



Instructions for Application for Employment Authorization

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-765
OMB No. 1615-0040
Expires 09/30/2027

What Is the Purpose of Form I-765?

Certain foreign nationals who are in the United States may file Form I-765, Application for Employment Authorization, to request employment authorization and an Employment Authorization Document (EAD). Other foreign nationals whose immigration status authorizes them to work in the United States without restrictions may also use Form I-765 to apply to U.S. Citizenship and Immigration Services (USCIS) for an EAD that shows such authorization. Review the **Who May File Form I-765** section of these Instructions to determine whether you should use Form I-765.

Foreign nationals may also apply for a Social Security number and card on Form I-765 following the guidelines in the **Specific Instructions** section of these Instructions, **Part 4., Social Security Card Information, Item Numbers 1 - 5.**

If you are a lawful permanent resident, a conditional permanent resident, or a nonimmigrant only authorized for employment with a specific employer under 8 CFR 274a.12(b), do **not** use Form I-765.

Definition

Employment Authorization Document (EAD): The EAD is the card (Form I-766, or any successor document) issued as evidence that the holder is authorized to work in the United States.

Initial EAD: An EAD issued to an eligible applicant for the first time under a specific eligibility category.

Renewal EAD: An EAD issued to an eligible applicant after the expiration of a previous EAD issued under the same category.

Replacement EAD: An EAD issued to an eligible applicant when the previously issued EAD was lost, stolen, damaged, or contains errors, such as a misspelled name.

NOTE: For more information regarding employment authorization documents, visit <https://www.uscis.gov/green-card/green-card-processes-and-procedures/employment-authorization-document>.

Who May File Form I-765?

You may file Form I-765 if you fall within one of the eligibility categories below.

For some categories, employment authorization is granted with your underlying immigration status (called “incident to status” employment authorization). For example, asylees and refugees are authorized to work as soon as they obtain such status, but may nonetheless apply for an EAD if they want further proof of employment eligibility.

For other categories such as parolees or individuals with deferred action, USCIS must first approve your Form I-765 before you are eligible to accept employment in the United States. Once we approve your Form I-765, USCIS will issue your EAD.

You must type or print your eligibility category in **Part 3., Item Number 1.**, on Form I-765. Enter only one category number on the application. For example, if you are a refugee applying for an EAD, type or print “(a)(3)” in **Item Number 1.**

Please note that a person with a pending application for an immigration benefit or request might have a different category number than a person who was already granted the benefit or request. For example, a person with a pending asylum application may file an EAD application under category (c)(8); by contrast, the EAD category for a person already granted asylum is category (a)(5).

Asylee/Refugee Categories (and their Spouses and Children)

1. Refugee--(a)(3). If an initial Form I-765 was not already prepared for you before your arrival as a refugee in the United States, or if you are requesting to renew your EAD, file Form I-765 with a copy of one of the following:

- Your stamped Form I-94, Arrival-Departure Record;
- Your Final Notice of Eligibility for Resettlement (approval letter); or
- Your Form I-797 Notice approving your derivative refugee status based on a Form I-730, Refugee/Asylee Relative Petition (if approved while in the United States).

NOTE: If you were admitted as a refugee and have applied under the Immigration and Nationality Act (INA) section 209 to adjust to lawful permanent resident status using Form I-485, Application to Register Permanent Residence or Adjust Status, file Form I-765 under category (a)(3) as a refugee. Do not file Form I-765 under eligibility category (c)(9) as an INA section 245 adjustment applicant.

2. Paroled as a Refugee--(a)(4). File Form I-765 with a copy of your Form I-94, passport, or travel document. If you were **not paroled as a refugee**, do not file under (a)(4). Review the (c)(11) eligibility category to determine if you are eligible to file under that category.

3. Asylee (Granted Asylum)--(a)(5). File Form I-765 with a copy of one of the following:

- Your stamped Form I-94 indicating asylee status;
- A USCIS Asylum approval letter; an order granting asylum signed by an Executive Office for Immigration Review (EOIR) immigration judge (IJ); or
- A Form I-797 Notice approving your derivative asylee status based on a Form I-730 (if approved while in the United States).
- **NOTE:** If you are an asylee and have applied to adjust to lawful permanent resident status under INA section 209 using Form I-485, file Form I-765 under category (a)(5) as an asylee. Do not file Form I-765 under eligibility category (c)(9) as an INA section 245 adjustment applicant.

4. Granted Withholding of Deportation or Removal--(a)(10). File Form I-765 with a copy of the EOIR IJ's signed order granting withholding of deportation or removal.

5. Pending Asylum and Withholding of Removal Applicants and Applicants for Pending Asylum under the ABC Settlement Agreement--(c)(8). If you have a pending Form I-589, Application for Asylum and for Withholding of Removal, or you are awaiting further consideration of a pending asylum application under INA section 235(b)(1)(B)(ii) following a positive credible fear determination, refer to **Special Filing Instructions for Those With Pending Asylum Applications--(c)(8)** in the **Required Documentation** section of these Instructions.

6. Asylum and Withholding of Deportation Applicants (with a pending Form I-589) who filed BEFORE January 4, 1995 – (c)(8)

You may file Form I-765 at any time; however, we will only grant your employment authorization if we find that your asylum application is not frivolous. File Form I-765 with a copy of the following documents, where applicable:

- A.** Your date-stamped previously filed Form I-589;
- B.** If you filed your Form I-589 with the former Immigration and Naturalization Service (INS), an INS Acknowledgement of Receipt;
- C.** A USCIS Asylum Interview Notice (scheduling, re-scheduling, or cancelling your asylum interview);

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- D. Form I-797 Notice, Fingerprint Notification (for a fingerprint appointment for your Form I-589);
 - E. If you filed your Form I-589 in exclusion or deportation proceedings, evidence that your Form I-589 was filed with EOIR;
 - F. If you are currently in exclusion or deportation proceedings, a copy of Form I-221, Order to Show Cause and Notice of Hearing, or Form I-122, Notice to Applicant for Admission Detained for Hearing Before Immigration Judge; or
 - G. Evidence that your Form I-589 remains under administrative or judicial review.
7. **Asylum application under the ABC Settlement Agreement--(c)(8).** If you are a Salvadoran or Guatemalan national eligible for benefits under the ABC settlement agreement, *American Baptist Churches v. Thornburgh*, 760 F. Supp. 796 (N.D. Cal. 1991), you are entitled to an EAD under the ABC settlement.

Your Form I-765 will be decided within 60 days if:

1. You identify yourself as an ABC class member by selecting the box in **Part 3., Item Number 4.** of this application;
2. You pay the filing fee; and
3. You have a complete pending asylum application on file. You must have filed your asylum application (Form I-589) with us (former Immigration and Naturalization Service (INS) or USCIS) or with an EOIR IJ to receive an EAD. Therefore, submit evidence that you previously filed a complete asylum application when you submit Form I-765. You are not required to submit this evidence when you apply, but it will help us process your request more efficiently.

Nationality Categories

1. **Citizen of Micronesia, the Marshall Islands, or Palau--(a)(8).** File Form I-765 with evidence you were admitted to the United States as a citizen of the Federated States of Micronesia (CFA/FSM), the Marshall Islands (CFA/MIS), or Palau under agreements between the United States and the former trust territories.
2. **Deferred Enforced Departure (DED)--(a)(11).** File Form I-765 with evidence of your identity and nationality. If you are without nationality, submit evidence of your residence in the last country in which you habitually resided. You should also state your basis for claiming that you are covered by DED and provide evidence (if available) for your claim.
3. **Temporary Protected Status (TPS)--(a)(12) and (c)(19).** File Form I-765 with your Form I-821, Application for Temporary Protected Status, or evidence that we received or approved your initial or re-registration Form I-821. Include evidence of your nationality and identity as required by the Form I-821 Instructions. If an EOIR IJ or the Board of Immigration Appeals (BIA) granted you TPS, and you are requesting your first EAD or are re-registering for the first time, you must submit a copy of the EOIR IJ or BIA order that granting you TPS with your Form I-765 (such as a copy of your Form I-821 that the EOIR IJ or BIA approved). You must also follow the instructions for filing your application as described in the most recent TPS Federal Register notice regarding a TPS designation, new designation (formerly called “re-designation”), or extension for your country. Please check the USCIS website at www.uscis.gov/tps for procedures to register or re-register for TPS, including obtaining an EAD, if your country has been designated for TPS.

If your unexpired TPS EAD is lost, stolen, or damaged, file Form I-765 with required fees to request a replacement. Include a copy of your approval notice for TPS (if you have been approved) or a copy of your previous Form I-797 Notice for Form I-821 if your TPS application is still pending.

- A. **Category (a)(12) EAD:** We may issue you a category (a)(12) EAD if your TPS application was approved, you requested an EAD, and you were not previously issued a category (c)(19) EAD that runs through the current TPS designation or extension period for your country.

