

# FAQ: My Nonimmigrant Petition is Approved. What Next?

## Congratulations on the approval of your nonimmigrant visa petition.

This document helps answer Frequently Asked Questions about your new status and related issues. Please carefully read and retain this document for future reference.

### TABLE OF CONTENTS:

1. I learned that USCIS approved my petition. What are the next steps?
2. What are my responsibilities to stay legal?
3. What do I need to show my employer to verify that I am work authorized?
4. Can I travel abroad?
5. Can I work for another employer with this notice?
6. What is the effect of the H-1B approval on FICA taxes on F-1 and J-1 students?
7. What happens if there are changes to my job?
8. When can I begin my green card process?



\*This material is not intended to substitute as legal advice.  
Last updated: July 2022

## 1. I learned that USCIS approved my petition. What are the next steps?

- USCIS mails the paper Approval Notice (I-797) to your employer and attorney. Typically, it takes 1-3 weeks.
- Attorney will send our Approval Notice (I-797) to you, as a courtesy, because you might need it for a future consulate visa process.
- Begin your new status.
  - **Change of Status:** If you are in the U.S. in valid status and the petition requested a change of status, your new status will automatically change on the validity date noted on the approval notice. For example, it will change from F-1 to H-1B on the validity date (typically Oct 1 for H-1B cap petitions) indicated on the approval notice. The approval notice will contain a detachable I-94 card at the bottom. Your I-94 card is evidence of your employment authorization and legal status during the stated validity period. You will be required to obtain a new visa stamp ONLY when you travel outside the U.S. See #4.
  - **Extension of Same Status:** If you are in the U.S. and requested an extension of your same status, your status will automatically continue as per the validity dates noted on the approval notice. The approval notice will contain a detachable I-94 card at the bottom. Your I-94 card is evidence of your extended employment authorization and legal status during the stated validity period. When you travel outside the U.S., you might be required to obtain a new visa stamp. See #4.
  - **Consular Processing:** If you are abroad or requested that your approval be processed for consular notification, the approval notice will *not* contain the I-94 card. You will need to apply for a visa at a consular post abroad and enter the U.S. under that visa to activate your new status. This is another critical process. We can assist you through the visa application process and prepare you for the visa interview. See #4.
- Update your I-9 documents with your employer when you begin your new status. See #3.
- Ensure that you stay legal. See #2 below.

## 2. What are my responsibilities to stay legal?

- You must keep your approval notice in a safe place. It is extremely difficult to replace an Approval Notice. Note, that there might be a difference in the validity duration of your petition (Form I-797, approval notice) and your I-94 card. For example, for H-1B workers, the I-94 card might include an additional 10 days at the end of the validity period. These 10 days are intended as a grace period with no work authorization.
- You are required to notify USCIS of any address changes (unless you permanently depart the U.S. or become a U.S. Citizen). This can be done electronically using [form AR-11](#) within ten days of your address change. A separate form is required for each family member.

**\*This material is not intended to substitute as legal advice.**

**Last updated: July 2022**

- You are required to maintain a current passport for your entire period of authorized stay in the U.S. Check with your home country’s consulate about the renewal process and apply early.
- You are responsible for keeping track of the expiration date of your status as noted in your approval notice. You must notify your employer at least six months in advance of the expiration date if you wish to remain in the U.S. beyond the validity date so that an extension or some other appropriate action can be taken in a timely manner.
- You must notify your employer and attorney immediately if any material changes in employment occur. Your petition was approved for a specific employer and location, and certain material changes might require a new filing.
- You must check your [I-94 record](#) for correctness every time you re-enter the U.S. The I-94 record is evidence of your legal status in the U.S. and your status expiration date. It can be used for Form I-9 employment verification, driver’s license, and social security number applications. In most cases, the I-94 record can be accessed, viewed, and printed online. We recommend you print a copy for your records. If information recorded by CBP is incorrect, contact the CBP deferred inspection site or visit a local port of entry to fix the error(s) as soon as possible to avoid negative consequences.
- You must apply for a Social Security Number (SSN), *if you do not have one already*. It is best to wait 10-15 business days after the approval or entry to the U.S. before applying for a SSN. This will allow time for the immigration status to be updated in the Social Security Administration (SSA) system. If the applicant departs the U.S. while the SSN application is pending, the system may indicate the departure and the application may be suspended. Thus, the applicant should remain in the U.S. until the Social Security card is issued.

In general, the application process is to mail or bring to the SSA office a complete Form SS-5 and at least two original documents to show your identity, work-authorized immigration status, and age (as applicable) such as: your current passport, green card, I-94 stamp showing a current work authorized visa status, and/or your employment authorization document (EAD), or if you’re a student a DS-2019 or Form I-20. It takes several weeks to receive the SSN card. Note, an employee can begin work for an employer while his/her Social Security Number application is pending.

### 3. What do I need to show my employer to verify that I’m work authorized?

You must complete the Form I-9, Employment Eligibility Verification and provide documents on the list of acceptable documents, such as I-94 record, approval notice, EAD and/or passport, as applicable.

### 4. Can I travel abroad?

If you plan to travel abroad, *advance preparation* and strategy is critical. Individuals must consider both aspects of the visa and entry to the U.S.

