



AMERICAN IMMIGRATION LAWYERS ASSOCIATION
AN AFFILIATED ORGANIZATION OF THE AMERICAN BAR ASSOCIATION

NEW ENGLAND CHAPTER
MAINE, MASSACHUSETTS, NEW HAMPSHIRE,
RHODE ISLAND, VERMONT

AILA New England Frequently Asked Questions during COVID-19: May 20, 2020

AILA New England is pleased to provide a Know Your Rights for the New England community during this unchartered time of COVID-19. We hope that you will find the selected immigration topics helpful as you and your constituents try to navigate the challenges presented with limited USCIS hours and businesses struggling. This document is not a comprehensive explanation of the complex immigration rules or policy and it does not take the place of legal advice. This FAQ only touches upon some of the common immigration questions that may arise during the pandemic.

More information about AILA New England can be found here: <https://www.ailane.org>

CBP:

Q. I entered in B-1/B-2 status and my I-94 will soon be expiring. Can I apply to extend my stay?

A. Yes, you would do this by filing immigration paperwork with USCIS by mail, or by filing an application online through the USCIS website. The application must be filed before the expiration of your I-94.

Q. I entered under the Visa Waiver/ESTA program and my I-94 will soon be expiring. Can I apply to extend my stay?

A. Generally, the answer is no. An individual who enters the U.S. under the Visa Waiver/ESTA program may stay for a maximum of 90 days. If the individual overstays, they will not be allowed to enter under the Visa Waiver/ESTA program in the future and would first have to obtain a visa at a U.S. Embassy or Consulate.

However, due to COVID-19, a temporary exception has been made to allow for requests of additional time up to 30 days. This request is known as a request for Satisfactory Departure.

If you were admitted under the VWP/ESTA program and you are unable to depart the U.S. before your current period of admission due to COVID-19 related issues, you may submit a request to the CBP Logan Deferred Inspection office via email: cbp.boston.i94@cbp.dhs.gov

The email request can be submitted by those individuals currently residing in Massachusetts or New Hampshire. The request must be made within 14 days or less from the date of the I-94 expiration.

Thank you to AILA New England Members who helped put this material together: Annelise Araujo, Madeline Cronin, Liz Goss, Eric Lockwood, Vince Lau, Bee Mandell, Eileen Morrison, Robin Nice, Robin O'Donoghue, Beata Weiss, Ed White, & Mi-Rang Yoon.



AMERICAN IMMIGRATION LAWYERS ASSOCIATION
AN AFFILIATED ORGANIZATION OF THE AMERICAN BAR ASSOCIATION

NEW ENGLAND CHAPTER
MAINE, MASSACHUSETTS, NEW HAMPSHIRE,
RHODE ISLAND, VERMONT

COVID-19 related issues include the following: you believe you have been exposed to COVID-19 or are not able to board a flight because you are experiencing any flu-like symptoms (such as runny nose, headache, cough, sore throat or fever); there are no available flights; or for any other health-related reason.

Please submit the following information:

- **Subject line:** VWP Satisfactory Departure
- **Body of Email:**
 - o Your name
 - o Date of Birth (DOB);
 - o Passport Number
 - o I-94 number and expiration date
 - o Reason for request
- **Attach to the email:**
 - o Passport biographic Page
 - o I-94
 - o Original departure flight itinerary along with the new flight itinerary, if available
 - o Evidence to support the request, if available

Please do not call the Deferred Inspection office to follow up. Each individual will be notified of their decision.

L1 VISA CATEGORY:

Temporary Remote Work

Q. My employer temporarily closed the physical work location due to COVID-19. As a result, I am now working from home rather than reporting to the office. Is my L-1 status still valid?

A. Yes. The L visa category provides some flexibility with regard to the work location and a USCIS notification (amended petition) is not required unless there is a “material change” in the approved employment. Under these circumstances, your L-1 status will be valid as long as your position and job duties are essentially the same (except that you are now performing them remotely) and you are receiving your usually salary and benefits.

Thank you to AILA New England Members who helped put this material together: Annelise Araujo, Madeline Cronin, Liz Goss, Eric Lockwood, Vince Lau, Bee Mandell, Eileen Morrison, Robin Nice, Robin O'Donoghue, Beata Weiss, Ed White, & Mi-Rang Yoon.