Re-registration for TPS: File your Form I-765, Form I-821, and a letter indicating that this application is for TPS re-registration. Include a copy (front and back) of your last available TPS document (for example, an EAD, Form I-94, passport, or travel document, or a Form I-797 Notice).

NOTE: To re-register for TPS, you must file Form I-821; however, you do not need to file Form I-765 if you do not want an EAD. If you have been approved for TPS and it has not been finally withdrawn due to individual ineligibility, you may apply for an EAD at any time while your country's TPS designation remains in effect. Please ensure that you have complied with all requirements for maintaining your TPS, such as re-registering when required by the Federal Register notices applicable to your country's TPS designation. Information on current TPS designations and re-registration is available at www.uscis.gov/tps.

B. Category (c)(19) EAD: A category (c)(19) EAD is a temporary benefit for TPS applicants under 8 CFR Part 244. We may issue you a category (c)(19) EAD if you have a pending Form I-821, and you are *prima facie* eligible for TPS.

4. Applicant for Suspension of Deportation or Cancellation of Removal--(c)(10). Applicants Who Are Eligible to Apply for Special Rule **Suspension of Deportation or Cancellation of Removal** under Nicaraguan Adjustment and Central American Relief Act (NACARA) Section 203: See the Instructions to Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to Section 203 of Public Law 105-100 (NACARA)), to determine if you are eligible to apply for NACARA 203 relief.

If you are eligible to apply for NACARA 203 relief with USCIS, you may file Form I-765 together with your Form I-881. See our website at www.uscis.gov/I-881 for the most current information on where to file Form I-881. If you are eligible to file Form I-881 with EOIR, or if you have already filed Form I-881 with USCIS or EOIR, see the **Where to File** section of these Instructions.

Applicant for non-NACARA Suspension of Deportation or Cancellation of Removal: File Form I-765 with evidence that:

- A. You are currently in immigration removal proceedings;
- B. The appropriate application fees were paid or evidence of the immigration judge's order granting your fee waiver (See USCIS Form G-1055, Fee Schedule, available at www.uscis.gov/g-1055, for all information on filing fees or see www.justice.gov/eoir for the EOIR forms fees); and
- C. Your application for Suspension of Deportation (Form EOIR-40) or Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents (Form EOIR-42B) has been properly filed with the appropriate immigration court before the current Form I-765 is filed with USCIS.

5. Dependent of TECRO E-1 Nonimmigrant--(c)(2). File Form I-765 with the required certification from the American Institute in Taiwan if you are the spouse or unmarried dependent son or daughter of an E-1 employee of the Taipei Economic and Cultural Representative Office.

Foreign Students Categories

1. F-1 Student Seeking Optional Practical Training (OPT) in a Position Directly Related to Major Area of Study

NOTE: If you are an F-1 student filing for initial or extension of OPT, please note that your OPT and your employment authorization will be automatically terminated if you change educational program levels or transfer to another school. Working in the United States without authorization may result in your removal from the United States or denial of re-entry. Consult your Designated School Official (DSO) for additional details.

A. Pre-Completion OPT--(c)(3)(A). File Form I-765 up to 90 days before being enrolled for one full academic year, provided that the period of employment will not start before you have completed one full academic year. You do not need to complete the one full academic year while you are in F-1 status; if you completed the one-year requirement while in another valid nonimmigrant status and you are now in valid F-1 status, you are eligible to apply for OPT. Include evidence of having been lawfully enrolled on a full-time basis for one full academic year at a college, university, conservatory, or seminary approved by the U.S. Immigration and Customs Enforcement (ICE) Student and Exchange Visitor Program (SEVP) for attendance by F-1 foreign students. Also, include all previously used Student and Exchange Visitor Information System (SEVIS) numbers and evidence of any previously authorized curricular practical training (CPT) or OPT and academic level at which each was authorized. You must include a Certificate of Eligibility of Nonimmigrant (F-1) Student Status (Form I-20) endorsed by the DSO before filing Form I-765.

B. Post-Completion OPT--(c)(3)(B). File Form I-765 up to 90 days before, but no later than 60 days after, your program end date. Use **Part 8. Additional Information** to provide all previously used SEVIS numbers and evidence of any previously authorized CPT or OPT and the academic level at which it was authorized.

NOTE: Your DSO must enter the recommendation for OPT into your SEVIS record before you file your Form I-765. You **must** file your Form I-765 within 30 days this DSO recommendation. If you fail to do so, we will deny your OPT request.

C. 24-Month Extension for STEM Students (Students With a Degree in Science, Technology, Engineering, or Mathematics)--(c)(3)(C). File Form I-765 up to 90 days before the expiration of your current OPT, if you are requesting a 24-month STEM extension. Include evidence the degree that is the basis for the STEM OPT extension is in one of the degree programs currently listed on the STEM Designated Degree Program List. Additionally, submit the employer's name as listed in E-Verify, along with the E-Verify Company Identification Number or E-Verify Client Company Identification Number for the employer with whom you are seeking the 24-month STEM OPT extension. You must provide this information in **Part 3., Items A. - C. in Item Number 2.,** of Form I-765. Your DSO must enter the recommendation for a 24-month STEM OPT extension into your SEVIS record before you file your Form I-765. You **must** file your Form I-765 within 60 days of this DSO recommendation.

NOTE: If you are applying for a STEM OPT extension based on a previously earned STEM degree, you must also include a copy of your prior STEM degree and evidence that the institution is currently accredited by the U.S. Department of Education and certified by the SEVP.

D. F-1 Student Offered Off-Campus Employment Under the Sponsorship of a Qualifying International Organization--(c)(3)(ii). File Form I-765 with the international organization's letter of certification that the proposed employment is within the scope of its sponsorship and a copy of the Form I-20 with the employment page completed by the DSO certifying eligibility for employment.

E. F-1 Student Seeking Off-Campus Employment Due to Severe Economic Hardship--(c)(3)(iii). File Form I-765 with a copy of the Form I-20 that includes the employment page completed by the DSO certifying eligibility for off-campus employment due to severe economic hardship caused by unforeseen circumstances beyond your control. Include evidence that:

- (1) You have been in F-1 status for one full academic year;
- (2) You are in good standing as a student;
- (3) You are carrying a full course of study;
- (4) Acceptance of employment will not interfere with your carrying a full course of study;
- (5) The employment is necessary to avoid severe economic hardship due to unforeseen circumstances beyond your control; and
- (6) On-campus employment is unavailable or is not sufficient to meet the needs that have arisen due to the unforeseen circumstances.

- F. J-2 Spouse or Minor Child of an Exchange Visitor--(c)(5).** File Form I-765 with a copy of Form DS-2019, evidence the J-1 principal foreign national is currently maintaining status, and evidence any income from this employment authorization will not be used to support the J-1 principal foreign national. Also, provide evidence you are currently maintaining status and include evidence of all previously authorized periods of J-2 employment.
- G. M-1 Student Seeking Post-Completion OPT After Completing Studies--(c)(6).** File Form I-765 with a copy of the Form I-20 endorsed by the DSO certifying eligibility for employment together with Form I-539, Application to Change/Extend Nonimmigrant Status, if applicable, completed according to the Form I-539 Instructions. We must receive the completed forms before, but not more than 90 days before, your program end date. If applicable, your Form I-539 must request an extension of stay that covers the requested period of post-completion OPT and a 30-day departure period.

NOTE: You may request one month of OPT for every four months of full-time study you have completed as an M-1 student.

Categories for Eligible Dependents of Employees of Diplomatic Missions, International Organizations, or NATO

- 1. Dependent of A-1 or A-2 Foreign Government Officials--(c)(1).** Submit Form I-765 with Form I-566, Interagency Record of Request-A, G, or NATO Dependent Employment Authorization or Change/Adjustment to or from A, G, or NATO Status, Dependent Employment Authorization, through your diplomatic mission to the Department of State (DOS). DOS will forward all favorably endorsed applications directly to USCIS for adjudication.
- 2. Dependent of G-1, G-3, or G-4 Nonimmigrant--(c)(4).** Submit Form I-765 together with Form I-566 through your international organization to DOS. The United Nations (UN) and UN missions located in New York City should submit such applications to the U.S. Mission to the UN (USUN). DOS or USUN will forward all favorably endorsed applications directly to USCIS for adjudication.
- 3. Dependent of NATO-1 Through NATO-6--(c)(7).** If you are a dependent of a North Atlantic Treaty Organization (NATO) nonimmigrant who is stationed at Supreme Allied Command Transformation (SACT), NATO/HQ, submit Form I-765 with Form I-566 to:

**USLO to NATO/HQ SACT
7857 Blandy Road, Suite 200
Norfolk, VA 23551-2491**

If you are a dependent of a NATO nonimmigrant who is stationed outside of NATO/HQ SACT, submit Form I-765 with Form I-566 to the Defense Attaché's Office at the embassy of the NATO member that employs the foreign national. For more details on NATO member embassy contacts and on documents required, visit the DOS website www.state.gov/ofm under the topic "Dependent Work Authorization."

