

## Adjustment of Status Delays – Options for Work and Travel



# Immigration Blog

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A foreign national can convert his or her U.S. immigration status from a temporary nonimmigrant to a Lawful Permanent Resident (“green card holder”) through Adjustment of Status (“AOS”). For some people, it is far more convenient than having to leave the U.S. to visit a foreign embassy or consulate and wait for documents to be returned. Family members of U.S. citizens or green card holders can enjoy waiting for their status to be converted while living with or near family members.

Current processing times for AOS have increased to a range between 18 months and over three years. Without specific status or permission, applicants are unable to work or return to the U.S. after foreign travel. Suggestions follow for how to avoid such long periods of time without work or international travel.

### **Work Permission**

If an AOS applicant is in the U.S. in a work authorized status, he or she can continue to work pursuant to the visa or permit. Most nonimmigrant statuses are employer specific, so this may not permit employer changes without filings by the new employer. In an employment-based green card filing, once 180 days has passed from the AOS date of

filing, one can make an employer change as long as the position is substantially similar, and the requisite form is filled.

If an application for an Employment Authorization Document (“EAD”) is filed with an AOS application, it can take six to nine months. If the applicant or employer cannot wait, an expedite request can be filed. In order to be successful, such a request should demonstrate severe financial loss and that the applicant filed as early as possible and has responded to government requests for additional evidence; urgent humanitarian concerns; or, U.S. government interest. It may also be possible to expedite if the employer is a nonprofit and the request furthers the interest of the U.S. Lastly, an expedite request may be successful in the face of clear error by the U.S. government.

## **International Travel**

AOS applicants whose current temporary nonimmigrant status is H-1B (Specialty Occupation) or L-1 (Intracompany Transfer) and their dependents are fortunate not to have to obtain travel permission. Applicants in other states should file for travel permission at the time of AOS filing or as soon thereafter as possible. These travel permission applications are taking 12-16 months, which is a long time for an applicant to be stuck in the U.S.

It is possible to request an expedited travel permission. These require demonstration of the same factors as are required for an expedited work permit.

It is also possible to request permission for emergency travel, which is adjudicated at a local office. However, these are granted in limited circumstances for serious illness or death of a relative abroad. These have short periods of validity, and their use may cancel a pending regular travel permission application.

Both the expedited and emergency travel permission, called Advance Parole, must be applied for and approved prior to foreign travel for the AOS applicant to ensure re-entry to the U.S.

[The immigration attorneys at Lippes Mathias LLP](#) work with these applicant concerns regularly and are happy to assist foreign nationals who have concerns about their AOS, work permit or travel permission applications.

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