AMERICAN IMMIGRATION LAWYERS ASSOCIATION
AN AFFILIATED ORGANIZATION OF THE AMERICAN BAR ASSOCIATION

NEW ENGLAND CHAPTER
MAINE, MASSACHUSETTS, NEW HAMPSHIRE,
RHODE ISLAND, VERMONT

Reduction in Work Hours

Q. My employer reduced my work hours from full-time to part time. Is my L-1 status still valid?

A. If your L-1 was approved for full time employment (at least 35 hours per week), a reduction in hours to part-time will likely be considered a material change, which requires an amendment.

Reduction in Salary

Q. My employer reduced my compensation due to company-wide wage adjustment but I am expected to work my usual hours. Is my L-1 status still valid?

A. L-1 visas filings are not subject to the Department of Labor wage attestations which may allow some adjustments to your compensation. However, because USCIS may consider compensation as a as a factor in determining eligibility for the L-1A status, a salary reduction could potentially constitute a material change that requires an amendment.

Furloughs

Q. I was furloughed dues to COVID-19. Is my L-1 status still valid?

A. Generally, you must be employed consistent with your L-1 approval to remain in valid status. Because furlough individuals are still considered “employees,” if there is an expectation that the employment will resume, it is possible that USCIS will later excuse this “technical” violation. However, since USCIS has not yet issued any guidance about how a furlough would impact foreign nationals in L-1 status, there is some risk involved in remaining in the U.S. during the furlough unless you are potentially eligible for a “grace period” of up to 60-days.

Termination

Q. My employment was terminated. Can I stay in the US?

A. Once your employment terminates, you will no longer be in valid status but you may be eligible to remain in the US for up to 60 days. During this “grace period” you can apply to change to another employer/visa category or prepare for departure. If you are rehired by your employer for the same job, you may be able to return to work within the 60-day grace period without refiling.

Thank you to AILA New England Members who helped put this material together: Annelise Araujo, Madeline Cronin, Liz Goss, Eric Lockwood, Vince Lau, Bee Mandell, Eileen Morrison, Robin Nice, Robin O'Donoghue, Beata Weiss, Ed White, & Mi-Rang Yoon.



AMERICAN IMMIGRATION LAWYERS ASSOCIATION
AN AFFILIATED ORGANIZATION OF THE AMERICAN BAR ASSOCIATION

NEW ENGLAND CHAPTER
MAINE, MASSACHUSETTS, NEW HAMPSHIRE,
RHODE ISLAND, VERMONT

IMMIGRANT VISA APPLICATIONS BASED ON EMPLOYMENT:

Q. My U.S. employer is sponsoring me for U.S. permanent residence (i.e. a green card). With President Trump's April 23, 2020 Executive Order, is this still possible?

A. Yes, provided I am eligible to "Adjust Status" and will do so without leaving the U.S.

Q. What if I am not eligible to "Adjust Status" but need to apply for an "Immigrant Visa"? Can I still become a U.S. permanent resident?

A. Not right away. As of April 23, 2020, anyone outside of the U.S. who wants to enter the U.S. as an "immigrant" (i.e., legal permanent residents, also referred to as "green card holders") and who does not yet not have an immigrant visa in their passport cannot enter the U.S. until at least 60 days after April 23, 2020 (i.e. after June 22, 2020).

Q. Are there exceptions?

A. Yes. Anyone seeking to enter the U.S. on an immigrant visa as a physician, nurse, or other healthcare professional; to perform medical research or other research intended to combat the spread of COVID-19; or to perform work essential to combating, recovering from, or otherwise alleviating the effects of the COVID-19 outbreak. The spouse and any children under age 21 who is not married can also come.

Q. What if I am already a U.S. permanent residence, am outside of the U.S. and want to return to the U.S. right away?

A. Yes. The Executive Order does not apply to U.S. permanent residents.

Q. My employer has been sponsoring me for U.S. permanent residence. What if I get furloughed? Can I still be sponsored for a green card?

