



U.S. Citizenship and
Immigration
Services



OMB No. 1615-XXXX

DRAFT

USCIS Form 41

Application for Change or Extension of Nonimmigrant Status H-1B

Instructions

You may use the USCIS Form 41 to apply for change to, or extension of, H-1B Nonimmigrant Status, if the employer has filed for you on USCIS Form 60. However, you must first register for an i-account.

The Basics - How Do I File a USCIS Form 41 Application?

There are 5 basic steps. These instructions are organized around these 5 steps.

- **Step 1:** Making sure the USCIS Form 41 application is right for you.
- **Step 2:** Preparing to file.
- **Step 3:** Filling out your application.
- **Step 4:** Organizing your application and filing.
- **Step 5:** Other processing information.

You will be issued an electronic receipt after completing all required fields on the form and submitting the application. You will need to submit scanned documents in accordance with instructions found at www.uscis.gov.

Is there a fee for this registration?

The filing fee for this form is **\$200.00**.

What if I have questions?

These instructions are designed to answer most common questions. If you have questions after you read the instructions, check the USCIS website at www.uscis.gov. Information about filling for benefits is available on the website through FAQ (Frequently Asked Questions).

Step 1: Making Sure the USCIS Form 41 Application Is Right for You.

The USCIS Form 41 application is used to apply for:

- Change from your current nonimmigrant classification to H-1B nonimmigrant classification.
- Extension of your authorized period of stay in the U.S. if currently in H-1B nonimmigrant classification.

Who is not eligible to apply - You are not eligible to apply for a change of nonimmigrant status or extension of nonimmigrant stay if you were admitted under the Visa Waiver Program or if your current status is:

- An alien in transit (C nonimmigrant visa) or in transit without a visa (TWOV).
- A crewman (D nonimmigrant visa).
- A fiancé(e) or dependent of a fiancé(e) (K-1 or K-2 nonimmigrant visa).

Step 2: Preparing to File.

You may e-file your application on the USCIS website. Go to the USCIS website at www.uscis.gov and click on e-filing. You will be guided through the rest of the filing process from there. However, before you complete the on-line application, you should read the following specific filing information.

USCIS Form 60 Filing: The USCIS Form 41 application may not be filed until an employer or agent files a USCIS Form 60, Petition for Worker, requesting that you be authorized to work in the United States.

Multiple Applicants: You may include your dependents, spouse and your unmarried children under 21 years of age, as co-applicants on your application for change of status or extension of stay if all of you are seeking H classification (principal H-1B and dependent H-4). You must submit evidence establishing your relationship to each dependent.

Required Evidence: You must submit a copy of the Form I-94, Arrival/Departure Record, for each person included on this application.

Translations: Any foreign language document must be accompanied by a full English language translation that the translator has certified as complete and correct, and by the translator's certification that he or she is competent to translate the foreign language into English.

Late Filing: You must submit an application for change of status or extension of your nonimmigrant stay before your current period of stay expires. We suggest you file at least 45 days before your stay expires or as soon as you determine you need to change status or extend stay. If you file after your authorized stay has expired, you must submit a statement explaining the reason for late filing. Failure to file your application before your authorized stay expires may be excused if you demonstrate that:

- The delay was due to extraordinary circumstances beyond your control;
- The length of the delay was reasonable;
- You have not otherwise violated your status;
- You are still a bona fide nonimmigrant;
- You are not in removal proceedings.

Valid Passport: If you are required to have a passport to be admitted to the United States, you must have maintained the validity of your passport during your nonimmigrant stay. If a required passport is not valid when you file your USCIS Form 41 application, submit a statement explaining why you did not revalidate your passport.

Extension Beyond the Six-Year Maximum: You may request extension of H-1B status beyond the six-year maximum period if you are the beneficiary or an employment-based immigrant petition or an application for adjustment of status if:

- 365 days or more have passed since a labor certification application was filed on your behalf with the Department of Labor (DOL) - you must submit evidence from the DOL if you claim eligibility to extend beyond the six-year maximum because your labor certification has been pending 365 days or more.
- 365 days or more have passed since an employment-based immigrant petition was filed on your behalf with USCIS.
- An immigrant visa petition was approved on your behalf and you are awaiting availability of an immigrant visa number.

