



U.S. Citizenship  
and Immigration  
Services

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# Employment Authorization for Certain H-4 Dependent Spouses

Certain H-4 dependent spouses of H-1B nonimmigrants can file [Form I-765, Application for Employment Authorization](#), if the H-1B nonimmigrant:

- Is the principal beneficiary of an approved [Form I-140, Immigrant Petition for Alien Worker](#); or
- Has been granted H-1B status under sections 106(a) and (b) of the American Competitiveness in the Twenty-first Century Act of 2000 as amended by the 21st Century Department of Justice Appropriations Authorization Act (AC21).

U.S. businesses use the [H-1B program](#) to employ foreign workers in specialty occupations that require a bachelor's or higher degree in a specific specialty that is directly related to the H-1B position. In addition to specialty occupation workers, the H-1B classification applies to individuals performing services related to a Department of Defense cooperative research and development project or coproduction project, and to individuals performing services of distinguished merit and ability in the field of fashion modeling.

Visit our [H-1B Visa](#) page for more information on eligibility for the H-1B program.

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## Eligibility Requirements



You are eligible if you are the H-4 dependent spouse of an H-1B nonimmigrant if your H-1B nonimmigrant spouse:

- Is the principal beneficiary of an approved [Form I-140, Immigrant Petition for Alien Workers](#); or
- Has been granted H-1B status under sections 106(a) and (b) of AC21. Under AC21, H-1B nonimmigrants seeking employment-based lawful permanent residence may be eligible to work and remain in the United States beyond the six-year H-1B period of admission limitation.

## How to Apply



You must file [Form I-765, Application for Employment Authorization](#), to request employment authorization as an H-4 dependent spouse. You must receive an [Employment Authorization Document \(EAD/Form I-766\)](#) from USCIS before you may begin working. Use the newest version of Form I-765 to prevent delays or the need for USCIS to issue you a request for evidence.

Carefully follow these steps to prevent your application from being rejected and returned to you:

1. Complete [Form I-765](#) using the [Instructions for Form I-765 \(PDF, 520.79 KB\)](#). USCIS will reject any application that is not accompanied by the proper filing fees or signature.
- If you are filing Form I-765 together with Form I-485, you must specify your eligibility category as (c)(9), not as (c)(26), and pay the Form I-485 filing fee. Follow the Form I-485 filing instructions to avoid processing delays.

◦ If you file a Form I-765 together with a Form I-485 at the filing address for Form I-765 category (c)(26), USCIS will reject your Form I-485 and any corresponding fees. Additionally, if you included the fees for both forms on the same check or money order, USCIS may also reject your Form I-765 for category (c)(26).
2. Submit supporting evidence (see chart below). Submitting sufficient supporting evidence will minimize the likelihood that USCIS will need to send you a request for more evidence.

Evidence of...	Can be shown by submitting...
Your H-4 status	<div><div>• A copy of your current Form I-797 approval notice for Form I-539, Application to Extend/Change Nonimmigrant Status; or</div><div>• A copy of Form I-94, Arrival/Departure Record, showing your admission as an H-4 nonimmigrant or your most recent approved extension of stay.</div></div>
A government-issued identification document with photo	<div><div>• A copy of your last EAD (if any);</div><div>• A copy of the biometric page of your passport;</div><div>• A birth certificate with photo ID;</div><div>• A visa issued by a foreign consulate; or</div><div>• A national identity document with photo.</div></div>
Your relationship to the H-1B nonimmigrant	<div><div>• A copy of your marriage certificate.</div></div>

Evidence of...	Can be shown by submitting...
Your basis for eligibility	<ol style="list-style-type: none"> <li>1. Evidence that the H-1B nonimmigrant is the principal beneficiary of an approved Form I-140, Immigrant Petition for Alien Worker.</li> </ol> <ul style="list-style-type: none"> <li>• You may show this by submitting a copy of the approval notice (Form I-797) for the Form I-140 filed for the H-1B nonimmigrant;</li> </ul> <p><b>OR</b></p> <ol style="list-style-type: none"> <li>2. Evidence that the H-1B nonimmigrant has been admitted or granted an extension of stay under AC21 sections 106(a) and (b).</li> </ol> <ul style="list-style-type: none"> <li>• You may show this by submitting: <ol style="list-style-type: none"> <li>1. A copy of the H-1B nonimmigrant's passports, prior Forms I-94 (Arrival/Departure Record), and current and prior Forms I-797 for Form I-129, Petition for a Nonimmigrant Worker; and</li> <li>2. Evidence to establish one of the following bases for the H-1B nonimmigrant's extension of stay.</li> </ol> </li> <li>• <b>Based on Filing of a Permanent Labor Certification Application.</b> Submit evidence that the H-1B nonimmigrant is the beneficiary of a Permanent Labor Certification Application that was filed at least 365 days before the period of admission authorized under AC21 106(a) and (b) begins. You may show this by submitting a copy of a print out from the Department of Labor's (DOL's) website or other correspondence from DOL showing the status of the H-1B nonimmigrant's Permanent Labor Certification Application. If more than 180 days have passed since DOL certified the Permanent Labor Certification Application, also submit a copy of Form I-797 Notice of Receipt for Form I-140 establishing that the Form I-140 was filed within 180 days of such DOL certification;</li> </ul> <p><b>OR</b></p> <ul style="list-style-type: none"> <li>• <b>Based on a Pending Form I-140.</b> Submit evidence that the H-1B nonimmigrant's Form I-140 was filed at least 365 days before the period of admission authorized under AC21 106(a) and (b) begins. You may show this by submitting a copy of the Form I-797, Notice of Receipt, for Form I-140.</li> </ul> <p><b>Examples of Secondary Evidence.</b> If you do not have any evidence relating to the H-1B nonimmigrant as described in "a" or "b" above, you may ask USCIS to consider secondary evidence in support of your application for employment authorization as an H-4 spouse. For example, such information may include the receipt number of the most current Form I-129 extension of stay request filed for the H-1B nonimmigrant or the receipt number of the approved Form I-140 petition filed for the H-1B</p>