A. Possibly. If the furlough is temporary or you are still working full-time, you could still be sponsored.

Q. What if I am laid off?

Thank you to AILA New England Members who helped put this material together: Annelise Araujo, Madeline Cronin, Liz Goss, Eric Lockwood, Vince Lau, Bee Mandell, Eileen Morrison, Robin Nice, Robin O'Donoghue, Beata Weiss, Ed White, & Mi-Rang Yoon.



AMERICAN IMMIGRATION LAWYERS ASSOCIATION
AN AFFILIATED ORGANIZATION OF THE AMERICAN BAR ASSOCIATION

NEW ENGLAND CHAPTER
MAINE, MASSACHUSETTS, NEW HAMPSHIRE,
RHODE ISLAND, VERMONT

A. Possibly. If your employer intends to bring you back to work full-time and you are returned to full-time work, the sponsorship can continue.

Q. What if my position is eliminated?

A. No.

O & P VISAS:

Q: I am in O-1 or P status and my Petitioner has to cancel or postpone scheduled performances because of COVID-19. What can I do?

A. If the situation worsens and there is no clear start date for performances again, or the Petitioner decides they need to cancel altogether, the Petitioner must terminate the petition and offer to pay for return transportation home. Most airlines may not be operating flights to the home country, or the home country borders may be closed, but the Petitioner must make the offer in writing and document that the regulation was complied with.

For other regular changes or cancellations where the representation/employment relationship continues to exist, and there is a good faith argument that the relationship exists and cancellations were caused due to reason beyond the control of the Petitioner or the Beneficiary (i.e., *force majeure* argument), the reporting or amendment requirements are triggered necessarily, especially if just a few weeks.

Arts organizations are pivoting to on-line performances, video features about performers to whet interest in returning to the theater when it is possible, human interest features for a performing arts organization to keep subscribers close. Many performers are rescheduling projects, using this time to record, which requires them to remain in the US.

Q: I am interested in changing status to O or P when my OPT is expiring. What can we do about the uncertainty of future performances in the event of another wave of COVID-19?

A. Looking to filing new O-1/Ps or extensions during this time may prove difficult as it is public knowledge that most events/productions/tours are being cancelled in the short term so showing future non-speculative work may be difficult for the short-term, but easier for the long term?

Thank you to AILA New England Members who helped put this material together: Annelise Araujo, Madeline Cronin, Liz Goss, Eric Lockwood, Vince Lau, Bee Mandell, Eileen Morrison, Robin Nice, Robin O'Donoghue, Beata Weiss, Ed White, & Mi-Rang Yoon.



AMERICAN IMMIGRATION LAWYERS ASSOCIATION
AN AFFILIATED ORGANIZATION OF THE AMERICAN BAR ASSOCIATION

NEW ENGLAND CHAPTER
MAINE, MASSACHUSETTS, NEW HAMPSHIRE,
RHODE ISLAND, VERMONT

You may insert the following language on the itinerary: *Itinerary dates and locations are subject to change in light of COVID 19. These are actual events at which the beneficiary(ies) will perform once travel restrictions are lifted.*

You may still receive a request for evidence, but at least you've put it out there.

Q: What if my performances are all cancelled and my employer has laid me off or terminated my contract?

A. You have a grace period of up to 60 consecutive days, or until the end of the authorized period of stay on the I-94, whichever is shorter, once during each authorized validity period. If you do not wish to depart or are unable to depart, you could file for a change of status to another category, such as B-2 tourist or B-1 visitor for business if eligible. USCIS will want proof you are able to support yourself during the requested period without resorting to unauthorized employment.

TN VISA:

Temporary Remote Work

Q. My employer temporarily closed the physical work location due to COVID-19. As a result, I am now working from home rather than reporting to the office. Is my TN status still valid?

A. Yes. The TN status, while employer specific, is not specific to work location. So long as you continue to do what you and your employer indicated that you would be doing in your TN application, you may remain working in the U.S.

Reduction in Work Hours

Q. My employer reduced my work hours from full-time to part time. Is my TN status still valid?

A. The TN status is not governed by a specific number of hours. Instead, the TN's focus is on your duties. So long as your duties are consistent with what was set forth in the application, then you may remain in your TN status.

