

U.S. ADMISSION USING CURRENT H APPROVAL NOTICE AND H AMENDMENT RECEIPT

The following documents under U.S. law permits admission/ entry to the U.S.:

- Valid passport,
- Valid and unexpired H-1B visa stamp in passport,
- Current unexpired Cognizant H-1B approval notice, and
- USCIS Case online print out of H amendment filing receipt number or I-797 H-1B amendment filing receipt.

Associates must present the above mentioned documents to the U.S. Customs and Border Protection (CBP) agent. Only if the CBP agent asserts that an associates needs the H amendment approval notice for admission to the U.S., then present:

- The U.S. Department of State guidance memo (attached) that established H-1B visa issuance using the current H-1B approval notice and H-1B amendment filing receipt number. Highlight the following from the memo:

If the move to a new worksite occurred **on or after August 19, 2015**, then the petitioner must file an amended or new petition before the employee begins work at the new place of employment not covered by an existing, approved H-1B petition. Consular officers should refuse the visa application under INA Section 221(g) **until the petitioner has provided a copy of a USCIS notice of receipt that an amended or new petition has been filed**. The case should be processed to conclusion based on the receipt notice, **even if the amended or new petition has not yet been approved...**

[emphasis added]

- U.S. Citizenship and Immigration Services's (the Service) July 21, 2015 Policy Memorandum titled "USCIS Final Guidance on When to File an Amendment or New H-1B Petition After *Matter of Simeio Solutions, LLC*", attached, which states "**If a petitioner's employee needs to travel while an amended or new H-1B petition is still pending, please read our past guidance on admission procedures for nonimmigrants claiming portability. See Memorandum from Michael D. Cronin, Executive Associate Commissioner (June 19, 2001).**" The relevant excerpt is as follows:

[I]s admissible at the Port of Entry ((POE) pursuant to the portability provisions, upon presentation of the following evidence:

- a. that the applicant is otherwise admissible;
- b. that the applicant, unless exempt, is in possession of a valid, unexpired passport and visa (including a valid, unexpired visa endorsed with the name of the original petitioner);
- c. that the applicant was previously admitted as an H-1B or otherwise accorded H-1B status. If a visa exempt applicant is not in possession of the previously issued Form I-94, Arrival/Departure Record, **or a copy of the previously issued I-94, the applicant may present a copy of the Form I-797, Notice of Action, with the original petition's validity dates;** and
- d. that an H-1B petition was timely filed on behalf of the applicant, before expiration of the validity dates of the applicant's previously authorized period of stay. This evidence shall be in the form of a copy of a dated Form I-797 receipt notice reflecting that a new petition has been filed, or other credible evidence of timely filing that is validated through a CLAIMS query.