

NRI Helpdesk: What are the risks involved in renewing F1 visa in another country?

Synopsis

For our NRI readers, we have started an immigration helpdesk. Write to us at nri.economictimes@gmail.com and our team of experts will address the most pressing issues.



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With immigration rules constantly changing, it is difficult to keep up to date with it all.

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**Please note that questions have been edited and/or clubbed so that we can address similar queries at once and that the answers are clear and relevant to our audience.*

I entered the US on [Advance Parole](#) (EB3 EAD). I have a valid H-1B approval (I-797A) till 2024. I have approved EB2 I-140 I also have RFE on my EB3 I-140 (EAD and AP received on EB3 filing).

- **How can I get back on H-1B status without going for stamping?**
- **Can I interfile my EB3 485 to EB2 485 with pending EB3 I-140**

Since you have already entered the US and resumed the same job that you held when you traveled, you are still considered to be on H-1B. There is nothing to get back to; you are already on H-1B. In my view, the fact that you have an RFE pending on the petition that formed the basis of your Advance Parole should not be significant. The AP was valid

when used.

Yes, you can. Although you have traveled on advance parole, you should be able to file EB-2 interfiling. The [USCIS](#) has clarified that in some conversations.

As per their I-94, my parents are admitted until 3rd August 2022 for their B2 visa. We have just sent their I-130/I-485 documents to USCIS.

- **What happens if there is no receipt generated till 7th August? Do parents have to leave the country?**
- **If a receipt is generated after they have left the country, what happens to the GC process?**
- **If a receipt is generated in time, then what is the process to extend their stay, or are they automatically eligible to stay till the GC process is completed?**

Your obligation is complete when the USCIS physically receives your papers with the proper filing fees. After that, if they delay in creating the receipt, it's really not your problem, as long as you can show that the papers were sent and received by the USCIS.

The answer is there is a partial failure. Let's say that they did leave, then their I-130 would still go on, but their I-485 would be abandoned, and you would have to convert the case to consular processing.

They are automatically eligible to stay because once their I-485 is timely filed, they are considered to be in an authorized period of stay. They cannot be considered illegal as long as the I-485 is pending.

I have the following questions regarding the PERM (labor certification) process:

- **Does it make a PERM and [Green Card](#) case stronger if a job has high minimum job requirements? If the requirements are very high, it could be easy to prove that no qualified and willing US worker is available for the job.**
- **If a job has very low minimum job requirements, like only a bachelor's degree, does that make a PERM and GC case weaker? Because if the requirements are very low, it could be hard to prove that no qualified and willing US worker is available for the job.**

Yes, of course. It is difficult to find US workers for more complex jobs. But, the employer is REQUIRED to determine their minimally acceptable qualifications for the offered PERM job. These papers are submitted under a penalty of perjury, which is a serious crime (felony).

Yes. For many jobs, basic requirements make it more difficult to get the PERM case approved. Your HR would be a good source for information about the minimal requirements. Hence, in principle, what you are saying is absolutely correct, but also remember that these papers are filed under penalty of perjury, so one has to be meticulously truthful.

I have been in the U.S since 2017, and my F1 visa expires this month due to the 5 year validity period.

- **I graduate in November 2022, so is there any risk in renewing my visa this summer? Is there a chance of rejection?**
- **What is the risk involved in renewing my F1 visa in another country besides my country of citizenship? I lived my whole life as a resident in another country without citizenship but am no longer a resident there, so I was wondering if renewing the in the old country of residence is possible?**
- **Is renewing an F1 visa necessary for [OPT](#)? I believe it's not necessary. Is renewing an F1 visa necessary to apply for an H-1B and Green card?**

First of all, unless you are traveling, you do not have to renew your visa. If the visa expires while you're still completing your course, it's absolutely no problem.

Technically, once your F-1 has been granted, the US consulate in any country should be able to renew it.

As long as you have been maintaining your status, an F-1 visa renewal is not necessary for OPT or a change of status to H-1B.

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