Reduction in Salary

Q. My employer reduced my compensation due to company-wide wage adjustment but I am expected to work my usual hours. Is my TN status still valid?

Thank you to AILA New England Members who helped put this material together: Annelise Araujo, Madeline Cronin, Liz Goss, Eric Lockwood, Vince Lau, Bee Mandell, Eileen Morrison, Robin Nice, Robin O'Donoghue, Beata Weiss, Ed White, & Mi-Rang Yoon.



AMERICAN IMMIGRATION LAWYERS ASSOCIATION
AN AFFILIATED ORGANIZATION OF THE AMERICAN BAR ASSOCIATION

NEW ENGLAND CHAPTER
MAINE, MASSACHUSETTS, NEW HAMPSHIRE,
RHODE ISLAND, VERMONT

A. The TN classification/status does not carry a wage requirement. As a result, so long as you continue to perform the duties of set forth in your TN application, you are maintaining your status in the United States.

Furloughs

Q. I was furloughed due to COVID-19. Is my TN status still valid?

A. In order for you to maintain your TN status, you must continue to have the employer-employee relationship envisioned in your TN application. As a result, if your employer still considers you an “employee” under the furlough scenario, then you are most likely maintaining your TN status. If your employer does not consider you an “employee” then you should see the response below regarding a termination.

Termination

Q. My employment was terminated. Can I stay in the US?

A. Once your employment terminates, you will no longer be in valid status but you may be eligible to remain in the United States for up to the shorter of (a) sixty days after your termination or (b) the expiration of your I-94. During this “grace period” you can apply to change to another nonimmigrant status.

H2B VISA:

Q. I am in H-2B status, and I expect that I will be terminated from my employment soon. Do I have a grace period to stay in the U.S.?

A. H-2B workers may remain in the United States 10 days beyond the expiration date of the approved H-2B petition to prepare for departure or to seek an extension or change of nonimmigrant status. H-2B workers may file a request to change even if their status has expired or if they are no longer maintaining status due to termination, by requesting discretion by USCIS. USCIS may approve a late filed request to change status, based on facts and extenuating circumstances presented. The H-2B worker’s request must explain and document that: (1) the late filing is the result of extraordinary circumstances beyond the control of the H-2B worker and the delay is commensurate with the circumstances; (2) the H-2B worker has not otherwise violated her/his nonimmigrant status; (3) the H-2B worker remains a bona fide nonimmigrant and has a residence in foreign country; and (4) the H-2B

Thank you to AILA New England Members who helped put this material together: Annelise Araujo, Madeline Cronin, Liz Goss, Eric Lockwood, Vince Lau, Bee Mandell, Eileen Morrison, Robin Nice, Robin O’Donoghue, Beata Weiss, Ed White, & Mi-Rang Yoon.



AMERICAN IMMIGRATION LAWYERS ASSOCIATION
AN AFFILIATED ORGANIZATION OF THE AMERICAN BAR ASSOCIATION

NEW ENGLAND CHAPTER
MAINE, MASSACHUSETTS, NEW HAMPSHIRE,
RHODE ISLAND, VERMONT

worker is not subject to deportation or removal proceedings. Covid-19 could be considered an extraordinary circumstance depending on the timing and reasons for the termination.

Q. If terminated from my current H-2B employment, can I find a new job and extend my stay?

A. Only an employer can file to extend an H-2B worker's status for new employment and that would require a previously approved underlying Temporary Labor Certification along with a filing at USCIS. For certain petitions filed on or after March 1, 2020 that remain pending as of May 14, 2020, H-2B employment that is "labor essential to the U.S food supply chain" may commence upon receipt of the filing at USCIS and used for up to 60 days.

Q. What obligations does my H-2B employer have to me if I am terminated before the full period of my authorized stay?

A. The H-2B employer must pay for the return transportation and daily subsistence if the H-2B worker has no immediate subsequent H-2B employment for any worker dismissed from employment for any reason before the end of that period.

I-751 PETITION:

Q. When should I file my I-751 petition?

A. If filing jointly with spouse, the I-751 should can be filed within the 3 months prior to the expiration of the conditional residence. If the I-751 is not filed prior to the expiration a explanation for the delayed filing will have to be provided.

