

DREAM LAW

NEWSLETTER



DREAM LAW
법무법인 드림



Season's Greetings

Thank you for all your support and trust in 2021. We will continue to do our best to provide personalized and attentive legal services to achieve your immigration goals. It has been another challenging year with the coronavirus, but we hope that you continue to stay safe and healthy, and all your wishes and dreams to come true in the new year.

- Agnes Kim and members of Dream Law

TAKE A LOOK INSIDE

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- NATURALIZATION *Process and Eligibility Criteria*
- CHANGE OF ADDRESS *Filing Form AR-11 Online*
- REMOVAL OF CONDITIONS *Marriage-Based Green Card*
- USCIS Update on H & E Spouse EAD and Automatic Extension

CONTACT

505 E Golf Rd Ste H
Arlington Heights, IL 60005

www.dream-law.com

Tel. 847-357-1358

General Inquiry:

imin@dream-law.com

NIW Evaluation:

eval@dream-law.com

Current Boarding Policy

Boarding Policy for Lawful Permanent Residents

- **Unexpired Valid Permanent Resident Card:** Passengers with valid and unexpired Permanent Resident Card (Green Card) may board without any additional documents.
- **Re-Entry Permit (I-327):** Passengers with valid and unexpired re-entry permit may board without additional documents. *Must be original Re-Entry permit.
- **Expired Permanent Resident Cards:** LPRs with expired I-551 may board without penalty if the card was issued with a 10-year expiration date. Green Cards with extension sticker will remain valid until the expiration date. You must take original I-797 receipt notice of Form I-90. Conditional Resident with expired Green Card may board with I-797.
- **SB-1 Visa:** Travelers with SB-1 visa in their passport may board without additional documents.

Extended International Travel of Lawful Permanent Resident

- Absence from the US for **less than 180 days** → No presumption of abandonment
- Absence from the US for **more than 180 days, but less than 1 year** → There is a rebuttable presumption that you may have abandoned your status
- Absence from the US for **more than 1 year** → Automatic loss of LPR status unless appropriate steps were taken before departure to maintain status

CDC Order - Covid Testing Requirement for International Air Travel

The Centers for Diseases Control and Prevention (CDC) Order requires all non-immigrant, non-citizen air travelers to the U.S. to be fully vaccinated and to provide proof of vaccination status prior to boarding.

Starting December 6, 2021, all travelers 2 years of age or older boarding a flight from a foreign country to the U.S. must provide:

- Negative COVID-19 test 1 day before coming to the U.S.
- Documentation of recovery if you recently recovered from COVID-19 → Positive result on a sample taken no more than 90 days before the departure from foreign country and letter from a licensed healthcare provider or public health official stating that you can travel

Important Update

Starting November 29, the US will restrict travel from Botswana, Eswatini, Lesotho, Malawi, Mozambique, Namibia, South Africa, and Zimbabwe due to concerns over the new Omicron variant. These travel restrictions do not apply to US Citizens, LPRs, and certain other categories of travelers.

60-Day Rule for Civil Surgeon Signature Waived Temporarily

USCIS is temporarily waiving the requirement that the civil surgeon sign Form I-693, Report of Medical Examination and Vaccination Record, no more than 60 days before an applicant files an immigration application, until September 30, 2022. This temporary waiver will help applicants who have been affected by the COVID-19 pandemic and related processing delays, which may have caused delays in completing the medical examination by allowing applicants to complete the application process without the need to undergo another medical exam.

Applying for Citizenship

Eligible Lawful Permanent Residents may obtain U.S. citizenship by filing Form N-400, Application for Naturalization.

To be eligible to apply for citizenship, you must:

- Be at least 18 years old;
- Have been a permanent resident for at least 5 years (or 3 years if married to a U.S. citizen) without leaving the U.S. for trips of 6 months or longer;
- Have physical presence in the U.S. for at least half of the 5 year period (or 3 year period), and have continuous residence in the state you live in for at least 3 months prior to filing;
- Demonstrate "good moral character";
- Be able to read, write, and speak basic English; and
- Demonstrate knowledge of U.S. history and government.

You can apply for naturalization 90 days before your permanent residence requirement. Even if your green card is expired, and you have not renewed the card, you can still apply.

Applicants are required to take the naturalization test to demonstrate that you are able to read, write, and speak basic English (English Language Test) and that you have basic knowledge of U.S. history and government (Civics Test).

You are not required to take the English Language Test if:

- You are 50 or older at the time of filing and have lived in the U.S. as a permanent resident for at least 20 years
- You are 55 or older at the time of filing and have lived in the U.S. as a permanent resident for at least 15 years
- If you are 65 or older at the time of filing and have lived in the U.S. as a permanent resident for at least 20 years, you will be given special consideration regarding the civics requirement
- Applicants who qualify may take the civics test in their native language but must bring an interpreter to their interview
- You may be eligible for an exception to the English and civics test if you have a physical or developmental disability or a mental impairment. You must submit N-648.

