

Morgan Lewis

memorandum

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**Travel Fact Sheet for
Nonimmigrants and AOS Applicants**

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Obtaining an Initial Nonimmigrant Visa Stamp

You must apply for, and obtain, a visa stamp at a U.S. Consulate before entering the United States.* Please refer to the Department of State website at <http://usembassy.state.gov/> for the appropriate consular information. Please make sure that you understand the visa application procedures and requirements before applying for your visa.

Visa applications are now subject to greater scrutiny than in the past. For many applicants, an in-person consular interview is required. Additionally, applicants may learn at the interview that their application requires additional security screening, which may delay visa issuance from a few days to several weeks. According to the Department of State, the time needed for adjudication of individual cases will continue to be difficult to predict. For travelers, the need for an interview will mean that additional coordination with the embassy or consulate is needed to schedule an interview appointment. The Department of State recommends that individuals build in ample time before their planned travel date when seeking to obtain a visa.

Information regarding fees. There is a nonrefundable U.S.\$100 fee for the machine-readable visa. All visa applicants, including children, are required to pay this fee. In addition, depending upon the country of origin's reciprocity agreement with the United States, there may be a further application fee. Please refer to the appropriate U.S. Consulate website to determine if there are any additional fees.

*You must schedule your visa appointment with a consular officer **before** going to the U.S. Consulate.*

Your nonimmigrant visa application will consist of the following:

1. **Original, unexpired passport.** An original, unexpired passport with at least six months of remaining validity is required for you and any family member(s).
2. **Form I-797, Approval Notice.** The original approval notice must be presented at the U.S. Consulate when applying for your visa.
3. **Form DS-156, Nonimmigrant Visa Application with Photograph.** An electronic version of this form can be downloaded from the appropriate U.S. Consulate's website at <http://usembassy.state.gov/>. Please complete and sign this form. Please note a separate form with attached photograph is required for each family member applying with you.

You should **glue or staple** a recent (taken within the last six months) unmounted full-face passport-sized photograph (2 inches or 5 cm square) to page two of the completed Form DS-156. The photograph may be in color or black and white, with a white or off-white background.

4. **Form DS-157, Supplemental Nonimmigrant Visa Application.** A completed form is required for all men between the ages of 16 and 45. In addition, some U.S. Consulates require this form for other applicants, including men above the age of 45 and women. Therefore, please look to the appropriate U.S. Consulate's website to determine if the form is required.
5. **Copy of petition.** Only submit the copy of the petition if requested to do so by the consular officer.

* Although Canadian citizens do not require a visa to enter the U.S., they must obtain appropriate work authorization before entering.

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6. **Supporting documents required for any family member(s) applying with you.** If any family member(s) will be applying with you, please submit the following documents (in addition to the required forms, photographs, and fees), as applicable:
- Copy of marriage certificate, with certified translation if not in English.
 - Copy of birth certificate for each child, with certified translation if not in English.

United States Visitor and Immigrant Status Indicator Technology (US-VISIT)

US-VISIT is part of a range of security measures required of most nonimmigrant visa holders that begins when applying for a visa at a U.S. consulate abroad and continues through entries and exits to and from the United States. US-VISIT collects biographic information and biometric identifiers (digital fingerscans and photographs) on certain foreign nationals arriving and exiting the United States to determine whether an individual is eligible to enter the United States. Upon presentation of your passport and travel documentation to the Customs and Border Patrol (CBP) officer at the port of entry, a digital fingerscan and photograph will be taken. The process takes less than thirty seconds. The system also requires that you “exit” at a self-service kiosk at any airport that has such a self-service kiosk. Please visit the Department of Homeland Security website at <http://www.dhs.gov/us-visit> for more information regarding the US-Visit program.