If you have questions regarding the process or document requirements, email OFM-EAD@state.gov.

Employment-Based Nonimmigrant Categories

- 1. B-1 Nonimmigrant Who Is the Personal or Domestic Servant of a Nonimmigrant Employer--(c)(17)(i).** File Form I-765 with:
 - A.** Evidence of your lawful B nonimmigrant status (for example, your Form I-94, passport, or other travel document);
 - B.** Evidence that your employer is a B, E, F, H, I, J, L, M, O, P, Q, or TN nonimmigrant;
 - C.** Evidence you worked for the employer for at least one year before the employer entered the United States, or your employer has regularly employed personal and domestic servants either year round or seasonally and has done so for a period of several years before coming to the United States;
 - D.** Evidence you have worked for this employer as a personal or domestic servant for at least one year, or evidence you have at least one year of experience as a personal or domestic servant; and
 - E.** Evidence establishing you have a residence abroad that you have no intention of abandoning.

2. B-1 Nonimmigrant Domestic Servant of a U.S. Citizen--(c)(17)(ii). File Form I-765 with:

- A. Evidence of your lawful B nonimmigrant status (for example, your Form I-94, passport, or other travel document);
- B. Evidence that your employer is a U.S. citizen;
- C. Evidence that your employer has a permanent home abroad or is stationed outside the United States and is temporarily visiting the United States.
- D. Evidence that your employer employed you as a domestic servant prior to your employer's visit to the United States.

3. B-1 Nonimmigrant Employed by a Foreign Airline--(c)(17)(iii). File Form I-765 with:

- A. Evidence of your lawful B nonimmigrant status (for example, your Form I-94, passport, or other travel document); and
- B. A letter from a foreign airline engaged in international transportation fully describing your duties and stating your position would entitle you to E nonimmigrant status except for the fact that you are not a national of the airline's country, or because there is no treaty of commerce and navigation in effect between the United States and that country.

4. Spouse of an E-1 Treaty Trader, E-2 Treaty Investor, or E-3 Specialty Occupation Professional from Australia--(a)(17). File Form I-765 with:

- A. Evidence of your lawful E nonimmigrant status (for example, your Form I-94, passport, or other travel document); and
- B. Evidence of your spouse's lawful E nonimmigrant status (for example, a copy of your spouse's Form I-94, passport, or other travel document) and your marriage certificate.

NOTE: Other relatives or dependents of E nonimmigrants in E status are not eligible for employment authorization and cannot file under this category.

5. Spouse of an L-1 Intracompany Transferee--(a)(18). File Form I-765 with:

- A. Evidence of your lawful L nonimmigrant status (for example, your Form I-94, passport, or other travel document); and
- B. Evidence of your spouse's lawful L nonimmigrant status (for example, a copy of your spouse's Form I-94, passport, or other travel document) and your marriage certificate.

NOTE: Other relatives or dependents of L nonimmigrants in L status are not eligible for employment authorization and cannot file under this category.

6. Spouse of an E-2 Commonwealth of Northern Mariana Islands (CNMI) Investor--(c)(12). File Form I-765 with the required evidence listed under **Special Filing Instructions for Spouses of E-2 CNMI Investors** in the **Required Documentation** section of these Instructions.

NOTE: If you are the spouse of a principal E-2 CNMI investor who obtained status on the basis of a Foreign Retiree Investment Certification, you are not eligible for employment authorization and cannot file under this category.

Spouses of certain principal E-2 CNMI investors (E-2C) are eligible to seek employment in the CNMI. An EAD issued under this category is only valid for employment in the CNMI.

To determine if you are eligible for an EAD under this section, you must determine what type of investor certificate the CNMI issued to your spouse, the principal E-2 CNMI investor. If your spouse holds a Foreign Retiree Investment Certification, you are not eligible to receive an EAD under this category. If your spouse holds either a Long-Term Business Certificate or Foreign Investment Certificate, you may be eligible for an EAD under this category.

File Form I-765 with:

- A. Documentation (such as a marriage certificate) establishing a legal marriage;
 - B. Documentation (such as divorce or death certificates) establishing the termination of any prior marriage(s) for both you and your current spouse (if applicable);
 - C. Documentation establishing that you reside in the CNMI;
 - D. Documentation establishing that your spouse has obtained E-2C status;
 - E. Documentation establishing that you have obtained E-2C status as a dependent; and
 - F. A copy of your spouse's CNMI-issued Long-Term Business Certificate or Foreign Investment Certificate.
7. **Spouse of an H-1B Nonimmigrant--(c)(26).** File Form I-765 along with documentation of your current H-4 admission or extension of stay. You must also submit documentation establishing either your spouse is the beneficiary of an approved Form I-140, Immigrant Petition for Alien Worker, or your spouse received H-1B status based on the American Competitiveness in the Twenty-First Century Act (AC21) sections 106(a) and (b). For your convenience, you may file Form I-765 with Form I-539. However, we will not process your Form I-765, until after we have adjudicated your Form I-539. You may also file Form I-765 at the same time as your Form I-539 and your H1-B spouse's Form I-129, Petition for a Nonimmigrant Worker. Please see the USCIS website at www.uscis.gov/I-765 for the most current information on where to file this benefit request.
- A. **Proof of Your Status.** Submit a copy of your current Form I-797 Notice for Form I-539, or Form I-94 showing your admission as an H-4 nonimmigrant or your most recent approved extension of stay; and
 - B. **Proof of Relationship to the Principal H-1B.** Submit a copy of your marriage certificate. If you cannot submit a copy of your current Form I-797 Notice, Form I-94, or marriage certificate, we will consider secondary evidence of your relationship.
 - C. **Basis for Work Authorization.** Acceptable documentation includes:
 - (1) **Approved Form I-140.** Submit evidence the H-1B principal is the beneficiary of an approved Form I-140. You may show this by submitting a copy of your spouse's Form I-797 Notice for Form I-140; or
 - (2) **H-1B Principal Received AC21 106(a) and (b) Extension.** Submit evidence that your spouse has been admitted or granted an extension of stay under AC21 sections 106(a) and (b). You may show this by submitting copies of your spouse's passports, prior Form I-94s, and current and prior Form I-797 Notices for Form I-129. In addition, submit evidence to establish one of the following bases for the H-1B extension of stay.
 - (a) **Based on Filing of a Permanent Labor Certification Application.** Submit evidence your spouse is the beneficiary of a Permanent Labor Certification Application that was filed at least 365 days prior to the date the period of admission authorized under AC21 sections 106(a) and (b) took effect. You may show this by submitting a print out from the Department of Labor's (DOL) website or other correspondence from DOL showing the status of your spouse's Permanent Labor Certification Application. If DOL certified the Permanent Labor Certification, you must also submit a copy of Form I-797 Notice for Form I-140 establishing the Form I-140 was filed within 180 days of DOL certifying the Permanent Labor Certification; or
 - (b) **Based on a Pending Form I-140.** If the preference category sought for the principal H-1B spouse does not require a Permanent Labor Certification Application with DOL, submit evidence your spouse's Form I-140 was filed at least 365 days prior to the date the period of admission authorized under AC21 sections 106(a) and (b) took effect. You may show this by submitting a copy of the Form I-797 Notice for Form I-140.

(c) **Secondary Evidence.** If you do not have the evidence listed in **Items (a) or (b)** above, you may ask us to consider secondary evidence in support of your application for employment authorization as an H-4 spouse. For example, in establishing the Basis for Employment Authorization as described in **Items (1) and (2)**, you may submit the receipt number of your spouse's most current Form I-129 extension of stay or Form I-140 approved on your spouse's behalf.

Failure to provide the evidence listed above or secondary evidence may result in the delay or denial of your Form I-765. For additional information on secondary evidence, see **Evidence** in the **General Instructions** section of these Instructions.

8. Principal Beneficiary of an Approved Employment-Based Immigrant Petition Facing Compelling Circumstances--(c)(35). File Form I-765 with documents showing that you are eligible for an initial grant or a renewal of employment authorization under the (c)(35) eligibility category.

A. Initial Application: If this is your first application for compelling circumstances employment authorization under the (c)(35) eligibility category, **and** an immigrant visa number is not yet available to you, you may be eligible if:

- (1) You have NOT filed Form I-485;
- (2) You have a Form I-140 approved on your behalf;
- (3) You are in the United States in a valid E-3, H-1B, H-1B1, O-1, or L-1 nonimmigrant status; and
- (4) You face compelling circumstances.

See **Item C. Supporting Evidence by Principal** below for more information regarding what documents to submit with your application, including additional requirements where you have been convicted of certain crimes.

