



**U.S. Citizenship and
Immigration Services**

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).

The Employment Authorization for Certain H-4 Dependent Spouses [final rule](#) (H-4 rule), effective on May 26, 2015, seeks to support the goals of attracting and retaining highly skilled foreign workers and minimizing the disruption to U.S. businesses resulting from H-1B nonimmigrants who choose not to remain in the United States and pursue LPR status.

USCIS published the H-4 notice of proposed rulemaking in May 2014 and finalizing it was part of the [executive actions on immigration](#) that President Obama announced in November 2014. Extending eligibility for employment authorization to certain H-4 dependent spouses of H-1B nonimmigrants is one of the initiatives to modernize, improve and clarify visa programs to grow the U.S. economy and create jobs. For more information on the H-4 rule, please visit our [Frequently Asked Questions \(FAQ\) page](#).

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 Web page](#) for more information on eligibility for the H-1B program.

Find on this Page	
Eligibility Requirements	Form Filing Tips
How to Apply	Validity of Employment Authorization
Translations	Avoid Immigration Scams

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 Worker; or
- Has been granted H-1B status under sections 106(a) and (b) of the AC21. The AC21 permits H-1B nonimmigrants seeking employment-based lawful permanent residence to work and remain in the United States beyond the six-year limit.

How to Apply

You must file Form I-765 and receive an [Employment Authorization Document \(EAD/Form I-766\)](#) from USCIS before you may begin working.

While USCIS currently is continuing to accept the older version of Form I-765 with an edition date of 05/27/08 or later, we encourage H-4 applicants to use the newer version with an edition date of 02/13/15 in order 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](#). USCIS will reject any application that is not accompanied by the proper filing fees or signature. The fee is **\$380. You cannot file Form I-765 for category (c)(26) together with a Form I-485, Application to Register Permanent Residence or Adjust Status at the Lockbox address for Form I-765 category (c)(26).** If filing a Form I-485, you must follow the Form I-485 filing instructions and submit your Form I-485 to the correct filing address for that form. 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). Note: If you are filing Form I-765 together with Form I-485 at the [USCIS location noted for Form I-485](#), you should specify your work eligibility category as (c)(9) and pay only the Form I-485 filing fee (and not the Form I-765 filing fee) to avoid processing delays.
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	<ul style="list-style-type: none"> • A copy of your most recent Form I-797, Notice of Action, for Form I-539, Application to Extend/Change Nonimmigrant Status; or • A copy of Form I-94, Arrival/Departure Record, showing your admission or extension of stay as an H-4 nonimmigrant.
A government-issued identification document with photo	<ul style="list-style-type: none"> • A copy of your last EAD (if any); • A copy of the biometric page of your passport; • A birth certificate with photo ID; • A visa issued by a foreign consulate; or • A national identity document with photo.

Your relationship to the H-1B nonimmigrant	<ul style="list-style-type: none"> • A copy of your marriage certificate.
Your basis for eligibility	<p>a. Evidence that the H-1B nonimmigrant is the principal beneficiary of an <i>approved</i> Immigrant Petition for Alien Worker (Form I-140).</p> <ul style="list-style-type: none"> • You may show this by submitting a copy of the H-1B nonimmigrant’s Form I-797 approval notice for Form I-140; <p style="text-align: center;">OR</p> <p>b. Evidence that the H-1B nonimmigrant has received an extension of stay under AC21 sections 106(a) and (b).</p> <ul style="list-style-type: none"> • You may show this by submitting: <ol style="list-style-type: none"> 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 2. Evidence to establish one of the following bases for the H-1B nonimmigrant’s extension of stay: <ul style="list-style-type: none"> • Based on Filing of a Permanent Labor Certification Application. Submit evidence that the H-1B nonimmigrant is the beneficiary of a Permanent Labor Certification Application that was filed at least 365 days prior to the expiration of the six-year limitation of stay. 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 DOL certified the Permanent Labor Certification, 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 DOL certifying the Permanent Labor Certification; <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> • Based on a Pending Form I-140. If the preference category sought for the H-1B nonimmigrant does not require a Permanent Labor Certification Application with DOL, submit evidence that the H-1B nonimmigrant’s Form I-140 was filed at least 365 days prior to the expiration of the six-year limitation of stay and remains pending. You may show this by submitting a copy of the Form I-797 Notice of Receipt for Form I-140.

	<p>Examples of Secondary Evidence. 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 work authorization as an H-4 spouse. For example, such information may include the receipt number of the H-1B nonimmigrant's most current Form I-129 extension of stay request or the receipt number of the H-1B nonimmigrant's approved Form I-140 petition. 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.</p>
Photos for card production	<ul style="list-style-type: none"> • Two identical two-by-two-inch passport-style color photographs of yourself

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 he or she is 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 Direct Filing Addresses for Form I-765 Web page.
Together with Form I-539 seeking a change to or extension of H-4 status	The Lockbox address found on our Direct Filing Addresses for Form I-765 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 Direct Filing Addresses for Form I-129 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 H-1B principal nonimmigrant's Form I-129, Petition for a Nonimmigrant Worker. However, USCIS will not process your Form I-765 (except filing fees) until after USCIS has adjudicated your Form I-539.

The 90-day period for adjudicating Form I-765 filed together with Form I-539 does not begin until USCIS has 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.

Do NOT e-file Form I-765. You must mail your form together with evidence and fees to the appropriate filing location as outlined above.

Validity of Employment Authorization

You will not be authorized to work until USCIS approves your Form I-765 application. Once your employment authorization is approved, the expiration date on your EAD will likely be the same date as the expiration date on your most recent Form I-94 indicating your H-4 nonimmigrant status. You are only authorized to work through the expiration date on your EAD. If you still will be eligible for work 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 120 days before your original EAD expires.

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.

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