



IMMIGRATION COVID-19

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I have an appointment at the local USCIS office. What should I do?

All USCIS offices have been closed to the public at least until June 4, 2020. **USCIS is preparing to reopen its offices on or after June 4, 2020.** USCIS will send out new appointment notices for any interview appointment when operations return, including 485 interview appointments and naturalization appointments. USCIS will also send out new biometric appointment notices.

I had an InfoPass appointment at the local USCIS office. What should I do?

All USCIS offices have been closed to the public at least until June 4, 2020. When USCIS returns to normal operations, contact USCIS at 800-375-5283 to reschedule your InfoPass appointment, or use the USCIS Contact Center. <https://www.uscis.gov/contactcenter>.

My visa petition is currently pending at USCIS. Will it be delayed due to the shutdown?

USCIS personnel are considered “essential” personnel and will continue to work during the USCIS shutdown. Both immigrant (I-140, I-485, I-90, I-131) and nonimmigrant (H-1B, H-2B, H-3, H-4, L-1A, L-1B, L-2, TN, TD, E-2, E-3) applications will continue to be adjudicated. As a result of COVID-19, USCIS has suspended premium processing for all I-129 and I-140 filings. Given COVID-19, it is reasonable to assume that USCIS staff may also be subject to quarantine. This could further delay adjudications.

Has USCIS relaxed the due dates for responding to Requests for Evidence, Notices of Intent to Deny, Notices of Intent to Revoke, Notices of Appeal/Motion, Notices of Intent to Rescind, Notices of Intent to Terminate Regional Investment Centers?

USCIS will consider A response do these types of requests which are dated between March 1 and July 1 to be timely filed if the response is received within 60 calendar days after the response date set in the Notice or Request.

I am working in H-1B or E-3 status. I am now going to be working from home. Is that permitted? What about if I am working in L-1A, L1B, O-1, TN, H-3, E-1, or E-2 status?

If you are working on an H-1B or E-3 visa, and your home address is in the same Metropolitan Statistical Area (“MSA”) as your work address, you can work from home. MSA is generally within 50 miles of your work site location. Your employer will provide you with a posting notice to be posted at your home for 10 days.

If your home address is not in the same Metropolitan Statistical Area as your work address, you can take advantage of a “short-term placement” for 30 working days (6 weeks). Your employer will provide you with a posting notice to be posted at your home for 10 days. After 30 working days, your employer will be required to file an amended H-1B or E-3 petition with your home address as one of the locations where you are permitted to work.

If you are working on an L-1A, L-1B, O-1, TN, E-1, or E-2 visa, you are permitted to work from home.

As an employer dealing with the economic impact of COVID-19, we would like to reduce employees’ hours from full-time to part-time. Can an employer do this for H-1B and E-3 employees?

Reducing an employee’s hours is considered a “material” change which will require the employer to file an amended visa petition.

Employers with employees in other visa categories may also be required to amend the visas of employees, should their hours/wages be drastically reduced.

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Due to the impact of COVID-19 on business operations, employers are anticipating layoffs, furloughs, or termination of employees. How will this impact employees on nonimmigrant work visas?

If an employee working on a nonimmigrant visa (H-1B, L-1A/B, O-1, TN, E-1/E-2, E-3) is terminated or laid off, the employee would have a 60 day grace period to either (1) find a new employer who will file a petition on their behalf; (2) change their status, possibly to a dependent visa from their spouse, or a B-2 visitor visa; or (3) prepare for departure from the U.S. This 60-day grace period pertains to those who hold visas in the following categories: E-1, E-2, E-3, H-1B, H-1B1, L-1, O-1, TN.

Our company has had to terminate a number of employees due to the COVID-19 pandemic and some of these employees are working in H-1B status. What are the employer's obligations when terminating an H-1B employee?

If an employer terminates an H-1B worker, the employer should prepare a termination letter addressed to the employee with the termination date made clear. The letter should also offer to pay the reasonable cost of transportation for the employee to return to their home country. In addition, the employer is advised to send a letter to USCIS asking that the H-1B visa be revoked and advising USCIS of the termination date. Finally, the employer should withdraw the LCA from DOL.

I am a nonimmigrant working in the U.S. and won't be able to depart the U.S. before my authorized period of admission expires. Has USCIS made any options available to me in this emergency situation?

USCIS guidance issued on April 13, 2020 advises that most nonimmigrants can mitigate the immigration consequences of COVID-19 by timely filing an application for extension of stay (EOS) or change of status (COS) on Form I-539. Nonimmigrants generally do not accrue unlawful presence while the timely-filed EOS/COS application is pending. Where applicable, employment authorization with the same employer, subject to the same terms and conditions of the prior approval, is automatically extended for 240 days after I-94 expiration when an extension of stay request is filed on time.