B. Renewal Application: If you already have employment authorization under the (c)(35) eligibility category, you may be eligible for renewal if:

- (1) You have a Form I-140 approved on your behalf;
- (2) Either:

You face compelling circumstances **and** an immigrant visa is not authorized for issuance based on your priority date according to the relevant Final Action Date in the Department of State Visa Bulletin in effect on the date you file the application for a renewal of employment authorization; **OR**

The difference between your priority date and the Final Action Date for your preference category and country of chargeability is one year or less according to the Department of State Visa Bulletin in effect on the date your renewal application is filed. This means that your priority date cannot be more than one year earlier or one year later than the Department of State cut-off date in the Visa Bulletin applicable to your preference category and country of chargeability in effect on the date your renewal application is filed. If this is the basis for your renewal application, you do not need to show compelling circumstances; **AND**

- (3) You file your renewal application on Form I-765 with USCIS before your current employment authorization expires. You are not required to be in a valid nonimmigrant status when you file your renewal application.

See **Item C. Supporting Evidence by Principal** below for more information regarding what documents to submit with your application, including additional requirements where you have been convicted of certain crimes.

C. Supporting Evidence by Principal

- (1) **Proof You Are in the United States in E-3, H-1B, H-1B1, O-1, or L-1 Nonimmigrant Status.** For initial applications, submit a copy of your Arrival-Departure Record (Form I-94) showing your admission as an E-3, H-1B, H-1B1, O-1, or L-1 nonimmigrant, or a copy of your current Form I-797 Notice for Form I-129.

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- (2) **Proof of Your Approved Form I-140.** For initial and renewal applications, submit a copy of a Form I-797 Notice for Form I-140 showing the Immigrant Petition has been approved on your behalf.
 - (3) **Evidence You Are Facing Compelling Circumstances While You Wait for Your Immigrant Visa to Become Available.** For initial and, if applicable, renewal applications based on compelling circumstances, USCIS will review the documents you provide to determine, in its discretion, whether you have established compelling circumstances. USCIS makes this discretionary determination on a case-by-case basis according to the documents submitted and the totality of the record. You should submit any credible evidence you believe supports your claim of compelling circumstances.
 - (4) **Secondary Evidence.** If you do not have the evidence listed in **Items (1) or (2)** above, you may ask us to consider secondary evidence in support of your application for employment authorization. For additional information on secondary evidence, see **Evidence** in the **General Instructions** section of these Instructions.
 - (5) **Proof of Arrests and Conviction.** For initial and renewal applications, you must submit documentation of any arrests and/or convictions. If you were ever convicted of a felony or two or more misdemeanors, you cannot be granted employment authorization under this eligibility category. USCIS will make the determination as to whether your crimes fall into either of these categories. You must, however, provide information and any supporting documentation on all crimes which you were convicted of so USCIS can make an appropriate decision. Provide certified copies of all arrest reports, court dispositions, sentencing documents, and any other relevant documents.

NOTE: USCIS may, in its discretion, deny your application if you have been arrested and/or convicted of any crime.

D. Traffic Violations and Arrests

Do not select the “Yes” box for **Part 3., Item B.** in **Item Number 3.**, on the application or submit documentation if you only had minor traffic violations. Minor traffic violations do NOT include violations that are alcohol- or drug-related. If you were **ARRESTED** for any traffic offense, select the “Yes” box for **Item B.** in **Item Number 3.** on the application and provide arrest and disposition documentation so USCIS can properly assess whether your arrest and/or conviction may affect your employment authorization eligibility.

NOTE: Provide the conviction and disposition documentation even if your records were sealed, expunged, or otherwise cleared. You must provide the documentation even if anyone, including a judge, law enforcement officer, or attorney told you that you no longer have a record or that you do not have to disclose the information.

Failure to provide the evidence listed above or secondary evidence may result in the delay or denial of your application for employment authorization.

9. **Spouse or Unmarried Child of a Principal Beneficiary of an Approved Employment-Based Immigrant Petition-(c)(36).** File Form I-765 along with supporting documentation for an initial grant or a renewal of employment authorization under the (c)(36) eligibility category. You may file your application **WITH** your spouse’s or parent’s application under (c)(35). You may file your application while your spouse’s or parent’s application under (c)(35) is **PENDING** or **AFTER** your spouse’s or parent’s application has been approved by USCIS. If filing with your spouse’s or parent’s application, USCIS will not adjudicate your Form I-765 until after USCIS has adjudicated your spouse’s or parent’s Form I-765.
 - A. **Initial Application:** If this is your first application for employment authorization under the (c)(36) eligibility category, you may be eligible if:
 - (1) You are the spouse or unmarried child of an individual who is filing or who has been approved for compelling circumstances employment authorization under (c)(35) (See **Proof of Relationship to the Principal Beneficiary of the Approved Form I-140** section below);
 - (2) Your spouse’s or parent’s application for compelling circumstances employment authorization under (c)(35) has been approved or is pending with USCIS (not required if you are filing your application at the same time as your spouse’s or parent’s application under (c)(35)); and

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- (3) You are in a valid nonimmigrant status when your spouse or parent applies for initial employment authorization under the (c)(35) eligibility category.

See Item C. Supporting Evidence by Spouse or Unmarried Child below for more information regarding what documents to submit with your application, including additional requirements if you have been arrested or convicted.

B. Renewal Application: You may be eligible to renew your application under the (c)(36) eligibility category if:

- (1) You file Form I-765 before your current employment authorization expires;
- (2) You are the spouse or unmarried child of an individual who is filing or who has been approved for compelling circumstances employment authorization under (c)(35) (See **Proof of Relationship to the Principal Beneficiary of the Approved Form I-140** below); and
- (3) Your spouse's or parent's application for compelling circumstances employment authorization under (c)(35) has been approved or is pending with USCIS (not required if you are filing your application at the same time as your spouse's or parent's renewal application under (c)(35)).

You do not have to be in a valid nonimmigrant status when you file your renewal application.

See Item C. Supporting Evidence by Spouse or Unmarried Child below for more information regarding what documents to submit with your application, including additional requirements if you have been arrested or convicted.

C. Supporting Evidence by Spouse or Unmarried Child

- (1) **Proof of Your Nonimmigrant Status.** For initial applications only, submit a copy of your Arrival-Departure Record (Form I-94) showing your admission as a nonimmigrant, a copy of your current Form I-797 Notice for Form I-129, or a copy of your current Form I-797 Notice for Form I-539.
- (2) **Proof of Relationship to the Principal Beneficiary of the Approved Form I-140.** For initial and renewal applications, if you are applying as the spouse of a principal beneficiary of an approved Form I-140, submit a copy of the marriage certificate and if applicable, copies of documents showing the legal termination of all other marriages by you or your spouse. If you are applying as the child of a principal beneficiary of an approved Form I-140, submit a copy of your birth certificate or other documents to demonstrate you qualify as the principal beneficiary's child. If you cannot submit a copy of your marriage certificate or birth certificate, USCIS will consider secondary evidence.
- (3) **Proof the Spouse or Parent Principal Beneficiary Was Granted or Has Applied for Employment Authorization Under Eligibility Category (c)(35).** For initial and renewal applications, if you submit your Form I-765 after your spouse or parent receives employment authorization under eligibility category (c)(35), submit a copy of your spouse's or parent's employment authorization document or submit a copy of your spouse's or parent's Form I-797 Notice for Form I-765.

If your spouse's or parent's application under (c)(35) is **pending** when you file your Form I-765, submit a copy of your spouse's or parent's Form I-797 Notice for the pending Form I-765. USCIS will not adjudicate your Form I-765 until USCIS has adjudicated your spouse's or parent's Form I-765.

- (4) **Secondary Evidence.** If you do not have the evidence listed in **Items (1), (2), or (3)** above, you may ask us to consider secondary evidence in support of your application for employment authorization. For additional information on secondary evidence, see **Evidence** in the **General Instructions** section of these Instructions.
- (5) **Proof of Arrests and Convictions.** For initial and renewal applications, you must submit documentation of any arrests and/or convictions. If you were ever convicted of a felony or two or more misdemeanors, you cannot be granted employment authorization under this eligibility category. USCIS will make the determination as to whether your crimes fall into either of these categories. You must, however, provide information and any supporting documentation on all crimes you were convicted of so USCIS can make an appropriate decision. Provide certified copies of all arrest reports, court dispositions, sentencing documents, and any other relevant documents.

NOTE: USCIS may, in its discretion, deny your application if you have been arrested and/or convicted of any crime.

D. Traffic Violations and Arrests

Do not select the “Yes” box for **Part 3., Item B. in Item Number 5.**, on the application or submit documentation if you only have had minor traffic violations. Minor traffic violations do NOT include violations that are alcohol- or drug-related. If you were **ARRESTED** for any traffic offense, select the “Yes” box for **Item B. in Item Number 5.** on the application and provide arrest and disposition documentation so USCIS can properly assess whether your arrest and/or conviction may affect your employment authorization eligibility.

