

**How Do I Extend My Stay in the United States?
Why Do You Need to Extend Your Nonimmigrant Status?**

A nonimmigrant temporarily enters the United States for a specific purpose such as business, study, or pleasure. When you entered the country as a nonimmigrant, a U.S. immigration inspector should have examined your passport and visa and then given you an INS Form I-94 (Arrival/Departure Record). This record should tell you (in the lower right-hand corner) when you must leave the United States. You can prove you did not violate U.S. laws by turning in your INS Form I-94 to the proper authorities when you leave the country. If you want to extend your stay in the United States, then you must ask for permission from the Immigration and Naturalization Service (INS) before your authorized stay expires. Proof that you are willing to obey U.S. immigration laws will be important if you want to travel to the United States as an immigrant or nonimmigrant in the future. If you break immigration laws, you may also become subject to removal (deportation).

What Does the Law Say?

The Immigration and Nationality Act (INA) governs the admission of all people to the United States. For the part of the law concerning temporary admissions to the United States, please see INA § 214 . The applicable regulations are found in the Code of Federal Regulations (CFR) at 8 CFR § 214 .

Who is Eligible?

You may apply to extend your stay if you were lawfully admitted into the United States with a nonimmigrant visa, your nonimmigrant visa status remains valid, and you have not committed any crimes that would make you ineligible. You must apply to extend your status if you wish to stay longer than the date indicated in the lower right-hand corner of your INS Form I-94 (Arrival-Departure Record). Please note, you must submit the application for an extension of stay BEFORE your current authorized stay expires. You must also keep your passport valid for your entire stay in the United States.

You may not apply to extend your stay if you were admitted to the United States in the following visa categories:

- (VWPP) - Visa Waiver Pilot Program
- D - As a crewman
- C - As an alien in transit or in transit without a visa
- K - As a fiancé of a U.S. citizen or dependent of a fiancé
- S - As an informant (and accompanying family) on terrorism or organized crime

How Do I Apply?

For the following categories of nonimmigrants, your employer should carefully read and file an INS Form I-129 (Petition for Nonimmigrant Worker) and any supporting documentation:

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- E - International Traders and Investors
 - H - Temporary Workers
 - L - Intracompany Transferees
 - O - Aliens of Extraordinary Ability
 - P - Entertainers and Athletes
 - Q - Participants in International Exchange Programs
 - R - Religious Workers
 - TN - Canadians and Mexicans Under NAFTA

If you are in the following nonimmigrant categories, you should carefully read and complete INS Form I-539 (Application to Extend/Change Nonimmigrant Status) and submit any required supporting documents:

- A - Diplomatic and other government officials, and their families and employees.
- B - Temporary visitors for business or pleasure.
- F - Academic Students and their families
- G - Representatives to international organizations and their families and employees.
- I - Representatives of foreign media and their families
- J - Exchange Visitors and their families
- M - Vocational Students and their families
- N - Parents and children of the people who have been granted special immigrant status because their parents were employed by an international organization in the United States.

The application and correct fee should be mailed to the INS Service Center that serves the area where you are temporarily staying. If your nonimmigrant category is work-related, then the application and correct fee should be mailed to the INS Service Center that serves the area where you will work. Forms are available by calling 1-800-870-3676, or by submitting a request through our forms by mail system. For further information on filing fees, please see INS filing fees, fee waiver request procedures, and the INS fee waiver policy memo. Please see our INS field offices home page for more information on INS service centers.

How Does My Spouse and Child Apply to Extend Their Stay in the United States?

If your employer files INS Form I-129 (Petition for Alien Worker) for you, then your spouse and child must carefully read and complete INS Form I-539 (Application to Extend/Change Nonimmigrant Status) and submit any required supporting documents to extend their stay. It is best to submit both forms at the same time.

If you are filing INS Form I-539 for your own extension, you may include your spouse and any unmarried children under the age of 21 in your application if you are all in the same nonimmigrant category. You may also include your spouse or children in your application if they were given derivative nonimmigrant status. This means that your spouse and children were given nonimmigrant visas based on your nonimmigrant status. For instance, if a student is given an F-1 "Academic Student" visa, then the spouse and child are given F-2 "Spouse and Child of an Academic Student" visas.

When Should I Apply?

INS recommends that you apply to extend your stay at least 45 days before your visa expires, but the INS Service Center must receive your application by the day your visa expires.

What If My Authorized Stay Has Already Expired? (What If I Am Late Filing for an Extension?)

If you are late filing for an extension and your authorized stay has already expired, you must prove that:

- The delay was due to extraordinary circumstances beyond your control;
- The length of the delay was reasonable;
- You have not done anything else to violate your nonimmigrant status (such as work without INS approval);
- You are still a nonimmigrant (This means you are not trying to become a permanent resident of the United States. There are some exceptions.); and
- You are not in formal proceedings to remove (deport) you from the country.

How Can I Find Out About the Status of My Application?

Contact the INS office that received your application. You should be prepared to provide the INS staff with specific information about your application. [Click here for instructions on checking the status of your application.](#) [Click here for information on INS offices.](#)

How Do I Get Another INS Form I-94 "Arrival/Departure Document" If the Original Was Submitted With the Application to Extend My Stay?

If your application for an extension is approved, you will be issued a replacement I-94 with a new departure date. If your application is denied, your original I-94 will be returned with a request for your immediate departure.

How Can I Appeal?

If your application to extend your stay is denied, you will receive a letter that will tell you why the application was denied. You will not be allowed to appeal a negative decision to a higher authority. However, you may submit a motion to reopen or a motion to reconsider with the same office that made the unfavorable decision. By filing these motions, you may ask the office to reexamine or reconsider their decision. A motion to reopen must state the new facts that are to be provided in the reopened proceeding and must be accompanied by affidavits or other documentary evidence. A motion to reconsider must establish that the decision was based on an incorrect application of law or INS policy, and further establish that the decision was incorrect based on the evidence in the file at the time the decision was made.