You may be granted extension of your H-1B status in one-year increments until you are granted lawful permanent resident status, or until the labor certification application filed with the DOL or the immigrant petition filed with USCIS is denied.

Step 3: Filling Out Your Application.

This section is designed to help you fill out your application. If an item does not apply, enter N/A unless directed otherwise.

Your Current Legal Name:

- Last Name (Family Name)
- First Name (Given Name)
- Middle Name

Enter your current full, legal name. If you have two last names, enter them both.

Date of Birth (*mm/dd/yyyy*) - Enter your date of birth as month-day-year, using numbers. For example, May 4, 1979 is 05-04-1979.

Your i-account number - Enter your USCIS i-account number.

Your employer's USCIS Form 60 receipt number - Enter the receipt number for the USCIS Form 60, Petition for Worker, that your employer filed on your behalf.

Your USCIS A number (*if applicable*) - Enter your USCIS Alien number (A-number), if applicable.

Section 1. What are you applying for?

A. Check and complete any box that applies to you

1. I want to change my nonimmigrant status to:

valid until: (*mm/dd/yyyy*)

2. I want to extend my stay in the United States in my current classification

valid until: (*mm/dd/yyyy*)

Check the box for type of nonimmigrant services you are requesting. Enter the date to which you are requesting authorized stay in the U.S. in your current or new nonimmigrant status.

3. I want to extend my stay beyond the H-1B six-year maximum because (check one):

H-1B nonimmigrant temporary workers may request extension of stay beyond the maximum six-year period of authorized stay under the provision of the American Competitiveness in the Twenty-First Century Act (AC21). Extensions of stay beyond the six-year maximum may be granted in increments of one year.

An application for permanent labor certification was filed for me at least 365 days before the H-1B work start date.

Department of Labor Case number:

filed on (*mm/dd/yyyy*)

Check this box if the permanent labor certification filed on your behalf has been pending with the Department of Labor (DOL) for more than 365 days. Enter the DOL case number and the date the application for permanent labor certification was filed.

2. An immigrant visa petition for me was filed at least 365 days before the H-1B work start date.**Receipt number:** _____ **filed on** (mm/dd/yyyy)

Check this box if the immigrant visa petition filed on your behalf has been pending with USCIS for more than 365 days. Enter the visa petition receipt number and the date that the visa petition was filed.

3. An immigrant visa petition was approved for me and I am awaiting availability of an immigrant visa number.**Receipt number:** _____ **filed on** (mm/dd/yyyy)

Check this box if the immigrant visa petition filed on your behalf was approved, but you are not able to apply for adjustment of status or an immigrant visa number is not available at this time.

B. Have you previously applied for this benefit? Yes/No - Check the appropriate box.

If "No," go to question number 3.

If "Yes," name the benefit sought - Enter the type of benefit that you are applying for if your application was approved (i.e., change of status or extension of stay).

The status of your application - Check the appropriate box. If you do not know the status of an application that is currently pending with USCIS, you can check the status of the application on-line. Go to the USCIS website at www.uscis.gov. Or you can call our National Customer Service Center at (800) 375-5283.

If granted, what was the benefit received - Enter the type of benefit you received if your application was approved (i.e., change of status or extension of stay).

Name under which you applied - Enter the name you used when you filed the previous application(s).

Application receipt number, if known - Enter the receipt number(s) for all applications and/or petitions that were approved.

Location where application filed - Enter the city and state where you filed the previous application(s).

C. Explain the reason you want to change and/or extend your stay in the United States.

Explain why you want to change and/or extend your H-1B stay in the U.S. For example, you may want to extend your stay to continue working for the same employer, or, you may want to extend your stay to work with a different employer.

Section 2. Information about dependents.

Do you have any dependents (spouse and/or child(ren) who are applying with you? Yes/No - Check "Yes" if your spouse and/or child(ren) are applying for the same benefit. If "Yes," you must give the full name, date of birth, and the i-account number for each dependent, if known.