NOTE: Provide the conviction and disposition documentation even if your records were sealed, expunged, or otherwise cleared. You must provide the documentation even if anyone, including a judge, law enforcement officer, or attorney, told you that you no longer have a record or that you do not have to disclose the information.

Failure to provide the evidence listed above or secondary evidence may result in the delay or denial of your application for employment authorization.

Department of State Visa Bulletin. USCIS will adjudicate all applications for initial or renewal employment authorization according to the Visa Bulletin in effect on the date the application is filed. To see the current Visa Bulletin, please go to <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html> and click the link to the Visa Bulletin.

Priority Dates. For more information about priority dates, please visit our Visa Availability and Priority Dates website at www.uscis.gov.

Filing Location. Please see the USCIS website at www.uscis.gov/i-765 for the most current information on where to file your application for initial or renewal employment authorization under the (c)(35) or (c)(36) eligibility categories.

Family-Based Nonimmigrant Categories

- 1. K-1 Nonimmigrant Fiancé(e) of U.S. Citizen or K-2 Dependent--(a)(6).** File Form I-765 along with evidence of your admission (for example, copies of your Form I-94, passport, or other travel document) and your K visa. You are only authorized to work under this category during your 90 days in K-1 or K-2 status. You cannot renew this EAD.
- 2. K-3 Nonimmigrant Spouse of U.S. Citizen or K-4 Dependent--(a)(9).** File Form I-765 along with evidence of your admission (for example, copies of your Form I-94, passport, or other travel document) and your K visa.
- 3. Family Unity Program IMMACT 90--(a)(13).** If you are filing for initial or extension of family unity benefits, complete and submit Form I-817, Application for Family Unity benefits, according to the filing instructions on Form I-817. We will issue an EAD if we approve your Form I-817. No Form I-765 is necessary, unless you are filing for replacement of a non-expired lost, stolen, damaged, or incorrect card.
- 4. LIFE Act Family Unity--(a)(14).** If you are applying for initial or extension of employment authorization under section 1504 of the LIFE Act Amendments, complete and submit Form I-817. We will issue an EAD if we approve your Form I-817; no Form I-765 is necessary unless you are filing for replacement of a non-expired lost, stolen, damaged, or incorrect card.
- 5. V-1, V-2, or V-3 Nonimmigrant--(a)(15).** If you are in V status, file Form I-765 with evidence of your V status (for example, an approval notice, or your Form I-94.). If you are in the United States but you have not yet filed an application for V status, you may file Form I-765 at the same time as you file your application for V status. We will adjudicate this application after adjudicating your application for V status.

Adjustment of Status Categories

1. **Adjustment Applicant under Section 245--(c)(9).** File Form I-765 together with Form I-485, Application to Register Permanent Residence or Adjust Status, or if filing separately, submit a copy of your Form I-485 receipt notice or other evidence that your Form I-485 is pending. If you have filed your Form I-485 with EOIR, you must submit proof that you are currently in immigration proceedings, that you have properly filed Form I-485 with the immigration court, and that the Form I-485 remains pending, before filing Form I-765 with USCIS.

NOTE: If you are an asylee or refugee and have applied to adjust to lawful permanent resident status on Form I-485, file Form I-765 under category (a)(5) as an asylee or (a)(3) as a refugee. Do not file under eligibility category (c)(9). See USCIS Form G-1055, Fee Schedule, available at www.uscis.gov/g-1055, for all information on filing fees.

2. **Renewal EAD for National Interest Waiver Physicians--(c)(9):** If you are requesting a renewal EAD based on your pending adjustment of status application and an approved National Interest Waiver Physician petition, you must also include evidence of your meaningful progress toward completing the National Interest Waiver obligation (for example, documentation of employment, such as copies of W-2 forms, in any period during the previous year,). If you did not work as a National Interest Waiver Physician during any period of the previous year, you must explain why and provide a statement of future intent to work as a physician in a qualifying location.
3. **Registry Applicant Based on Continuous Residence Since January 1, 1972--(c)(16).** File Form I-765 together with your Form I-485 or, if filing separately, submit a copy of your Form I-485 receipt notice or other evidence that your Form I-485 is pending.

Other Categories

1. **Legalization Temporary Resident Pursuant to INA Sections 245A or 210--(a)(2).** File Form I-765 with a copy of your approval notice for Form I-687, Application for Status as a Temporary Resident Under Section 245A of the INA, or other evidence that your Form I-687 is approved; OR File Form I-765 with a copy of your approval notice for Form I-700, Application for Status as a Special Agricultural Worker, or other evidence that your Form I-700 is approved. No Form I-765 is necessary, unless you are filing for replacement of a non-expired lost, stolen, damaged, or incorrect card.
2. **N-8 or N-9 Nonimmigrant--(a)(7).** File Form I-765 with evidence of your lawful N nonimmigrant status (for example, your Form I-94, passport, or other travel document).
3. **Applicant for Legalization Pursuant to INA Section 210--(c)(20).** File Form I-765 with a copy of your receipt notice for Form I-700, Application for Status as a Temporary Resident Under Section 210 of the INA, or other evidence that your Form I-700 is pending.
4. **Applicant for Legalization Pursuant to INA Section 245A--(c)(22).** File Form I-765 with a copy of your receipt notice for Form I-687, Application for Status as a Temporary Resident Under Section 245A of the INA, or other evidence that your Form I-687 is pending.

5. **Parole--(c)(11).** File Form I-765 with a copy of your valid, unexpired Form I-94, passport, or other travel document showing you were paroled into the United States for urgent humanitarian reasons or reasons of significant public benefit.

NOTE: If you are in expedited removal under INA 235(b)(1)(A) or in expedited removal and have a pending credible fear determination under 8 CFR 208.30, you **are not eligible** for an initial EAD under the **(c)(11)** eligibility category.

6. **Deferred Action--(c)(14).** File Form I-765 with a copy of the order, notice, or other document reflecting the grant of deferred action and proof that you have an economic necessity to work. We will consider whether you have an economic necessity to work by reviewing your current annual income, your current annual expenses, and the total current value of your assets. Provide this financial information on Form I-765WS, Form I-765 Worksheet. If you would like to provide an explanation, complete **Part 3. Explanation** of the worksheet. Supporting evidence is not required, but USCIS will accept and review any documentation that you submit. You do not need to include other household members' financial information to establish your own economic necessity.

7. Consideration of Deferred Action for Childhood Arrivals--(c)(33).

- A.** You must file Form I-765 with Form I-821D, Consideration of Deferred Action for Childhood Arrivals, if you meet the guidelines described in the Form I-821D Instructions. Enter (c)(33) in **Part 3., Item Number 1.**, as the eligibility category under which you are applying.

You must file Form I-765 Worksheet to demonstrate that you have an economic necessity to work. We will consider whether you have an economic necessity to work by reviewing your current annual income, your current annual expenses, and the total current value of your assets. Provide this financial information on Form I-765WS. If you would like to provide an explanation, complete **Part 3. Explanation** of the worksheet. Supporting evidence is not required, but USCIS will accept and review any documentation that you submit. You do not need to include other household members' financial information to establish your own economic necessity.

8. Final Order of Deportation or Removal, including those granted Deferral of Removal under the Convention Against Torture--(c)(18). File Form I-765 with a copy of the EOIR IJ's Order of Removal and Form I-220B, Order of Supervision. Additional factors that may be considered include, but are not limited to, the following:

- A.** Existence of a dependent spouse and/or children in the United States who rely on you for support;
- B.** Existence of economic necessity to be employed; and
- C.** Anticipated length of time before you can be removed from the United States.

9. LIFE Legalization Applicant--(c)(24). File Form I-765 with evidence that you were a Catholic Social Services (CSS), League of United Latin American Citizens (LULAC), or Zambrano class member applicant before October 1, 2000 and a copy of the Form I-797 Notice or other evidence that your Form I-485 is pending.

10. Bona Fide Determination Process for T Nonimmigrant Status Principal Applicants and Eligible Family Members--(c)(40). We may, in our discretion, grant deferred action to and issue a bona fide determination EAD to certain applicants for T nonimmigrant status, and eligible family members, who live in the United States.

If you have previously filed for an EAD under 8 CFR 274a.12(a)(16) or (c)(25) with your Form I-914 or Form I-914 Supplement A, do not file Form I-765. We will convert your previously filed application to a bona fide determination employment authorization application.

Once we determine your principal application is bona fide, we will consider relevant discretionary factors. We will determine, in our discretion, whether to grant deferred action and issue an EAD.

The application for your eligible family member living in the United States may only receive a bona fide determination if your principal application has been determined to be bona fide.

