



I Am a Nonimmigrant

How Do I... Change to Another Nonimmigrant Status?



U.S. Citizenship
and Immigration
Services

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C2 Customer Guide

Nonimmigrant visas are issued to foreign nationals who intend to remain in the United States for a **temporary (less than permanent) period**. The period varies for different nonimmigrant categories. There are more than 40 nonimmigrant U.S. visa categories; each is used for a different, but very specific purpose. For example, some authorize temporary employment in the United States; others permit tourists to visit, students to study, and diplomats to serve their home country's interests in the United States.

We understand that plans can change. If your original reason for coming to the United States changes, you may be required to change your nonimmigrant status to a different one before you lawfully begin to engage in the activities you want to pursue. This guide contains information on how to apply for a change from your current nonimmigrant status to another nonimmigrant status while you are in the United States.

How do I know if I am eligible to change my status in the United States?

You may apply to change your status in the United States if you:

- Were lawfully admitted into the United States as a nonimmigrant;
- You have not committed any act that would make you ineligible to receive an immigration benefit;
- There is no other factor that requires you to depart the United States prior to making a reentry based on a different classification (for example, a USCIS officer may determine that you should obtain a new visa prior to being readmitted into the United States); and
- You submit an application for a change of status **before** the expiration date on your **Form I-94, Arrival-Departure Record**. (There are certain very limited circumstances under which USCIS will excuse a late submission.)

Please note: Your passport must be valid for your entire requested period of stay in the new nonimmigrant classification in the United States.

How do I know if I am not eligible to change my status in the United States?

If you were admitted in any of the following nonimmigrant categories, you cannot change your nonimmigrant status and must depart the United States:

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| C | (Alien in Transit) |
| D | (Crewman) |
| K-1 or K-2 | (Fiancé(e) or Dependent of Fiancé(e)) |
| S | (Witness or Informant) |
| TWVOV | (Transit without Visa) |
| WT or WB | (Under the Visa Waiver Program, you would have been issued a green Form I-94W, Nonimmigrant Visa Waiver Arrival-Departure Record) |

If you were admitted in any of the following nonimmigrant categories, there are certain restrictions concerning your ability to request a change in your nonimmigrant status:

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| J-1 | (Exchange Visitor subject to the 2-year foreign residence requirement cannot change status, with certain exceptions) |
| M-1 | (Vocational student cannot change status to F-1)
(Vocational student cannot change status to any H classification—if the vocational training helped him or her qualify for the H classification) |

Please note: If you are in any of the above categories, you must depart the United States on or before the date your I-94 expires.

How do I change my nonimmigrant status?

Application procedures depend on the nonimmigrant status to which you want to change:

• Employment-Based Categories:

If you want to change your status to one of the following employment-based nonimmigrant categories, **your prospective employer** should file a **Form I-129, Petition for a Nonimmigrant Worker**, before your Form I-94 expires. The Form I-129 serves two purposes to establish that:

- You will be performing the type of work covered by the new nonimmigrant classification for the petitioner; and
- You personally meet the requirements for changing your status. You **cannot** begin work in the new classification until we approve the change of status.

E-1 and E-2	(Treaty Traders, Treaty Investors, and Employees of Treaty Traders and Treaty Investors)
E-3	(Skilled Professionals from Australia)
H-1B, H-2A, H-2B, or H-3	(Temporary Skilled or Unskilled Workers and Trainees)
L-1A or L-1B	(Intracompany Transferees)
O-1 or O-2	(Aliens with Extraordinary Ability and Their Assistants)
P-1, P-2, or P-3	(Athletes and Entertainers)
Q-1	(International Cultural Exchange Visitors)
R-1	(Religious Workers)
TN-1 or TN-2	(Canadians and Mexicans under the North American Free Trade Agreement (NAFTA))

Each of the above categories has specific requirements and limits, including limits on the length of stay in this country. For more information, contact the employer who has offered you temporary employment or qualified immigration counsel.

Please note: If your prospective employer files a Form I-129 to change your status, and your spouse or unmarried children under age 21 also want to change status to remain as your dependents, they need to file a **Form I-539, *Application to Extend/Change Nonimmigrant Status***. Note that they can all be included on one I-539. It is best to file the I-129 and I-539 forms together so that they may be adjudicated about the same time. Remember, though, that they are separate applications. Therefore, you and your family members (and your employer) must follow the instructions and file all the supporting documents with **each** application, even when filing forms together.