If filing the I-751 with a request that the joint filing requirement be waived you may file this petition at any time after you are granted conditional resident status and before you are removed from the United States.

Q. Can I work and/or travel if my resident card (green card) is expired but I filed my I-751 petition?

A. Yes, the receipt notice for the I-751 will automatically extend the conditional residence by 18 months. With that receipt notice you may work, travel and renew your driver's license.

Thank you to AILA New England Members who helped put this material together: Annelise Araujo, Madeline Cronin, Liz Goss, Eric Lockwood, Vince Lau, Bee Mandell, Eileen Morrison, Robin Nice, Robin O'Donoghue, Beata Weiss, Ed White, & Mi-Rang Yoon.



AMERICAN IMMIGRATION LAWYERS ASSOCIATION
AN AFFILIATED ORGANIZATION OF THE AMERICAN BAR ASSOCIATION

NEW ENGLAND CHAPTER
MAINE, MASSACHUSETTS, NEW HAMPSHIRE,
RHODE ISLAND, VERMONT

If my application is still pending after 18 months how to I prove I am a resident? You may obtain an appointment at the local USCIS office to obtain a stamp on your valid passport (a I-551 stamp) which is prove of residency and permits you to travel and renew your driver's license.

Q. What can I do if I am no longer with my spouse?

A. You may still file and I-751 petition if:

- You entered in a good faith marriage, but you are divorced, or your marriage was annulled
- You entered the marriage in good faith, but you have been battered or subject to extreme cruelty by your petitioning spouse or
- Your conditional resident parent entered the marriage in good faith, but you have been battered or subject to extreme cruelty by your parent's petitioning spouse or by your conditional resident parent.
- The termination of your status and removal from the United States would result in extreme hardship.

Q. Will I be interviewed again by immigration?

A. USCIS has the discretion to interview I-751 applicants. Generally, if you are not filing with your spouse USCIS will interview you. When filing jointly with your spouse you are less likely to be interviewed again. Always include as much evidence of the relationship as you have as this will make it more likely that USCIS does not schedule an interview.

Q. What happens if I don't file and I-751 petition?

A. Your conditional residence will be terminated, and you will be put in removal proceedings.

Q. What happens if my I-751 petition is denied?

A. You will be put in removal proceedings and will have the Immigration Judge will be able to review your I-751 application again and may approve it after a hearing.

Q. Can I apply for citizenship if my I-751 petition has not been approved yet?

A. Yes, you can if you filed the I-751 petition jointly with your spouse. You may submit a N400 (naturalization application) if you are still married and living in marital union with your spouse. Your I-751 petition and your N400 will be processed at the same interview at

Thank you to AILA New England Members who helped put this material together: Annelise Araujo, Madeline Cronin, Liz Goss, Eric Lockwood, Vince Lau, Bee Mandell, Eileen Morrison, Robin Nice, Robin O'Donoghue, Beata Weiss, Ed White, & Mi-Rang Yoon.



AMERICAN IMMIGRATION LAWYERS ASSOCIATION
AN AFFILIATED ORGANIZATION OF THE AMERICAN BAR ASSOCIATION

NEW ENGLAND CHAPTER
MAINE, MASSACHUSETTS, NEW HAMPSHIRE,
RHODE ISLAND, VERMONT

your local USCIS office. You should inform the local office that will conduct your citizenship interview that you also have an I-751 pending.

F1 STUDENT VISA

Q. I am in F-1 student status and I completed my program, how long may I remain in the US?

A. You may have a grace period of up to 60 consecutive days from the date of graduation or completion of OPT/STEM/OPT which ever is later. However, the grace period does not apply to students who have not fulfilled the employment requirements for OPT/STEM OPT.

Q. Can extend my stay in the US at the completion of my F-1 program beyond the grace period?

A. Yes, you can file for a change of status in the US to another non-immigrant status as long as you are in status at the time of filing the new petition and are eligible for the new status on the date you file.