Once we have determined your eligible family member's petition is bona fide, we will consider relevant discretionary factors. We will determine in our discretion whether to provide deferred action and an EAD to your eligible family member.

If we determine your petition is bona fide and a favorable exercise of discretion is warranted, but you have **not** filed a Form I-765, which can be converted as described above, we will issue a notice to apply for an EAD. If you receive a notice to apply for an EAD, you must include this notice when filing your Form I-765.

11. T-1 Nonimmigrant--(a)(16). If you are filing Form I-914, Application for T Nonimmigrant Status, and request an EAD as part of your application, you do not need to file Form I-765. If you are currently in T-1 nonimmigrant status and did not request an EAD when you filed your Form I-914, you may file Form I-765 to request an EAD. If you were granted T-1 nonimmigrant status and want to request a replacement of an EAD, file Form I-765 along with evidence of your T-1 nonimmigrant status (for example, an approval notice).

If you have filed Form I-539 to extend your T-1 nonimmigrant status, you may file Form I-765 to request a renewal of your EAD, along with evidence of your T nonimmigrant status (for example, an approval notice). You may file Form I-765 together with Form I-539 or after we approve your Form I-539. If you file Form I-765 after we approve your Form I-539, submit a copy of your I-539 approval notice.

12. T-2, T-3, T-4, T-5, or T-6 Nonimmigrant--(c)(25). File Form I-765 along with proof of your derivative T nonimmigrant status. If you obtained derivative T nonimmigrant status while in the United States, you must submit a copy of the approval notice for your T nonimmigrant status. If you were admitted to the United States as a T nonimmigrant, you must submit a copy of your passport with your T nonimmigrant visa. If you were granted derivative T nonimmigrant status and want to request replacement of an EAD, file Form I-765 along with evidence of your derivative T nonimmigrant status (for example, an approval notice).

If you (or the T-1 principal foreign national) filed Form I-539 to extend your T-2, T-3, T-4, T-5, or T-6 nonimmigrant status in conjunction with an extension of the principal T-1 nonimmigrant's status, you may file Form I-765 to request an initial or renewal EAD, along with evidence of your nonimmigrant status (for example, an approval notice or copy of your passport with your T nonimmigrant visa). You may also file Form I-765 together with Form I-539 or after we approve your Form I-539. If you file Form I-765 after we approve your Form I-539, submit a copy of your Form I-539 approval notice.

NOTE: Derivative family members of T-1 nonimmigrants living outside the United States are not eligible to receive an EAD until they lawfully enter the United States. If you are a derivative family member who is outside the United States, do not file Form I-765.

13. T Nonimmigrant Adjustment of Status--(c)(9). If you filed Form I-485 to adjust your status from a T-1, T-2, T-3, T-4, T-5, or T-6 nonimmigrant to a lawful permanent resident, you may file Form I-765 together with Form I-485 if you are seeking an EAD. You should also include evidence of your T nonimmigrant status (for example, an approval notice or copy of your passport with your T nonimmigrant visa). If you file Form I-765 after filing Form I-485, submit a copy of your Form I-485 receipt notice. While your Form I-485 is pending, we will extend T nonimmigrant status until a decision is made on your Form I-485.

14. U-1 Nonimmigrant--(a)(19). If you are currently residing in the United States and your Form I-918, Petition for U Nonimmigrant Status, is approved, you will receive employment authorization incident to status and USCIS will send you an EAD as evidence of that authorization. You do not need to file Form I-765. If you resided outside the United States when your Form I-918 was approved, you must file Form I-765 with USCIS when you enter the United States. You must submit a copy of your passport with your U nonimmigrant visa.

If we granted your U nonimmigrant status and you want to request a replacement of an EAD, file Form I-765 along with evidence of your U nonimmigrant status (for example, an approval notice).

If you have filed Form I-539 to extend your U-1 nonimmigrant status, you may file Form I-765 to request a renewal of your EAD, along with evidence of your U-1 nonimmigrant status (for example, an approval notice). You may file Form I-765 together with Form I-539 or after we approve your Form I-539. If you file Form I-765 after we approve your Form I-539, submit a copy of your I-539 approval notice.

NOTE: U-1 nonimmigrants living outside the United States are not eligible to receive an EAD until they lawfully enter the United States. If you have an approved Form I-918 but are outside the United States, do not file Form I-765 until you have entered the United States.

NOTE: If the statutory cap is reached within a fiscal year and USCIS uses the waiting list process described at 8 CFR 214.14(d)(2), U-1 petitioners for U nonimmigrant status in the United States can file Form I-765 to apply for an EAD based on deferred action ((c)(14)). An application for employment authorization based on deferred action can only be approved after DHS has issued deferred action in your case, regardless of when Form I-765 is filed.

15. U-2, U-3, U-4, or U-5--(a)(20). You may file Form I-765 at the same time as Form 918, Supplement A, Petition for Qualifying Family Member of U-1 Recipient, or you may file Form I-765 at a later time. If USCIS has granted you derivative U nonimmigrant status, file Form I-765 along with proof of your derivative U nonimmigrant status. If you obtained derivative U nonimmigrant status while in the United States, you must submit a copy of the approval notice for that status. If you were admitted to the United States as a U nonimmigrant, you must submit a copy of your passport with your U nonimmigrant visa.

If you (or the principal U-1 nonimmigrant) filed Form I-539 to extend your U-2, U-3, U-4, or U-5 nonimmigrant status, you may file Form I-765 to request an initial or renewal EAD, along with evidence of your nonimmigrant status (for example, an approval notice or copy of your passport with your U nonimmigrant visa). You may file Form I-765 together with Form I-539 or after we approve your Form I-539. If you file Form I-765 after we approve your Form I-539, submit a copy of your Form I-539 approval notice.

NOTE: Derivative family members of U-1 nonimmigrants living outside the United States are not eligible to receive an EAD until they lawfully enter the United States. If you are a derivative family member who is outside the United States, do not file Form I-765.

NOTE: If the statutory cap is reached within a fiscal year and USCIS uses the waiting list process described at 8 CFR 214.14(d)(2), derivative family members of U-1 petitioners for U nonimmigrant status in the United States can file Form I-765 to apply for an EAD based on deferred action ((c)(14)). An application for employment authorization based on deferred action can only be approved after DHS has issued deferred action in your case, regardless of when Form I-765 is filed.

- 16. U Nonimmigrant Adjustment of Status--(c)(9).** If you filed Form I-485 to adjust your status from a U-1, U-2, U-3, U-4, or U-5 Nonimmigrant to a lawful permanent resident, you may file Form I-765 along with Form I-485 if you are seeking an EAD. You should also include evidence of your U nonimmigrant status (for example, an approval notice or copy of your passport with your U nonimmigrant visa). If you file Form I-765 after filing your Form I-485, submit a copy of your Form I-485 receipt notice. While your Form I-485 is pending, we will extend your U nonimmigrant status until we make a decision on your Form I-485.
- 17. VAWA Self-Petitioners--(c)(31).** If you are the self-petitioner or derivative child of an approved Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, filed as a VAWA self-petitioner and residing in the United States, you are eligible for work authorization. If you are filing a Form I-360 VAWA self-petition, and request an initial EAD on Form I-360 as the principal beneficiary of the self-petition, you do not need to file Form I-765. Principal beneficiaries of an approved VAWA self-petition seeking a renewal or replacement EAD, and derivative children seeking an EAD must use Form I-765. File Form I-765 with evidence of the principal beneficiary's approved Form I-360 VAWA self-petition (for example, a copy of the VAWA self-petition approval notice).
- 18. A-3 or G-5 Nonimmigrant--(c)(14).** If you have filed a pending civil action against your employer because your employer violated the terms of your employment contract or conditions of your employment, you may file Form I-765 to request deferred action and receive work authorization. File Form I-765 with a copy of the civil complaint filed in court and proof of lawful admission into the United States in A-3 or G-5 status (for example, a copy of your passport with your A-3 or G-5 nonimmigrant visa). If you are requesting renewal after your initial employment authorization is granted, file Form I-765 with evidence that the civil case is still pending (for example, a recent court docket update).
- 19. Applicant for Commonwealth of the Northern Mariana Islands (CNMI) Long-Term Resident Status-- (c)(37).** You must file Form I-765 together with your Form I-955, Application for CNMI Long-Term Resident Status. If you do not submit your Form I-765 with all applicable fees together with your Form I-955, the entire submission will be rejected. If your Form I-955 is approved, you will receive an employment authorization document as evidence of your CNMI Long-Term Resident Status and evidence that you are authorized for employment in the CNMI incident to status.

General Instructions

We provide free forms through the USCIS website. To view, print, or complete our forms, you should use the latest version of Adobe Reader, which you can download for free at <http://get.adobe.com/reader/>. If you do not have internet access, you may call the USCIS Contact Center and ask that we mail a form to you.