Evidence of...	Can be shown by submitting...
	nonimmigrant. Failure to provide necessary information about the H-1B nonimmigrant may result in a delay in the adjudication or denial of your application for employment authorization.
Photos for card production	<ul style="list-style-type: none"><li>Two identical two-by-two-inch passport-style color photographs of yourself</li></ul>

Translations

If you submit any documents containing a foreign language to USCIS, you must also submit a full English language translation that the translator has certified as complete and accurate. The translator must also certify that they are competent to translate from the foreign language into English.

Form Filing Tips

When filing Form I-765, please mail it to the proper location based on the chart below.

If you are submitting your Form I-765...	Then please file your application at...
As a standalone application because you are currently in H-4 status and do not need to extend your status	The Lockbox address found on our <a href="#">Direct Filing Addresses for Form I-765</a> web page.
Together with Form I-539 seeking a change to or extension of H-4 status	The Lockbox address found on our <a href="#">Direct Filing Addresses for Form I-765</a> web page.
Together with Form I-129 seeking H-1B status for your spouse and Form I-539, seeking a change to or extension of H-4 status for yourself	The service center with jurisdiction over Form I-129. Please see our <a href="#">Direct Filing Addresses for Form I-129</a> web page for more information.

For your convenience, you may file Form I-765 with Form I-539, Application to Extend/Change Nonimmigrant Status, or with both Form I-539 and the Form I-129, Petition for a Nonimmigrant Worker, filed for the H-1B principal nonimmigrant. However, we will not make a decision on your Form I-765 until after we have adjudicated your Form I-539 and determined whether you are eligible

for the underlying H-4 nonimmigrant status, whether your spouse is eligible for the underlying H-1B nonimmigrant status, or both. Go to the [Filing Form I-765 with Other Forms](#) page for more information on filing these forms together

## Validity of Employment Authorization

You will not be authorized to work until USCIS approves your Form I-765. Once your employment authorization is approved, the expiration date on your Employment Authorization Document (Form I-766 EAD) should be the same date as the expiration date on your most recent Form I-94 indicating your H-4 nonimmigrant status. Generally, you are only authorized to work through the expiration date on your EAD. If you are still eligible for employment authorization after that date, you should file for a renewal EAD by submitting another Form I-765. You cannot file for a renewal EAD more than 180 days before your original EAD expires

You may qualify for [automatic extension](#) of your existing employment authorization and accompanying EAD if you have properly filed an application to renew your H-4-based EAD before it expires, and you have an unexpired Form I-94 showing your status as an H-4 nonimmigrant. If you qualify for automatic extension of your current employment authorization and EAD, the automatic extension will continue until whichever comes first:

- The end date on Form I-94 showing valid H-4 status;
- The approval or denial of the EAD renewal application; or
- 180 days from the “Card Expires” date on the face of the existing EAD.

When applicable, acceptable evidence of your automatic extension of employment authorization that may be presented to employers for Form I-9 purposes includes the following combination of documents:

- Form I-94 indicating the unexpired H-4 nonimmigrant status;
- Form I-797C indicating a timely-filed renewal Form I-765 was filed under (c)(26); and
- The expired EAD issued under the same category, Category C26.

## Avoid Immigration Scams

Some unauthorized practitioners may try to take advantage of you by claiming they can file an EAD. These same individuals may ask that you pay them to file such forms. To learn the facts about how to protect yourself and your family from scams, please visit [www.uscis.gov/avoidscams](https://www.uscis.gov/avoidscams).

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Last Reviewed/Updated: 04/01/2024