Q. What is the effect of a lay off or furlough on my OPT/STEM OPT?

A. Students on 12-month post-completion OPT may not accrue more than 90 days of unemployment throughout the first 12 month period. Students approved for the 24-month STEM OPT extension may not accrue more than a total of **150 days** of unemployment throughout their entire 36 months on OPT.

Q. What happens if I am out of work more than 90/150 days?

A. An F-1 student who exceeds the allowable periods of unemployment is out of status and must seek reinstatement in order to use any remaining periods of available post-completion OPT or STEM OPT. Alternatively, an F-1 student may change status before the 90/150 day triggering event occurs

Q. What if I find a job before the 90 or 150 days of unemployment?

A. F-1 students may use their current EAD and do not need to apply for another one when they find a new job, so long as they have not fallen out of status by exceeding the allowable periods of unemployment, or have not otherwise violated their F-1 status.

Thank you to AILA New England Members who helped put this material together: Annelise Araujo, Madeline Cronin, Liz Goss, Eric Lockwood, Vince Lau, Bee Mandell, Eileen Morrison, Robin Nice, Robin O'Donoghue, Beata Weiss, Ed White, & Mi-Rang Yoon.



AMERICAN IMMIGRATION LAWYERS ASSOCIATION
AN AFFILIATED ORGANIZATION OF THE AMERICAN BAR ASSOCIATION

NEW ENGLAND CHAPTER
MAINE, MASSACHUSETTS, NEW HAMPSHIRE,
RHODE ISLAND, VERMONT

NOTE: Students should consult with their International Student Advisory/Designated School Official (DSO) if they have any additional questions or concerns about their status.

J-1 EXCHANGE VISITORS:

Q. My J-1 Program is scheduled to end and I have been unable to arrange for return transportation to my home country, what are my options?

A. The DOS has recognized the difficulty in travel posed by the closure of international borders and has authorized a one-time 60 day extension of status for J-1 exchange visitors in five (5) categories who have been unable to return home due to COVID-19 related travel restrictions. This extension is available for J-1s in the Au pair, Intern, Summer Work Travel, and Trainee categories whose programs end between May 31 and July 31, 2020. This extension request must be submitted by the relevant J-1 sponsor and if approved, will allow the continuation of the J-1 program until the J-1 exchange visitor can be safely returned to their home country. J-1s whose programs are ending and have been unable to make arrangements to return home should communicate with their J-1 sponsor and Consul of their home country Embassy as soon as possible about such issues, to determine if the 60 day extension may be available.

Q. I am a J-1 au pair in the U.S. and am already serving in my second year of J-1 status with a family. They are seeking to keep me in the U.S. for an additional period due to their child care needs arising from COVID-19. However this request would be beyond maximum period permitted for J-1s? Is this possible?

A. The Department of State has recognized that families are facing particular child care needs due to COVID-19 related school and camp closures. The DOS is permitting J-1 au pair sponsors to authorize a 6 month extension of status for J-1 au pairs in their second year of J-1 status in certain circumstances. The revised end dates cannot be more than 6 months after the au pairs current J-1 program end date, and all such requests must be submitted by the J-1 program sponsors to DesignationAuPair@state.gov by **June 30, 2020**. To determine whether such an extension may be viable, J-1s should communicate with their J-1 sponsor as soon as possible.

Q. I have additional questions about my J-1 program, where can I find the most up-to-date information about my J-1 situation and options?

Thank you to AILA New England Members who helped put this material together: Annelise Araujo, Madeline Cronin, Liz Goss, Eric Lockwood, Vince Lau, Bee Mandell, Eileen Morrison, Robin Nice, Robin O'Donoghue, Beata Weiss, Ed White, & Mi-Rang Yoon.



AMERICAN IMMIGRATION LAWYERS ASSOCIATION
AN AFFILIATED ORGANIZATION OF THE AMERICAN BAR ASSOCIATION

NEW ENGLAND CHAPTER
MAINE, MASSACHUSETTS, NEW HAMPSHIRE,
RHODE ISLAND, VERMONT

A. Each J-1 category has distinct requirements and conditions. As such, it is important to communicate with your J-1 sponsor as well as the Consul from your country's embassy with questions about any ongoing, new or prospective J-1 program. Additional advisories and updates from the Department of State can be found at <https://j1visa.state.gov/covid-19/>

GRACE PERIODS:

Q. I am in H-1B (or E-1, E-2, E-3, H-1B1, L-1, O-1 or TN) status, and I expect that I will be terminated from my employment soon. Do I have a grace period to stay in the U.S.? May I work during that time? What if I find a new potential employer to file a petition to employ me?