Signature. You (or your signing authority) must properly complete your application. USCIS will not accept a stamped or typewritten name in place of any signature on this application. If you are under 14 years of age, your parent or legal guardian may sign the application on your behalf. A legal guardian may also sign for a mentally incompetent person. If your application is not signed, or if the signature is not valid, we will reject your application. See 8 CFR 103.2(a)(7)(ii) (A). If USCIS accepts a request for adjudication and determines that it has a deficient signature, USCIS may deny the request.

Validity of Signatures. USCIS will consider a photocopied, faxed, or scanned copy of an original handwritten signature as valid for filing purposes. The photocopy, fax, or scan must be of the original document containing the handwritten ink signature.

Filing Fee. See Form G-1055, available at www.uscis.gov/forms, for specific information about the fees applicable to this form.

Evidence. When you file your application, you must submit all evidence and supporting documents listed in the **Required Documentation** and/or **Specific Instructions** sections of these Instructions.

Biometric Services Appointment. USCIS may require you to appear for an interview or provide biometrics (fingerprints, photograph, and/or signature) at any time to verify your identity, obtain additional information, and conduct background and security checks, including a check of criminal history records maintained by the Federal Bureau of Investigation (FBI), before making a decision on your application or petition. If we determine that a biometric services appointment is necessary, we will send you an appointment notice with the date, time, and location of your appointment. If you are currently overseas, your notice will instruct you to contact a U.S. Embassy, U.S. Consulate, or USCIS office outside the United States to schedule an appointment.

At your biometrics appointment, you must sign an oath reaffirming that:

1. You provided or authorized all information in the application;
2. You reviewed and understood all of the information contained in, and submitted with, your application; and
3. All of this information was complete, true, and correct at the time of filing.

If you do not attend your biometric services appointment, we may deny your application.

Copies. You should submit legible photocopies of requested documents unless the Instructions specifically instruct you to submit an original document. USCIS may request an original document at any time during our process. If we request an original document from you, we will return it to you after USCIS determines it no longer needs the original.

NOTE: If you submit original documents when they are not required or requested, **USCIS may destroy them after we receive them.**

Translations. If you submit a document with information in a foreign language, you must also submit a full English translation. The translator must sign a certification that the English language translation is complete and accurate, and that he or she is competent to translate from the foreign language into English. The certification must also include the translator's signature, printed name, the signature date, and the translator's contact information.

USCIS Contact Center. For additional information on the application and Instructions about where to file, change of address, and other questions, visit the USCIS Contact Center at www.uscis.gov/contactcenter or call at **800-375-5283** (TTY **800-767-1833**). The USCIS Contact Center provides information in English and Spanish.

Disability Accommodations/Modifications. To request a disability accommodation/modification, follow the instructions on your appointment notice or at www.uscis.gov/accommodationsinfo.

How To Complete Form I-765

1. Type or print legibly in black ink.
2. If you need extra space to complete any item within this application, use the space provided in **Part 8. Additional Information** or attach a separate sheet of paper. Type or print your name and Alien Registration Number (A-Number) (if any) at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.
3. Answer all questions fully and accurately. If a question does not apply to you (for example, if you have never been married and the question asks, “Provide the name of your current spouse”), type or print “N/A” unless otherwise directed. If your answer to a question which requires a numeric response is zero or none (for example, “How many children do you have” or “How many times have you departed the United States”), type or print “None” unless otherwise directed.
4. Your application must be properly completed, signed, and filed. You must include all pages when you file Form I-765, even if the pages do not apply to you and are unanswered.
5. **USCIS Online Account Number.** You will only have a USCIS Online Account Number (OAN) if you previously filed a form that has a receipt number that begins with IOE. If you filed the form online, you can find your OAN in your account profile. If you mailed us the form, you can find your OAN at the top of the Account Access Notice we sent you. If you do not have a receipt number that begins with IOE, you do not have an OAN. The OAN is not the same as an A-Number.

Specific Instructions

Part 1. Reason for Applying

You must select one **Item Number** that best describes your reason for applying:

Item A. An initial employment authorization document.

Item B. Replacement of a lost, stolen, or damaged EAD, or correction of your EAD not due to USCIS error. Indicate the reason for which you are requesting a replacement document. Select only one of the options.

NOTE: Replacement (correction) of an employment authorization document due to USCIS error does not require a new Form I-765 and filing fee. See USCIS Form G-1055, Fee Schedule, available at www.uscis.gov/g-1055, for all information on filing fees.

Item C. Renewal of your employment authorization document. If you select **Item C.**, attach a copy of your previous EAD.

Part 2. Information About You

Item Number 1. Your Full Legal Name. Provide your full legal name as shown on your birth certificate or legal change of name document in the spaces provided.

Item Number 2. Other Names Used. Provide all other names you have ever used, including aliases, maiden name, and nicknames. If you need extra space to complete this section, use the space provided in **Part 8. Additional Information**. Submit evidence of any other names you have ever used, for example, a birth certificate, marriage certificate, divorce documents, government ID, or passport identity page.

Item Numbers 3. - 4. Your U.S. Mailing Address or Safe Mailing Address. You must provide a valid mailing address in the United States. You may list a valid U.S. residence, APO, or commercial address. You may also list a U.S. Post Office address (PO Box) if that is how you receive your mail. If your mail is sent to someone other than yourself, please include an “In Care Of Name” as part of your mailing address. If your U.S. mailing address is in a U.S. territory and it contains an urbanization name, list the urbanization name in the “In Care Of Name” space provided. We will send your EAD to this address. Do not use your attorney’s or other legal representative’s address unless you want your EAD sent to their address.

NOTE: If you have a pending or approved petition or application based on the Violence Against Women Act (VAWA), as a human trafficking victim (T nonimmigrant), or as a victim of a qualifying crime (U nonimmigrant) and you do not feel safe receiving mail about this application at your home address, provide a safe mailing address in **Part 2., Item Number 3.,** and select the box in **Item Number 4.** Only select “Yes” in **Item Number 4.** if this section is applicable to you, otherwise select “No.” The safe mailing address may be a post office box; the address of a friend, your attorney, or a community-based organization that is helping you; or any other address where you can safely and promptly receive mail. If you have an attorney or accredited representative, you may also direct USCIS to send your correspondence and EAD to your attorney’s business address by selecting the applicable items on Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, **Part 4.** If your safe mailing address is not the same as the address where you currently reside, provide your U.S. physical address in **Item Number 6.**

Item Numbers 5. - 6. U.S. Physical Address. Provide your physical address if it is different from your mailing address.

Item Number 7. Alien Registration Number (A-Number) (if any). The A-Number is an immigration file number provided by U.S. immigration officials. We use your A-Number to identify your immigration records. It is a 7 to 9-digit number that begins with an “A” and can be found on correspondence or cards you have received from DHS, USCIS, or on immigration court records (for example, Form I-797, Receipt Notice; an Employment Authorization Document; a Permanent Resident Card). If you do not have an A-Number, USCIS may assign one to you.

Item Number 9. Sex. Indicate whether you are male or female as provided on your birth certificate issued at the time of birth or issued closest to the time of birth or in secondary evidence you provided to USCIS, if applicable.

Item Number 10. Marital Status. Select the box that describes the marital status you have on the date you file Form I-765.

Item Number 11. Place of Birth. Enter the name of the city, town, or village; state or province; and country where you were born. Type or print the name of the country as it was named when you were born, even if the country’s name has changed or the country no longer exists.

Item Number 12. Date of Birth. Enter your date of birth in mm/dd/yyyy format in the space provided. For example, type or print October 5, 1967, as 10/05/1967.

Item Number 13. Country or Countries of Citizenship or Nationality. Provide the name of the country where you are a citizen and/or national. This is not necessarily the country where you were born. If you do not have citizenship in any country, type or print “stateless” and provide an explanation in **Part 8. Additional Information.**

Item Numbers 14. Previous Application for Employment Authorization from USCIS. If you have applied for employment authorization in the past, select “Yes” for **Item Number 14.** Provide copies of your previous EADs, if available.

Item Number 15. Form I-94 Arrival/Departure Record. If U.S. Customs and Border Protection (CBP) or USCIS issued you a Form I-94, Arrival/Departure Record, provide your Form I-94 number and date that your authorized period of stay expires or expired (as shown on your Form I-94). The Form I-94 number also is known as the Departure Number on some versions of Form I-94.

NOTE: You may visit the CBP website at www.cbp.gov/i94 to obtain a paper version of an electronic Form I-94 if needed. If you cannot obtain the Form I-94 from the CBP website, it may be obtained by filing Form I-102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Record, with USCIS. See Form G-1055, available at www.uscis.gov/forms, for specific information about the fees applicable to Form I-102.

Passport and Travel Document Numbers. If you used a passport or travel document to travel to the United States, enter the passport or travel document information in the appropriate space on the application, even if the passport or travel document is currently expired.