• **Other Categories:**

If you wish to change your status to one of the following nonimmigrant categories, you should file Form I-539:

A	(Diplomatic and Other Government Officials, Immediate Family members, and Employees)
B-1 and B-2	(Visitors for Business or Pleasure)
E-1 and E-2	(Dependents of Treaty Traders, Treaty Investors, and Their Employees)
E-3	(Dependents of Skilled Professionals from Australia)
F	(Academic Students and Dependents)
G	(Foreign Government Officials, Certain Immediate Family Members, and Employees)
H-4	(Dependents of Temporary Skilled or Unskilled Workers and Trainees)
K-3 and K-4	(Spouse of U.S. Citizen and Minor Child Accompanying/Following to Join)
L-2	(Dependents of Intracompany Transferees)
M	(Vocational Students and Dependents)

N	(Parents and Children of Certain People Who Have Been Granted Special Immigrant Status)
NATO	(NATO Representatives, Officials, Employees, and Immediate Family Members)
O-3	(Dependents of Aliens with Extraordinary Ability and Their Assistants)
P-4	(Dependents of Athletes and Entertainers)
R-2	(Dependents of Religious Workers)
TD	(Dependents of Canadians and Mexicans under the North American Free Trade Agreement (NAFTA))

Please note: All family members (spouse and unmarried children under 21) who are requesting the exact same change in nonimmigrant category can be included on one Form I-539. Remember to submit all required supporting documents with your application.

Can I get a change of status if my status has already expired?

If your status expired before you filed an application with USCIS to change your status, or if you have otherwise violated the terms of your status (such as by working without authorization), then you are "out of status." If you fall out of status, we cannot change your status except in certain limited circumstances beyond your control. Staying longer than the period for which you were granted admission may also negatively affect your ability to obtain other benefits or to return to the United States later. If you fall out of status, we recommend that you leave the United States to limit the possible impact on your ability to come back to the United States in the future.

When should I file, and how long will it take to process my application?

Our processing times can vary. You may check our website for our current processing times. We recommend that you apply no later than 60 days before your I-94 expires.

If I am eligible for a change of status and file on time, will my application be approved?

A change in status is not automatic. We will look at your situation, your current status, the reasons you want to change your status, and the reasons you did not apply for this kind of visa before you first entered. Then we will decide whether or not to grant your application. If we grant it, we will also decide how long to extend your stay in the new nonimmigrant status. We will only grant a change of status for a reason that is consistent with the terms of the requested status, or where circumstances indicate a change is warranted.

When can I engage in the activities under the new nonimmigrant status for which I am applying?

You may do so only **after** we approve your application for change of status.

What if I file for change of status on time but USCIS does not make a decision before my I-94 expires?

Your lawful nonimmigrant status ends and you are out of status when your Form I-94 expires, *even if* you have timely applied to change your nonimmigrant status. Generally, as a matter of discretion, USCIS will defer any removal proceedings until after the petition is adjudicated and USCIS decides your change of nonimmigrant status request. Nevertheless, DHS may bring a removal proceeding against you, *even if* you have an application for change of status pending.

Even though you are not actually in a lawful nonimmigrant status, you do not accrue “unlawful presence” for purposes of inadmissibility under section **212(a)(9)(B) of the Act**, while your change of status application is pending if it was filed prior to the expiration of your Form I-94.

If your application for a change of status is approved, the change of status will relate back to the date your Form I-94 expired, and your status during the pendency of your application will then be considered to have been lawful.

If your application is denied, you may be required to *depart the United States immediately*.

In addition, any nonimmigrant visa in your passport granted in connection with your classification becomes void. Once your visa is void, you must submit any new visa application at a U.S. consulate in your home country (not a third country, except in rare instances as determined by the U.S. Department of State).

After I file, how can I check the status of my change of status application?

After you file, we will mail you a receipt. This receipt will provide a number assigned to track your application, as well as the estimated processing time. Your receipt will also give instructions about how you can use this receipt number to check the status of your case on our website. You can also use information available in customer guide **F1, General Information...How Do I...Know What Services Are Available After I File?**

Key Information

Key USCIS forms referenced in this guide	Form #
Arrival-Departure Record	I-94
Nonimmigrant Visa Waiver Arrival-Departure Record	I-94W
Petition for a Nonimmigrant Worker	I-129
Application to Extend/Change Nonimmigrant Status	I-539

USCIS

• On the Internet at: www.uscis.gov

For more copies of this guide, or information about other citizenship and immigration services, please visit our website. You can also download forms, e-file some applications, check the status of an application, and more. It's a great place to start!

If you don't have Internet access at home or work, try your local library. If you cannot find what you need, please call Customer Service.

• Customer Service: 1-800-375-5283

• Hearing Impaired TDD Customer Service: 1-800-767-1833

Other U.S. Government Services—Click or Call

General Information	www.usa.gov	1-800-333-4636
New Immigrants	www.welcometoUSA.gov	
U.S. Dept. of State	www.state.gov	1-202-647-6575

Disclaimer: This guide provides basic information to help you become generally familiar with our rules and procedures. For more information, or the law and regulations, please visit our website. Immigration law can be complex, and it is impossible to describe every aspect of every process. You may wish to be represented by a licensed attorney or by a nonprofit agency accredited by the Board of Immigration Appeals.