Change of Address

All aliens in the U.S. are required to report any change of address or new address within 10 days of their move.

If you are a U.S. citizen and have a pending case, you should also update your address with the USCIS.

U.S. citizens who have submitted an affidavit of support for another person must submit [Form I-865](#), Sponsor's Notice of Change of Address, within 30 days of move.

You can update your address by filing Form AR-11, Alien's Change of Address Card, [online](#). Filing AR-11 online will update your address on all pending applications, petitions, or requests that you include on the form.

It's important to update your address with the USCIS to ensure you receive all correspondence and benefits from the USCIS in a timely manner and avoid possible delays related to your case.

Changing your address with the U.S. Postal Service does not change your address with the USCIS.

Practice Highlight

National Interest Waiver (NIW)

NIW (National Interest Waiver) is to waive the sponsorship and labor certification requirements for Employment-based 2nd preference applicants who are deemed to bring national benefits to the U.S.

To apply for NIW, applicants must prove they possess an advanced degree (master's or higher) and exceptional achievements by submission of published articles, books, patents, or awards.

Accurate analysis based on precedents and experience and strategic documentation of the applicant's achievements are essential in NIW case preparation, as the results can vary depending on how the case is presented. If you would like a NIW evaluation, please forward your curricula vitae to eval@dream-law.com.

Removal of Conditions on Marriage-Based Green Card

If your permanent resident status is based on a marriage that was less than 2 years old when you became a permanent resident, your permanent resident status is conditional. A conditional permanent resident receives a Green Card that is only valid for 2 years. To remove the conditions, you must file Form I-751, Petition to Remove Conditions on Residence, within 90-day period before your conditional Green Card expires. If not, you will lose your permanent resident status and become removable from the US. If you missed your deadline and are filing late, you will need a written explanation on why you failed to file during the time period along with the petition.

Once you file the petition and receive the receipt notice, your status will receive an 18-month extension period while your petition is being reviewed.

Because the purpose of the conditional 2-year period is to identify marriage fraud, you need to submit documentary evidence of the bona fide marriage. Supporting documents may include children, shared financial resources, joint lease, joint insurance, joint trips, and photographs. You can also submit letters, cards, texts, and affidavits from other people who know both you and your spouse affirming that your marriage is genuine.

Form I-751 must be filed jointly by you and your spouse. If you are getting divorced or no longer together, you can request for obtaining a waiver of the joint filing requirement.

In cases of complex removal of conditions due to divorce, separation, or death of a spouse, consultation with an experienced immigration attorney prior to submission of I-751, Petition to Remove conditions on Permanent Residence, is highly recommended.

Employment Authorization for H-4, E, and L Dependent Spouses

USCIS recently updated its policy guidance to provide automatic extension of employment authorization for certain H-4, E, and L dependent spouses and employment authorization of E and L dependent spouses. [This guidance](#) became effective on November 12, 2021.

H-4, E, or L dependent spouses will qualify for automatic extension of their existing employment authorization and accompanying EAD if they filed an application to renew their EAD before it expired, and they have an unexpired Form I-94 showing their status as H-4, E, or L nonimmigrant.

Accordingly, a document combination to include an unexpired Form I-94, Form I-797C (Notice of Action) showing a timely-filed EAD renewal application, and facially expired EAD may be acceptable to evidence unexpired employment authorization for Employment Eligibility Verification (Form I-9) purposes.

This guidance further provides that E and L dependent spouses are authorized for employment, and therefore they are no longer required to request employment authorization by filing Form I-765 but may continue to file it if they choose to receive an EAD.

FAQs

Q: I filed EAD renewal application but have not received a new EAD card yet. What should I do?

A: You may receive an extension of your EAD for up to 180 days if:

- You filed Form I-765 to renew employment authorization in a timely manner, before your EAD expires, and the I-765 application is pending;
- The eligibility category on the front of the EAD is the same eligibility category as on the Form I-797C (Notice of Action); and
- Your eligibility category is one of the following: A03, A05, A07, A08, A10, C08, C09, C10, C16, C20, C22, C24, A12 or C19. Certain employees who filed Form I-765 renewal application within categories A17, A18, and C26 are eligible for automatic extension.

For a list of categories eligible for automatic extension of employment authorization, visit the [USCIS I-765](#).

IMPORTANT DATES

- All Travelers Aged 2 and Older: COVID-19 test 1 day before coming to US, starting December 6, 2021
- Green Card Applicants: 60-day rule for doctor signature on I-693 waived until September 30, 2022
- Permanent Residents: Eligible to apply for citizenship 90 days before permanent residence requirement
- All Aliens: File AR-11 to change address within 10 days of your move
- Conditional Permanent Residents: File I-751 to remove conditions within 90-day period before your Green Card expires

USEFUL WEBSITES

[USCIS](#)

[Case Status Online](#)

[Case Processing Times](#)

[Civil Surgeon Search](#)

[Citizenship Study Material](#)

[Visa Bulletin](#)

[Korean Embassy Website](#)