



News & Types: Immigration Update

Visa Revocation Due To Records of Driving Under the Influence (DUI)

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Practices: Immigration

Recently, U.S. consular posts worldwide have been revoking visas based on driving under the influence (DUI) records, including records more than 10 years old. In some cases, visas were revoked even after the DUI had been disclosed and the visa had previously been approved. Visa holders are usually notified by email from the issuing consular post. A typical revocation email states:

From [email address from state.gov]
Dear U.S. Visa Holder,

Please be advised that your U.S. visa has been PRUDENTIALLY REVOKED under section 221(i) of the Immigration and Nationality Act by the U.S. Department of State on [Date of Revocation]. This action is based on the fact that after visa issuance, information has come to light indicating that you may be inadmissible to the United States and ineligible for your visa. If you are still physically present in the United States at this time, the visa revocation will become effective upon your departure from the United States. If you are not physically present in the United States at this time, the visa revocation is effective on the date the visa was revoked. The Bureau of Consular Affairs Visa Office has alerted the Department of Homeland Security's Immigration and Customs Enforcement about the visa revocation.

As soon as you depart the United States, you must personally present your passport to the U.S. embassy or consulate which issued your visa so your visa can be physically cancelled.

Sincerely,

U.S.

Consular

United States of America

[Consular

Post]

Section

Under the Department of State (DOS)'s Foreign Affairs Manual (FAM), a "prudential revocation" is a discretionary revocation of a nonimmigrant visa when post-issuance information indicates the visa holder may be inadmissible or ineligible for the visa. In the DUI context, the FAM expressly permits prudential revocation when the Department of Homeland Security's database shows a DUI arrest or conviction within the previous five years. Even if a DUI record is more than five years old, DOS may still pursue prudential revocation based on derogatory information received from another U.S. government agency.

A prudential revocation cancels the visa stamp as a travel document but does not, by itself, terminate immigration status while the person remains in the United States. However, after international travel, the individual will need to apply for and obtain a new visa at a U.S. consular post before reentering to the United States. If previously eligible for ESTA / Visa Waiver, the individual will no longer be eligible for ESTA / Visa Waiver due to the revocation of the visa. Applicants with DUI histories are often referred to a panel physician for an assessment, which may delay visa issuance for months. Anyone receiving a revocation notice should promptly assess their status, reentry risks, and new visa application strategy.

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