**\*This material is not intended to substitute as legal advice.**  
 Last updated: July 2022

- If your petition was approved as a change of status, you will need to apply for a new visa the next time you are abroad. For example, if you are in the U.S. in H-4 status and your change to H-1B status was approved, you can remain in the U.S. legally in H-1B status, however, the next time you travel abroad, you will need to obtain an H-1B visa to re-enter the U.S.
- If your petition was approved as a change of employer for the same visa classification, and you have a current visa stamp in your passport from a former employer, it may be possible to use the current visa stamp to re-enter the U.S. For example, if an H-1B worker changes employer, you may continue to travel with a valid H-1B visa issued for a former employer for that classification, however, you must also present the approval notice for the new employer and evidence of current employment (like pay statements). When your current visa expires, you will not be able to travel abroad and re-enter the United States until you obtain a new visa.
- If your petition was approved for an extension of the same status with the same employer, you can remain in the U.S. legally, however, the next time you travel abroad you will need to obtain a new visa for re-entry if you do not already have a valid visa stamp. For example, if your employer obtained an extension of your O-1 status in the U.S. because your previous O-1 status expired, most likely your visa stamp has also expired. Thus, it is likely you will need to obtain a new visa.
- Consular Process (visa stamping):  
Most foreign nationals will need to fill out an online DS-160 nonimmigrant visa application, pay the visa fee, and schedule and attend biometrics and consular appointment at a U.S. Consulate abroad.
- Entry to the U.S.

Upon re-entry to the U.S., we recommend you carry the following documents and have them available upon request by the U.S. Customs and Border Protection (“CBP”) officer:

- Current passport (valid for at least six months beyond your intended period of stay)
- Valid visa and/or travel document
- Copy of your Form I-797, Approved Notice
- Copies of your two (2) most recent pay statements
- Employment verification letter, if needed or advised
- Any other related documents as needed

Although some immigration officers claim that the employee should have a copy of the original I-797 approval notice when applying for entry into the U.S., this is not required by law. The receipt number on the visa stamp, beginning with three letters such as EAC or WAC, is sufficient for immigration officials to look up the petition approval in the system. However, we recommend carrying the approval notice to facilitate admission.

**\*This material is not intended to substitute as legal advice.**  
Last updated: July 2022

**IMPORTANT:** Upon successful reentry to the U.S., the CBP officer should create an **electronic I-94 record** of your legal entry and status expiration date.

Review your [I-94 record](#) after every admission to ensure correctness (name, date of birth, expiration date matches the expiration date of your new approval notice.) You are authorized to remain in the U.S. only through the date indicated in your I-94 record. If the information is not correct, contact CBP deferred inspection site as soon as possible.

## 5. Can I work for another employer with this notice?

No. Your petition is employer-specific. It only authorizes you to work for the petitioning employer in the position and location(s) described in the petition.

You are not authorized to perform freelance, contractor, or any other type of work for a different employer. If you engage in *any* work outside of what is approved, this is a violation of your status, and it can have serious immigration consequences.

## 6. What happens if there are changes to my job?

If there are changes, a new petition might be required. For example, if you move to a new job location, transfer to a related company, or receive a promotion to a significantly different position.

If you lose your job, consult with an immigration attorney as soon as possible. You may be eligible for a grace period. The DHS has the ability to grant a grace period for foreign nationals in E-1, E-2, E-3, H-1B, H-1B1, L-1, O-1, or TN classification for "... up to 60 consecutive days, or until the existing validity period ends, whichever is shorter, whenever employment ends for these individuals."

To qualify, you must have a valid petition and I-94 card. During the 60-day period, you would not be authorized to work, but could potentially apply for a change of employer or change of status. This 60-day grace period is only available to a qualifying foreign national once per the authorized validity period of an approved petition.

## 7. What is the effect of H-1B approval on FICA taxes for F-1 and J-1 students?

Most students in F-1 or J-1 status are exempt from FICA (Medicare and Social Security) taxes, but once your status changes to H-1B, that exemption ends. You will become subject to FICA taxes, so your employer must begin withholding FICA taxes upon the effective date of the change.

Following the H1-B approval, you should confirm with your employer that changes have been made in the payroll systems to withhold the correct federal income tax from your pay.

## 8. When can I begin my green card process?

\*This material is not intended to substitute as legal advice.  
Last updated: July 2022

If a green card process is one of your goals, we encourage you to learn and strategize on the process as soon as possible. Typically, this is a lengthy process that involves three phases.

→ **Phase One** is the Labor Certification (PERM) process with the Department of Labor (DOL). During this phase, the employer:

- 1) determines the job description and submits and receives a Prevailing Wage Determination from the DOL;
- 2) engages in systematic and mandatory recruitment to show that there is no willing, able, available, or qualified U.S. worker to perform the duties of the offered position, and
- 3) submits and receives the Labor Certification (PERM).

An essential part of this process is to draft a very specific job description and requirements with the assistance of immigration counsel. This step takes time because of the supporting documentation required. The job description and requirements are essential for the employer in evaluating whether potential applicants might qualify for the position. If a qualified U.S. worker applies for the position, the PERM process might not continue.

→ **Phase Two** (once the PERM has been certified) consists of filing a Form I-140, Immigrant Petition for Alien Worker with USCIS.

→ **Phase Three** is the final phase and involves the preparation and filing of Form I-485, Application for Adjustment of Status (AOS) to Permanent Resident and related immigration forms and documents. This last phase allows the beneficiary and his/her dependents to apply for green cards, employment authorization, and travel documents.

Due to the limited number of immigrant visas and their retrogression, green card applicants from certain countries such as India, China, and the Philippines may have to wait for a number of years before completing Phase Three of the process.

It is important to strategize and plan proactively with immigration counsel on green card options and other ways to maintain work authorization and status. A consultation with an immigration attorney will help you plan your future.

### **ADDITIONAL RESOURCES**

Visit our [Resource Hub](#) and explore our FAQs, Blogs, Videos, and more for additional information related to corporate immigration and compliance questions.

Subscribe to our [Newsletter](#) to stay informed and up-to-date with recent news and updates on corporate immigration and compliance.

**\*This material is not intended to substitute as legal advice.**  
Last updated: July 2022