

FAQ: Travel Abroad While a Petition or Application is Pending

1- Can a foreign national travel abroad while their non-immigrant petition is pending?

Whether a foreign national can travel abroad while their petition is pending depends on a variety of factors and situations covered below.

A. Traveling while a *change of status* petition is pending.

The foreign national should **not travel** outside of the U.S. while a change of status petition is pending. A change of status, as the name implies, asks USCIS to change the person's status from A to B (for example F-1 to H-1B). Leaving the country will cause USCIS to consider the petition for a change of status to be abandoned. While the underlying petition may still be approved, the change of status will not be because the person is not in the U.S. The person would have to apply for a new visa abroad to re-enter the U.S. in the new status.

B. Traveling while an *extension of status* petition is pending.

The foreign national **must be in the U.S. when the petition for extension is filed** with USCIS. Thereafter, travel is permissible with proactive planning.

If the extension is approved while the person is abroad, the foreign national must re-enter the U.S. using the new Approval Notice. This means that documents will need to be sent to them while abroad.

If the extension is still pending while the foreign national returns, this can complicate their immigration status. For example, the foreign national travels with the current Approval Notice and returns to the U.S. before the expiration of the current approved status with a valid visa stamp, the person would only be admitted until the expiration date of the approval notice used to enter the U.S. In these situations, we recommend considering Premium Processing the extension petition and *travel after* the petition is approved.

If the extension is approved prior to the foreign national leaving the U.S. but the person will return before the current petition expiration date, the person should travel with both the current and new approval notices. Note that the foreign national must also have a current passport visa stamp. It is not possible to obtain visa stamps inside the U.S.

C. Traveling while the *extension of status* petition is pending and *current visa has expired*.

The foreign national should **not travel** abroad under these circumstances because they need a current approval notice and visa to re-enter the U.S. If the person must travel while the extension is pending and their visa has expired, they will need to remain outside of the U.S. until the petition is approved

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and a new visa stamp is obtained at the Consulate Post abroad. In this situation, we recommend considering Premium Processing the extension petition and *travel after* the petition is approved.

D. Traveling when *changing employers*.

*If the foreign national travels while the change of employer petition is pending, we recommend **no travel** abroad as it can complicate the person's immigration status. The person will need the new Approval Notice for the new employer and a current visa to re-enter the US. In this situation, we recommend considering Premium Processing the change of employer petition and *travel after* the petition is approved.*

If the foreign national travels after the change of employer petition is approved and after their start date with the new employer, the person should be able to travel with the new approval notice. If their current visa stamp from the prior employer is still valid on the reentry date, they may use that visa for admission, even if the visa stamp may have the prior employer's name on it. The foreign national must be ready to present both prior and current approval notices upon entry to obtain the correct immigration status validity on their I-94.

2- Can a foreign national travel while their green card application is pending?

There are various phases of the “green card” process which are not typically affected by the foreign national traveling abroad such as the PERM Process or Immigrant Petition for Alien Worker (I-140) process. However:

- A. After filing the Adjustment of Status (AOS) (Form I-485) and while advance parole application is pending,** the foreign national should **not travel**. If the person leaves the United States while this application is pending and without an advance parole document (which is processed as part of the adjustment of status application), USCIS will consider the departure while the AOS is pending as an abandonment of the AOS application, which can undo the whole “green card” process. This would require a refiling of the application and restarting this process.
- B. After the Advance Parole (AP) document has been approved and received,** the foreign national could consider traveling abroad. However, upon re-entering the U.S., their status on the Admission Record (Form I-94) might be marked as “Parolee” (depending on whether they use the AP to request admission) and I-94 will likely be valid for 1 year.

If the person is admitted as a “Parolee”, they will no longer hold the status that they had prior to departing the U.S. such as H-1B, L-1, O-1, F-1 or another immigration status.

Those who hold valid H-1B, H-4, L-1, or L-2 status and visas for these statuses might consider travel after their AP is approved but should re-enter using their valid work visa status instead of using the AP. This is one of the benefits of maintaining a valid nonimmigrant status from the beginning to the end of the green card application process. For most other visa categories, if the foreign national has filed for AOS, and received an AP, they will be readmitted to the U.S. as a Parolee.

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Travel using an AP does not guarantee approval of re-entry to the United States. Approving a re-entry is always at the discretion of the U.S. Customs and Border Patrol (CBP) officer at the port of entry.

Thus, we recommend that if it is not necessary for the foreign national to travel abroad, it is always best to postpone traveling abroad, until the green card is received.

3- What documents does the foreign national in nonimmigrant status (such as H-1B, L-1, O, P) need when traveling abroad to re-enter the U.S.?

Below is a general Basic Travel Abroad Document Checklist

- Current passport that is valid for at least six months into the future at the time of re-entry to the U.S.
- Current passport visa stamp (except for Canadian citizens) that relates to their current immigration status. Note - Visa stamps cannot be obtained or renewed inside the U.S.
- Valid I-797 Approval Notice
- Copy of two most recent pay statements

Depending on the situation, more documents or other documents (like an Advance Parole) might be required or the foreign national might feel more comfortable taking additional documents to support their immigration status.

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