Future Travel

If you wish to leave the United States for anything other than a visit of fewer than 30 days to Canada or Mexico, **you must have a valid visa stamp in your passport evidencing your current nonimmigrant status in order to return to the United States. Please verify the validity of your visa before you make any international travel plans.** (Please note that Canadian citizens do not require a visa in order to enter the United States from abroad.) In addition to a valid visa stamp, you will need to carry your original approval notice and unexpired passport (must be valid for at least six months). We also recommend that you carry a copy of your petition and two most recent pay stubs, although you should submit these items to the U.S. Customs & Border Protection (CBP) officer **only if specifically requested to do so.**

If you are currently in a period of authorized postcompletion Optional Practical Training (OPT), you may only travel if you (1) have a valid F-1 visa stamp in your passport, (2) can present a valid Employment Authorization Document, (3) have a recently endorsed Form I-20, and (4) have never violated your visa status.

In addition, please check with your International Student Office to verify that your SEVIS record is still open. Applying for a new F-1 visa at a consulate while on OPT can be problematic and we counsel against your doing so. Travel only if you already have a valid F-1 visa stamp that will not expire prior to your return to the United States.

Please be advised that except for trips of fewer than 30 days to Canada or Mexico, you will be required to turn-in your Form I-94 before departing the United States and will be issued a new one upon your return.

Upon inspection at the port of entry, a CBP officer will note on your Form I-94 your visa classification and the length of time you are permitted to remain in the United States. It is very important that the notation on your Form I-94 reflects the correct visa classification and duration indicated on your approval notice. In the unlikely event that the officer indicates the wrong classification or gives you a shorter period of stay, you should point this out and state that it is your understanding that you are eligible to be admitted to the United States for the duration of the

approval notice and ask the officer to correct your Form I-94. If the officer refuses to correct the Form I-94, you should accept it "as is" and contact us. If you should encounter any other problems during the inspection process at the U.S. port of entry, please make every effort to obtain the officer's name and call us from the airport so that we may intervene on your behalf.

Please remember that your nonimmigrant status is determined by the expiration date on your Form I-94, NOT the expiration date of the visa stamp in your passport. Staying beyond the expiration date indicated on your Form I-94 could result in severe penalties.

Obtaining Subsequent Visas at a U.S. Consulate

If you leave the United States for anything other than a visit of fewer than 30 days to Canada or Mexico, **you must have a valid visa stamp in your passport evidencing your current nonimmigrant status in order to reenter the United States.** You may apply for a visa either at a U.S. Consulate in your home country, or as a "third-country national" at a U.S. Consulate in Canada or Mexico. Individuals who have previously entered the United States in nonimmigrant status and remained in the United States beyond the expiration date indicated on their I-94 cards may only apply at a U.S. Consulate in their home country.

For information on applying for a visa at the U.S. Consulate in your home country, please visit the correct consular website through www.usembassy.gov. If you prefer to process in Canada or Mexico, you must schedule an appointment in advance. For Canadian appointments, visit www.nvars.com. For appointments at a U.S. Consulate in Mexico, either visit the consulate website or schedule an appointment through www.visa-usa.com.mx.

For third-country national appointments in Canada or Mexico, if the U.S. Consulate refuses to issue your visa, you will not be eligible to reenter the United States, and will need to return to your home country to apply for a visa. If you choose to go to Canada or Mexico, you will need to comply with the respective country's visa requirements for entry. Please make sure that you understand the visa application procedures and requirements before applying for your visa, and contact our office with any questions.

For information on the fees and documents required for your visa application, please refer to pages 1&2.

Individuals with Pending Adjustment of Status Applications

If you depart the United States while your Form I-485, Adjustment of Status Application, is pending, you must present a valid passport and the original, unexpired Advance Parole (AP) documents to a CBP officer in order to reenter the United States. Please note that when you enter the United States for the first time using Advance Parole, the officer will keep one copy and return the other to you. The AP is valid for one year and multiple entries.

Individuals in H or L nonimmigrant status may choose to reenter the United States either in H or L status or as a parolee as long as they hold a valid H or L nonimmigrant visa AND the principal beneficiary will resume authorized employment with the petitioner. Please note that if you present the AP document at the port of entry, you will enter the United States as a parolee, not as a nonimmigrant. However, this does not preclude you from extending your H or L status, if eligible. Individuals in H-4 status who have used an EAD card to work should reenter the U.S. using Advance Parole. If you are not in H or L status, you may not return to the United States without Advance Parole.