

## **CHANGING FROM ONE NONIMMIGRANT VISA STATUS TO ANOTHER.**

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On almost a daily basis we receive calls from clients and potential clients who ask us the difference between “Changing Status in the U.S.” and “Adjusting Status in the U.S.” The words sound the same but the procedures are quite different. When one “Changes Status” in the U.S. it is done in the context of shifting or moving from one Nonimmigrant Visa Status to another. On the other hand, when someone wants to “Adjust their Status” this means that they are seeking to obtain Lawful Permanent Residence in the U.S. (usually by moving or shifting from a nonimmigrant status to the green card.

To change the purpose of your visit while you are in the United States, you or your employer must file a request with USCIS on the appropriate form before your authorized stay expires and you should do so as soon as you determine that you need to change to a different nonimmigrant category. You should not assume that your application has been approved before actually receiving approval from USCIS. For example, if you arrived in the U.S. as a tourist and you decide that you want to become a student, you must first wait for approval from USCIS before attending school.

If an individual fails to follow the proper procedure to Change their Status in the U.S. then this may result in the individual being bared from returning to the U.S. and/or removal from the U.S. (if they stay beyond a date certain on their Form I-94). One is generally eligible for a Change of Status if he or she was lawfully admitted to the U.S. with a nonimmigrant visa. One’s status remains valid if one has not violated the conditions of his or her status and has not committed any crimes that would result in ineligibility.

If you were admitted to the U.S. as a business visitor (under the B-1 visa category) and wish to remain in the U.S. for pleasure before your authorized stay expires, you do not necessarily need to apply to change your nonimmigrant status. Additionally, you also do not need to apply to change your nonimmigrant status if you wish to attend school in the U.S. and you are the spouse or child of someone who is currently in the U.S. in any of the following nonimmigrant visa categories: Diplomatic and other government officials and employees (in the A visa category); International trade and investors (E visa); Representatives to international organizations and their employees (G visa); Temporary workers (H visa); Representatives of foreign media (I visa); Exchange visitors (J visa); Intercompany transferees (L visa); Academic (F visa) or vocational (M visa) students (you may attend elementary, middle or high school only: if you want to attend post-secondary school full-time you must apply for a change of status).

If you were admitted to the U.S. under the following categories, you may not apply to change your nonimmigrant status: Visa Waiver Program, Crew member (D nonimmigrant visa); In transit through the U.S. (C nonimmigrant visa); In transit through the U.S. without a visa (TWOV); Fiancé of a U.S. citizen or dependent of a fiancé (K nonimmigrant visa); Informant (and accompanying family) on terrorism or organized crime (S nonimmigrant visa).

There are also some additional limitations on one's ability to change their status in the U.S. as follows . . . As a vocational student (M-1) you may not apply to change your status to the following: Academic student (F-1); Any H status (Temporary worker), if the training you received as a vocational student in the U.S. provided the qualifications for the temporary worker position you seek.

As an international exchange visitor (J-1), you may not change your nonimmigrant status if: You were admitted to the U.S. to receive graduate medical training, unless you receive a special waiver of Section 212(e) of the INA; You are an exchange visitor and are required to meet the foreign residence requirement, unless you receive a waiver. If you do not receive a waiver, you may only apply to change to a diplomatic and other government officials (A visa) or representatives to international organizations (G visa).

If you should have any questions about a Change of Status in the U.S. or any other immigration law issues, please feel free to contact any of the immigration lawyers at Nachman Phulwani Zimovcak Law Group, P.C. at 201-670-0006 (x100) or you can e-mail us at [info@visaserve.com](mailto:info@visaserve.com).