



Travel During The Holidays: How To Avoid The Immigration Trap



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Webinar Outline



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- Part 1:** Travel for US Citizens
- Part 2:** Travel for Lawful Permanent Residents
- Part 3:** Travel for those with pending adjustment of status cases
- Part 4:** Travel for those in valid nonimmigrant status/visitor status
- Part 5:** Travel Tips for Everyone

Part 1: Travel Outside the US for US Citizens

- Passport should be valid for **at least 6 months**.
- Apply for Visa or other entry document, if necessary.
- Contact country's embassy here in the US. If required—apply well in advance.
 - **Example:** Naturalized US citizens who were nationals of **India** at birth must go through process to renounce citizenship and turn in passport prior to obtaining an entry document to India.





Part 2: Travel Outside the US for LPRs

- **Passport** should be valid for **6 months**.
- **Permanent Resident Card** should be valid for duration of trip. **Note:** *If chance card will expire during trip; file application to renew **beforehand**. Discuss additional evidence of LPR status with attorney.*
- Apply for Visa, if necessary. **Note:** Whether or not you need a visa is usually determined by your country of citizenship, rather than your LPR status in US.
- Be aware of **special rules** regarding trip outside the US of 6 months or more.

Part 3: Travel outside US while adjustment of status application is pending

- Advance Parole travel document required to re-enter the US (Application filed on **form I-131**)
- I-131 must be approved **PRIOR** to leaving the US otherwise AOS application has been abandoned
- Exception—H and L visa holders
- **Note:** If any unlawful presence prior to filing AOS, have attorney analyze. Even if USCIS approves an I-131 application, it doesn't mean you are qualified for travel.
- Takes about 3 months for approval.



From October 19, 2009 USCIS Memo

Fact Sheet--USCIS Reminds Applicants for Travel Documents to Apply Early

Possible Consequences of Using Advance Parole After Being Unlawfully Present in the United States

“Under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, ***aliens who depart the United States after being unlawfully present in the United States for certain periods can be barred from admission to lawful permanent resident status, even if they have obtained Advance Parole.*** Aliens who have been unlawfully present in the United States for more than 180 days, but less than one year, are inadmissible for three years; those who have been unlawfully present for one year or more are inadmissible for 10 years. Aliens who are unlawfully present, then depart the United States and subsequently reenter under a grant of parole, may still be ineligible to adjust their status.



Part 3 Continued

Example: You hold H1B status, but also have an I-485 adjustment application pending through an approved labor certification and I-140 filed by your employer. You have applied for an Employment Authorization Document (EAD) and an Advance Parole (AP) travel document, but they have not yet been approved by the Immigration Service.

- Can you travel using the **H1B visa**?
- What if your **EAD and AP** were approved?
- What happens if you are on **H-1B status** and travel with your **AP**?





Part 4: Travel outside the US for those who are living in the US temporarily in a valid nonimmigrant status (H-1B, F-1, etc.)

- Must have valid visa to reenter the US and passport valid for at least 6 months. May need proof of employment or student status as well.
- May have to apply for a visa based while abroad—Potential Complications/Delays



Part 4, Continued

Example #1:

You are here in the United States in H1B status (or L1, F1, etc.) and would like to travel home to India to see family. You have not otherwise violated your status, and are not being sponsored for permanent residency.

- What should you do to increase the likelihood of a safe return to the US?



Part 4 Continued

Example #2: You are here in valid H1B status and are being sponsored by your employer for permanent residency. Your labor certification and I-140 have been approved; but you cannot file an I-485 adjustment application yet because your priority date is not current. Can you travel?



Part 4 Continued: Travel outside the US for those who are living in the US as visitors

- You shouldn't be living in the US as a visitor!
- Have you overstayed your I-94 card? Your visa may be canceled.
- Have you overstayed your 90 period under the visa waiver program? You may need a visa to return to the US.
- Applying for Admission to US as a visitor with history of frequent or long stays in the US
 - Port of Entry Officer can formally exclude you—5 year bar to reentry (Instead: Formally withdraw your request for admission)
 - POE can include notes in your passport or computer to be considered during future attempts to enter or obtain some other type of immigration benefit.



- **Travel with Children—Each** country has different policy—Best Practice: Take Birth Certificate . If only traveling with one parent, also have notarized statement from other parent or court order showing custody.
- **Travel with Name Change—**Best Practice is to change name in passport before traveling. Certified copy of marriage certificate may work if name change is due to marriage.
- When **re-entering** US, allow extra time to get through Port of Entry if you have a connecting flight—particularly if traveling with an advance parole travel document.
- **Apply Early** -- Advance parole, visas, or any other required travel documents.



QUESTIONS?

Thank you for joining our presentation.

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For more resources visit:

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