A. You may have a grace period of up to 60 consecutive days or until the end of the authorized validity period, whichever is shorter, once during each authorized validity period. Your authorized validity period is generally the end date listed on the last I-94 record issued to you, either by Customs and Border Protection (CBP) upon an entry into the U.S. or the end date listed on the I-94 card tear-off portion of the last Form I-797 approval notice in connection with your employment, whichever occurred last. You can find your CBP issued I-94 record at cbp.gov. Note that the Department of Homeland Security (DHS) may eliminate or shorten this 60-day period in its discretion. Unless you are otherwise authorized to work, you will not be authorized to work during the grace period. However, during the grace period, a new employer may apply for and have granted on your behalf an extension of stay. Alternatively, you may be able to successfully apply to change your status to another category (e.g., tourist or student) if otherwise eligible.

Q. What is the 10-day grace period I have heard about?

A. E-1, E-2, E-3, H-1B, L-1 and TN workers may be granted 10-day grace period at the start and end of the approval's validity period. When granted at the end of a validity period, the I-94 record will show a status expiration date that is 10 days after the end date of the underlying petition's validity. Unless you are otherwise authorized to work, you will not be authorized to work during this grace period. However, during the grace period, a new employer may apply for and have granted an extension of your stay. Alternatively, you may be able to successfully apply to change your status to another category (e.g., tourist or student) if otherwise eligible.

Q. What if I have used up all grace periods? May a new employer still file to extend or change my status or may I still apply to change my status?

Thank you to AILA New England Members who helped put this material together: Annelise Araujo, Madeline Cronin, Liz Goss, Eric Lockwood, Vince Lau, Bee Mandell, Eileen Morrison, Robin Nice, Robin O'Donoghue, Beata Weiss, Ed White, & Mi-Rang Yoon.



AMERICAN IMMIGRATION LAWYERS ASSOCIATION
AN AFFILIATED ORGANIZATION OF THE AMERICAN BAR ASSOCIATION

NEW ENGLAND CHAPTER
MAINE, MASSACHUSETTS, NEW HAMPSHIRE,
RHODE ISLAND, VERMONT

A. USCIS has the discretion to accept late filings based on extraordinary circumstances. However, filing a petition to extend or change your status after any grace period expires carries serious risks. You should seek the advice of an immigration attorney before filing such a petition or otherwise remaining in the U.S. after any grace periods have expired, regardless of whether any petition to extend or change your status has expired.

UNEMPLOYMENT BENEFITS:

Q. Am I eligible for unemployment insurance?

A. If you're a non-U.S. citizen filing for unemployment benefits, the Massachusetts Department of Unemployment Assistance (DUA) must verify that you are legally authorized to work in the United States. This is required by the Immigration Reform and Control Act of 1986. Your legal authorization to work will be verified through a computer match with the U.S. Citizenship and Immigration Services (USCIS). Therefore, the information received from the USCIS may affect your eligibility for unemployment benefits. Please see this link for more information: <https://www.mass.gov/service-details/filing-for-unemployment-benefits-as-a-non-us-citizen>

We hope you find these "Frequently Asked Questions" useful. This document is written based on the policy and regulations in effect as of May 2020. The ever increasing complicated rules and policy changes regarding immigration law make it more important than ever for individuals to obtain legal advice to protect their status and rights. Please feel free to reach out to AILA New England for further information, including our directory of members: <https://www.aila.org/member-directory>

Yours Truly,

Mahsa Khanbabai, Esq.
Chair, AILA New England

Thank you to AILA New England Members who helped put this material together: Annelise Araujo, Madeline Cronin, Liz Goss, Eric Lockwood, Vince Lau, Bee Mandell, Eileen Morrison, Robin Nice, Robin O'Donoghue, Beata Weiss, Ed White, & Mi-Rang Yoon.