month visa, then the applicant has less of a chance of having the visa granted.

FACT: The length of trip requested in the visa application should specifically, logically and convincingly justify the purpose of the intended trip. For example, if the intending visa applicant is employed and has a two (2) month "leave sanction letter" from his/her present employer and he/she is submitting a request for a six (6) month stay in the U.S. then the Consular Officials are likely to have some questions about the intended visit. If a visitor is coming to the U.S. to attend conference in the U.S. for 5 days and seeking visa for 6 months, consul may not believe that he or she is a bonafide non-immigrant and may deny visa.

To be continued...