



I Am a Nonimmigrant

How Do I... Extend My Nonimmigrant Stay in the United States?



U.S. Citizenship
and Immigration
Services

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C1 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 classifications. When you were admitted to the United States, a Government official at a U.S. port of entry examined your immigration documentation and, in most cases, issued you a Form **I-94**, *Arrival-Departure Record*, or **Form I-94W**, *Nonimmigrant Visa Waiver Arrival-Departure Record*. The I-94/I-94W shows your nonimmigrant status and the length of time you can legally remain in the United States. *Note that the I-94/I-94W shows how long you are permitted to remain in the United States, but your nonimmigrant visa (if a visa was issued) does not.* A visa only shows when and how many times you may seek admission to the United States from abroad based on the classification noted on your visa.

We understand that you may wish to remain in the United States longer than you originally planned. This customer guide contains information about how to apply for an extension of your stay in the United States to continue the same activities permitted when you were first admitted to this country.

How do I know if I am eligible to extend my stay in the United States?

You may apply for an extension of stay in the United States if:

- You were lawfully admitted into the United States as a nonimmigrant;
- You have not committed any act that makes you ineligible to receive an immigration benefit;
- There is no other factor that requires you to depart the United States prior to extending status (for example, a USCIS officer may determine that you should obtain a new visa prior extending your status); and
- You submit an application for an extension of stay **before** the expiration date on your Form I-94. (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 United States.

How do I know if I am *not* eligible to extend my stay in the United States?

If you were admitted to the United States in any of the following nonimmigrant categories shown on your I-94, you **cannot** extend your stay in the United States and must depart the United States on or before the date your I-94 expires:

C	(Alien in Transit)
D	(Crewman)
K-1 or K-2	(Fiancé(e) or Dependent of Fiancé(e))
S	(Witness or Informant beyond a total of 3 years)
TWOV	(Transit Without Visa)
WT or WB	(Visa Waiver Program—you would have been issued a green Form I-94W)

How do I apply to extend my stay in the United States?

Application procedures for an extension of stay depend on your nonimmigrant status:

• Employment-Based Categories:

If you are in one of the following employment-related categories, your **employer** should file a **Form I-129**, *Petition for Nonimmigrant Worker*, before the date your Form I-94 expires:

E-1 or 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 length of stay in this country. For more information, contact your employer or qualified immigration counsel.

Please note: If your employer files a Form I-129 to extend your stay, and your spouse or unmarried children under age 21 also want to extend their stay, they need to file a **Form I-539, Application to Extend/Change Nonimmigrant Status**. They can all be included on one I-539. It is best to file the I-129 and I-539 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 the forms together.

• **Other Categories:**

If you are in the following nonimmigrant categories, you should file a Form I-539 to extend your stay:

A-3	(Attendants, Servants, Personal Employees of Diplomatic and Other Government Officials and Immediate Family)
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)
G-5	(Attendants, Servants, Personal Employees of Foreign Government Officials and Immediate Family)
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-7	(Attendants, Servants, Personal Employees of 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)

All "V" categories	(Certain Second-Preference Beneficiaries)
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) in the same category can be included on one Form I-539. Remember to submit all required supporting documents with your application.

Can I get an extension of stay if my status already expired?

If your status expired before you filed an application with USCIS to extend your stay in the United States, 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 extend your nonimmigrant stay except in 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 as soon as possible to limit the possible impact on your ability to return 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. You may also apply up to 6 months before your I-94 expires to have your stay extended.

If I am eligible for an extension of stay and file on time, will my stay be extended?

An extension of stay is not automatic. We will look at your situation, your status, the reasons you want to extend your stay, and decide whether or not to grant your application. If we grant it, we will also decide how long to extend your stay. We will not grant an extension if circumstances indicate that an extension is not warranted.

What if I file for an extension of stay on time but USCIS doesn't 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 extend 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 extension of nonimmigrant status request. Nevertheless, DHS may bring a removal proceeding against you, *even if* you have an application for extension 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 extension of status application is pending if it was filed prior to the expiration of your Form I-94.

Although you are out of status, you may be permitted, depending on your classification, to continue your previously authorized

employment for a maximum period of 240 days while your extension application is pending *if* USCIS receives your application before your Form I-94 expires, and you have not violated the terms of your nonimmigrant status. You may be required to stop working, *immediately*, when the first of the following events occurs:

- 240 days elapses from the date your I-94 expires; or
- USCIS has made a final decision denying your extension application.

If your application is approved, the approval 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 cease employment and *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 extension 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 on how you can use this receipt number to check the status of your case on our website. You can also use the general 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 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.