USCIS also reminds petitioners and applicants that it can consider delays caused by the COVID-19 pandemic when deciding whether to excuse delays in filing documents based on extraordinary circumstances. If a Petitioner or Applicant files an EOS or COS request after the authorized period of admission expires, USCIS, in its discretion, may excuse the failure to file on time if it was due to extraordinary circumstances beyond their control, such as those that may be caused by COVID-19. The length of the delay must be commensurate with the circumstances. The petitioner or applicant must submit credible evidence to support their request, which USCIS will evaluate on a case-by-case basis. These special situations have been used at various times in the past, including for natural disasters and similar crises.

I planned on going to the U.S. Consulate abroad to apply for a new visa stamp. Can I still go?

The U.S. Consulates and Embassies abroad have suspended all routine immigrant and nonimmigrant visa services. You should check the consulate's website. (<https://travel.state.gov/content/travel/en/traveladvisories/COVID-19-Country-Specific-Information.html>) In addition, USCIS offices in Rome, Italy and Nairobi, Kenya have been temporarily closed to the public.

IMMIGRATION COVID-19 FAQ

I entered the U.S. under Visa Waiver/ESTA. My I-94 is about to expire but I cannot depart. What can I do?

USCIS provided some guidance on April 13, 2020 with respect to Visa Waiver Program (VWP) entrants. Since VWP entrants are not eligible to extend their stay or change status, and an emergency such as COVID-19 prevents the departure of the VWP entrant, USCIS in its discretion may grant a period of satisfactory departure for up to 30 days. For those VWP entrants already granted satisfactory departure, and unable to depart within the 30-day period because of COVID-19 related issues, USCIS has the authority to temporarily provide an additional 30-day period of satisfactory departure in order to avoid the entrants from accruing unlawful presence.

If you entered the U.S. under Visa Waiver/ESTA and your I-94 is about to expire, you should contact any airport Deferred Inspections or CBP port of entry and request Satisfactory Departure. You are not limited to requesting Satisfactory Department from the CBP or DI where you last entered. Satisfactory Departure can be granted for 30 days.

Previously, most VWP entrants were limited in making satisfactory departure requests with the CBP locations at which they were admitted. Additionally, CBP had previously indicated it was unable to provide subsequent 30-day periods of satisfactory departure, leaving many individuals without further recourse once their initial period had expired. This new guidance is welcome and will benefit VWP entrants who continue to be impacted by COVID-19 related issues.

I am an employer and cannot complete I-9's and E-Verify since it requires face to face contact in order to inspect the employee's original documents.

DHS has relaxed the physical presence requirements for completing Form I-9 (and E-Verify) only for **employers that are operating remotely** due to COVID-19 precautions. Employers operating remotely will not be required to review the employee's original identity and employment authorization documents through in-person verification. DHS will allow the review of Section 2 documents to be conducted remotely (either over video, fax, email, etc.). After remotely reviewing the employee's I-9 documents, the employer will complete section 2 of the I-9 and enter "COVID-19" in the "Additional Information" field as the reason for the physical inspection. Employers will need to provide written documentation of their remote onboarding and telework policy for each employee.

However, if employees continue to be physically present at the worksite location, there will be no exceptions for in-person verification of identity and employment authorization documents.

Once normal business operations resume, employers must make a physical inspection of the employee's I-9 documents within 3 business days after normal business operations resume. During the physical inspection, employers should add "documents physically examined" with the date of inspection to the Section 2 "Additional Information" field on the Form I-9, or to Section 3 as appropriate. Employer should also initial and date the updated information.

The remote process may be implemented by employers for a period through September 11, 2020.

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A new hire reported for work and presented a List B document that recently expired and the issuing authority is not currently issuing document extensions. How does an employer handle this I-9 document?

Employers can accept a List B document (e.g., state driver's license, state ID card, etc.) that expired on or after March 1, 2020. The employer should treat the expired document "as if the employee presented a valid receipt for an acceptable document for I-9 purposes."

When an employee provides an acceptable List B document that expired on or after March 1, 2020, and the issuing authority is not currently extending the documents, the employer should (a) record the document in Section 2 under List B, and (b) enter "COVID-19" in the "Additional Information" field.

Once business operations resume, the employee will be required to present a valid, unexpired document to replace the expired document presented when initially hired. The employer then must record the document number, and initial and date the change, and write "COVID-19 EXT" in the "Additional Information" field.

Employers must also attach a copy of the webpage or other notice indicating that the issuing authority has extended the documents by checking the appropriate DMV website.

This flexibility has been extended through September 11, 2020.

Last Updated: 5/25/2020