



We often receive the same set of questions and our firm thought it would be helpful to you all if we made a list of those questions and provided some general answers for educational purposes. Here is our most recent FAQ. This is purely for informational purposes and should not be relied upon as legal advice. This FAQ does not create any attorney-client relationship. If you need legal advice or representation, please contact or call an attorney.

FREQUENTLY ASKED QUESTIONS

HELP! I'M STUCK IN ADMINISTRATIVE PROCESSING

- 1. The embassy/consulate said that administrative processing would take a few months, but it's been longer than that.**

- a. Is this normal?**

This is a very normal response and situation to be in. There are at least 12,000 other visa applicants who are in the same situation. They are mothers, fathers, spouses, siblings, children, those with job offers, people applying for immigrant visas and non-immigrant visas. We don't have the breakdown of visa types or embassies/consulates or the particular facts of each of those cases. What they all have in common is that the embassy/consulate has found that they meet the first two prongs for a travel ban waiver and just need to go through administrative processing.

- b. What do I do?**

You should regularly email the embassy/consulate to ask for an update every 6-8 weeks. Even though the embassy/consulate has told you not to contact them, do it anyway. In addition, you should contact your U.S. congressional representative(s) to request their assistance. Follow up with their office every 6-8 weeks, as well. You can either Google this information or use these links to find your representatives: : [Find Your Senators](#); [Find Your Representative](#) Keep track of all of your emails and communications as this paper trail will be important if you decide to file a lawsuit (known as mandamus) at a later date to get a decision on your case.

- 2. What is mandamus? What do I need to bring a mandamus case?**

A petition for a writ of mandamus is a suit filed in federal court requesting that a judge order an agency to take a specified action. In this case, you would be asking a judge to order the State Department to complete administrative processing and issue a decision on your application. To be clear, the judge cannot order the State Department to grant your visa; they can only order that the visa application be finally adjudicated.

To bring a mandamus case, it is helpful and strongly recommended to have evidence of your efforts to get your case adjudicated. Normally this is in the form of copies of your communications back and forth with the embassy/consulate and with your congressional representatives, which is why it's important to be gathering this kind of evidence and building your case over time. This is also why we generally recommend that you wait about a year before filing for mandamus—we want to make sure that you can show a judge that you have been patient and have done your best to get the case adjudicated but that your efforts have not gotten any results.

3. Can I file for mandamus by myself or should I hire an attorney? What is the cost?

You can technically represent yourself, but this is the type of case where you really want an attorney to handle this for you.

It costs \$400 to file a case in federal court and you'll have to pay any legal fees associated with preparing your case. You can reasonably expect that attorneys generally charge anywhere between \$3,000 to \$10,000 to file this kind of lawsuit. Fees vary depending on the attorney and where in the country your attorney is located, among other factors.

4. How long does a mandamus case take?

Once the case is filed, the government has 60 days to respond to the complaint. They normally wait until the end to respond, and there are many ways for them to delay, for example, by requesting an extension on their time to respond or by asking the judge to dismiss the case. You can reasonably expect some kind of movement on your mandamus case within six months of filing, though litigation is very unpredictable, and things can always move faster or slower.

TRAVEL BAN WAIVERS

5. My family member has an interview next week? How do I apply for a waiver?

Based on stories from community members, it appears that spouses of American citizens, spouses of green card holders, and children under 21 are automatically determined to meet the first two prongs for the waiver. Of course, this could change at any time, but this appears to be the current situation.

For others, based on stories from the community, it appears that the applicant must convey to the officer why they cannot wait until the travel ban is lifted in order to be issued a visa. The applicant must explain and demonstrate the urgency of their situation in order to meet the first two prongs of the travel ban waiver.

The third prong of the travel ban waiver deals with national security. It appears to be that the completion of administrative processing is how this third prong is determined and the applicant doesn't have much control of this prong.

To be clear, the visa applicant has to first meet the first two prongs of the travel ban waiver. If the applicant meets those two prongs, only then they will be placed in administrative processing.

6. Are embassies/consulates issuing visas despite the travel ban?

The State Department provides monthly statistics on the number of visas issued per country and per type. You can find the most current statistics here:

<https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics.html>

The State Department also provides information on how many waivers have been issued. You can find those numbers here:

<https://travel.state.gov/content/dam/visas/presidentialproclamation/Combined%20-%20Report%20on%20Implementation%20of%20PP%209645%20December%2007%202017%20to%20March%2031%202019.pdf>

The gist of these reports is that although the State Department is issuing visas, the number of visas is still a tiny percentage of the number of applicants. We still believe that the waiver process is a sham and that the biggest factor in whether a visa will be issued is luck.

MISCELLANEOUS

7. Can I travel abroad using advance parole?

There are always risks involved in traveling internationally. Every time you enter the United States, you have to be found admissible, so each entry poses the risk that you may be found inadmissible. Inadmissibility is generally triggered when a person has a criminal record or has otherwise violated their status, so if these apply to you, there is a risk to you traveling abroad. If you have a completely clean record, have never violated your status, the risk to you is minimal. It isn't zero, but it is minimal.

Please also note that advance parole is only used to request entry into the United States. It does not grant you entry into any other country. If you need a visa to travel to another country, you still need to apply for that visa.

8. I've heard that H.R. 1044 passed. When does it go into effect? How will impact my employment-based green card application?

Even though this bill has passed the U.S. House of Representatives, it has not become law yet, and we don't know what the final version of the law will be, so we can't advise you on how it will impact your case. We also can't tell you what the likelihood is that it will impact your case without seeing the final version.

I HAVE ADDITIONAL QUESTIONS ABOUT MY CASE

9. What are the chances of getting an approval in my case?

Some cases are somewhat predictable (i.e. adjustment of status cases filed in the US). Other cases, specifically those stuck abroad, are not predictable which makes this question unanswerable. We often suggest that in all your communications dealing with USCIS and the State Department, you should focus on putting forward the strongest possible case for yourself or your family member.

10. I have just one simple question I want to ask an attorney. I don't need a consultation; I just want to ask my question. How do I get a free consultation so I can ask my question?

A consultation is a meeting with an attorney where you can ask your questions and get legal advice. What you are requesting (i.e. ask questions and get answers) is a consultation. Further, in our experience, no one ever has just one question; the response to one question inevitably leads to five follow-up questions, and the response to one of those leads to more questions. If you want to discuss your specific situation with an attorney, many attorneys ask that you pay for their time and knowledge.

Also, in general, good attorneys will take the specific facts of your situation into consideration in counseling you; they'll consider your age, your socioeconomic background, your financial situation, your health, etc. What we advise to one client may not be the same as what we would advise to another client in a similar situation. So, you aren't just getting an answer to a question; you are engaging in a conversation so that you can get legal advice that is tailored to you.