Section 3. Information required from all applicants.**A. Are you, or any dependents included in this application, filing this application with another application? Yes/No - Check the appropriate box.**

If "Yes," what other applications have you filed, or have been filed on your behalf. Enter the type of application filed and the receipt numbers, if known.

B. Were you, and all dependents included in the application, issued an Arrival/Departure Card (I-94; I-94W; I-95) when you entered the United States? Yes/No - Check the appropriate box.

If "Yes," please give the following information for each applicant included in this application:

Type of Card - Enter the type of arrival card issued for each applicant (I-94; I-94W; I-95).

Name exactly as it appeared on the card, if known - Enter the name exactly as shown on the card.

Class of Admission - Enter the nonimmigrant classification on the card.

Date of Admission - Enter the date of admission on the card.

Place of Admission - Enter the place of admission shown on the card.

If "No," please explain why not below. Explain why you, or any of your dependents, were not issued a Form I-94 when you/they were admitted to the U.S. For example, you may not have been issued a card at the time of entry if you are a Canadian citizen, or you may have entered the U.S. without being inspected and admitted.

C. Have you, or any dependents included in this application, been employed in the U.S. since last admitted or granted an extension of stay or change of status? Yes/No - Check the appropriate box. Check "Yes" if anyone included on the application has been employed in the U.S.

If "Yes," fully describe the employment, include the name of the person employed, name and address of the employer, weekly income and whether the employment was specifically authorized by USCIS: Enter the name of each person on this application who worked and enter the name(s) and address(es) of their employer(s), the weekly income they received, and whether they were employed with USCIS authorization.

D. Have you, or any dependents included in this application, violated your/their status since entry into the United States? Yes/No - Check the appropriate box.

If "Yes," fully describe how status was violated - Explain how you violated your status and when the violation occurred.

Section 4. Preparer information.

If someone helped you with your application, they must complete Section 4 and sign it **before** you file.

- If an attorney, or BIA authorized representative they should check the box provided and enter their r-account number.
- If any other kind of preparer helped you with your application, they must enter their name and answer the remaining questions.

Whether an attorney, or other qualified representative, or some other kind of preparer, the person must then sign and enter the date they signed the form.

Section 5. Designation of representation.

If you have an attorney or other qualified person representing you, provide the information about them.

- If an attorney, or BIA authorized representative they should check the box provided and enter their r-account number.

- If any other kind of preparer helped you with your application, they must enter their name and answer the remaining questions.

Whether an attorney, or other qualified representative, or some other kind of preparer, the person must then sign and enter the date they signed the form.

Section 6. Your signature and attestation, and authorization of representation.

Read the certification, sign and date your application. By doing this you take full responsibility for the accuracy of all information you provide, including all supporting documents.

Step 4: Organizing Your Application and Filing.

E-filing: You will be guided through the filing process when you complete the application on the USCIS website at www.uscis.gov.

Filing Fee: You must pay by credit card or debit card.

NOTE: A filing fee cannot be refunded.

Step 5: Other Processing Information.

If you move while your application is pending - Update your i-account with your new address.

Request for additional evidence - If, as we process your application, we find that we need additional information or evidence not listed in these instructions, we may send you a request for the additional information or evidence. Processing of your application will stop until we receive the requested documents.

Decision - If we approve your application, we will mail you your new card. If we deny it, we will mail you an explanation.

Privacy Act Notice - We ask for the information on this form, and associated evidence, so that we can determine your eligibility for the benefit you are seeking. USCIS Form 41 application processes are generally described in 8 CFR 103 and 214. We do provide certain information you give us to other government agencies.

Paperwork Reduction Act Notice - Although immigration laws are often complex, we try to create forms and instructions that are easy to understand and that impose the least possible burden in terms of the information and evidence required. For this application, we estimate that on average it will take a customer 20 minutes to learn about the law, forms and process; and 10 minutes to get the form, get ready to file and to complete the form for a total average time of 30 minutes.

If you have any comments about the accuracy of this estimate or suggestions to make this form simpler, you may write to U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., Washington, DC 20529; OMB No. _____. **Do not mail your completed application to this address.**