Item Number 16. Date of Your Last Arrival Into the United States, On or About. Provide the date on which you last entered the United States in mm/dd/yyyy format.

Item Number 17. Place of Your Last Arrival Into the United States. Provide the location where you last entered the United States.

Item Number 18. Immigration Status at Your Last Arrival. Provide the letter and number that correlates with your status when you last entered the United States. For example, if you last entered the United States as a **temporary visitor for pleasure, B-2**, type or print “B-2 visitor” in the space provided.

Item Number 19. Your Current Immigration Status or Category. Provide your current immigration status. For example, if your current status is **student academic, F-1**, type or print “F-1 student” in the space provided.

Item Number 20. Student and Exchange Visitor Information System (SEVIS) Number (if any). If you were issued a SEVIS number, enter it in the space provided.

Part 3. Information About Your Eligibility Category

Item Number 1. Eligibility Category. Refer to the list of the eligibility categories in the **Who May File Form I-765** section of these Instructions. Find your eligibility category, and enter it in the space provided.

Item Number 2. (c)(3)(C) STEM OPT Eligibility Category. If you entered eligibility category (c)(3)(C) in **Item Number 1.**, provide your degree level and major (for example, Bachelor’s degree in English), your employer’s name as listed in E-Verify, your employer’s E-Verify Company Identification Number, or E-Verify Client Company Identification Number in the spaces provided.

Item Number 3.A. (c)(8) Eligibility Category. If you entered the (c)(8) eligibility category in **Item Number 1.** and are eligible for benefits under ABC settlement agreement as a Salvadoran or Guatemalan national, you should select the “Yes” box.

Item Number 3.B. (c)(8) Eligibility Category. If you entered the eligibility category (c)(8) in **Item Number 1.**, provide an answer to the question “Have you have **EVER** been arrested for and/or convicted of any crime?” If you answered “Yes” to **Item Number 3.B.**, refer to **Special Filing Instructions for Those With Pending Asylum Applications (c)(8)** in the **Required Documentation** section of the Instructions for information about providing court dispositions.

Item Number 3.C. Lawful Entry. (c)(8) Eligibility Category. Select “Yes” if you entered or attempted to enter the United States at a place and time other than lawfully through a U.S. port of entry on or after [EFFECTIVE DATE OF FINAL RULE]. Complete **Items D. - E.** in **Item Number 3.**

NOTE: Your eligibility for an EAD under category (c)(8) requires that, on or after [EFFECTIVE DATE OF FINAL RULE] any entry into the United States was lawful and through a port of entry. However, in limited circumstances, you may qualify for an exception to this requirement under 8 CFR 208.7(a)(1)(iv)(D)(iii)(F). In order for USCIS to determine whether you qualify for an exception, you must complete **Items D. - E.** in **Item Number 3.**

Item Number 3.D. Presenting yourself to the Department of Homeland Security. Select “Yes” if you presented yourself to an officer or agent from the Department of Homeland Security (DHS) within 48 hours of your entry or attempted entry into the United States and expressed an intention to apply for asylum or expressed a fear of persecution or torture. Presenting yourself to DHS includes presenting yourself to an officer or an agent from: U.S. Customs and Border Protection, U.S. Border Patrol, U.S. Immigration and Customs Enforcement, U.S. Coast Guard, or U.S. Citizenship and Immigration Services.

Select “No” if you did not present yourself to an officer or agent from DHS within 48 hours of your unlawful entry into the United States **and** express an intention to apply for asylum or express a fear of persecution or torture.

Date you presented yourself to DHS. Provide the date that you presented yourself to DHS.

Location where you presented yourself to DHS. Provide the location where you presented yourself to DHS.

Country of claimed persecution. Provide the name of the country from which you fear persecution or torture.

Item Number 3.E. Good Cause for Illegal Entry. Provide an explanation for why you did not enter the United States lawfully through a U.S. port of entry. Your explanation should include any information that would demonstrate that you had good cause for not entering lawfully. See 8 CFR 208.7(a)(1)(iv)(D)(2). Examples of good cause may include, but are not limited to, needing immediate medical attention or fleeing imminent serious harm. Examples that do not constitute good cause include, but are not limited to, evasion of U.S. immigration officers, circumvention of the orderly processing of asylum seekers at a U.S. port of entry, or convenience.

Item Number 4. (c)(26) Eligibility Category. If you entered eligibility category (c)(26) in **Item Number 1.**, provide the receipt number of your spouse’s most recent Form I-797 Notice for Form I-129, Petition for a Nonimmigrant Worker, in the space provided.

Item Number 5.A. (c)(35) and (c)(36) Eligibility Category. If you entered the eligibility category (c)(35) or (c)(36) in **Item Number 1.**, please provide the receipt number of your Form I-797 Notice for Form I-140 or the receipt number of your spouse’s or parent’s Form I-797 Notice for Form I-140. Provide an answer to the question “Have you **EVER** been arrested for and/or convicted of any crime?”

NOTE: If you answered “Yes” to **Item Number 5.B.**, refer to **Employment-Based Nonimmigrant Categories, Items 8. - 9.** in the **Who May File Form I-765** section of the Instructions for information about providing court dispositions.

Part 4. Social Security Card Information

Item Numbers 1 - 5. Questions regarding Social Security Number (SSN). Item A. in Item Number 1. asks you if the Social Security Administration (SSA) has ever officially issued you a Social Security card. If the SSA ever issued a Social Security card to you in your name or a previously used name such as your maiden name, then you must enter the SSN from your card in **Item B. in Item Number 1.**

If your request for employment authorization is approved, the SSA may assign you an SSN and issue you a Social Security card, or issue you a replacement card. If you want the SSA to assign you a Social Security number and issue you a Social Security card, or issue you a new or replacement Social Security card, then answer “Yes” to both **Item Number 2.** and **Item Number 3.** You must also provide your father’s and mother’s family and given names at birth in **Item Numbers 4. - 5.** SSA will use **Item Numbers 4. - 5.** in issuing you a Social Security card.

You are not required to request an SSN using this application. Completing **Item Numbers 2. - 5.** is optional. However, you must have an SSN properly assigned in your name to work in the United States.

NOTE: If your employer uses E-Verify to confirm new employees’ eligibility to legally work in the United States, the information you provide on Form I-9, Employment Eligibility Verification, will be compared to data in SSA and DHS databases. Employees must have an SSN in order for E-Verify to confirm their eligibility to legally work in the United States.

Part 5. Applicant's Statement, Contact Information, Certification, and Signature

Item Numbers 1. - 6. Select the appropriate box to indicate whether you read this application yourself or whether you had an interpreter assist you. If someone assisted you in completing the application, select the box indicating that you used a preparer. Further, you must sign and date your application and provide your daytime telephone number, mobile telephone number (if any), and email address (if any). Every application **MUST** contain the signature of the applicant (or parent or legal guardian, if applicable). A stamped or typewritten name in place of a signature is not acceptable.

Part 6. Interpreter's Contact Information, Certification, and Signature

Item Numbers 1. - 7. If you used anyone as an interpreter to read the Instructions and questions on this application to you in a language in which you are fluent, the interpreter must fill out this section; provide his or her name, the name and address of his or her business or organization (if any), his or her daytime telephone number, his or her mobile telephone number (if any), and his or her email address (if any). The interpreter must sign and date the application.

Part 7. Contact Information, Declaration, and Signature of the Person Preparing this Application, if Other Than the Applicant

Item Numbers 1. - 8. This section must contain the signature of the person who completed your application, if other than you, the applicant. If the same individual acted as your interpreter **and** your preparer, that person should complete both **Part 6.** and **Part 7.** If the person who completed this application is associated with a business or organization, that person should complete the business or organization name and address information. Anyone who helped you complete this application **MUST** sign and date the application. A stamped or typewritten name in place of a signature is not acceptable. If the person who helped you prepare your application is an attorney or accredited representative, he or she may also need to submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, along with your application.

We recommend that you print or save a copy of your completed application for your records.

Required Documentation

You must submit all evidence requested in these Instructions with your application. If you fail to submit required evidence, USCIS may reject or deny your application in accordance with 8 CFR 103.2(b)(1) and these Instructions.

You must file all applications with the documents required below, the particular evidence required for each category listed in the **Who May File Form I-765** section of these Instructions.

If you are required to show economic necessity for your category, submit a list of your assets, income, and expenses. Provide this financial information on Form I-765WS, Form I-765 Worksheet. If you would like to provide an explanation, complete **Part 3. Explanation** of the worksheet.

Assemble the documents in the following order:

1. The appropriate filing fee, if applicable. See USCIS Form G-1055, Fee Schedule, available at www.uscis.gov/g-1055, for all information on filing fees.
2. Your properly signed application.
3. The following documents.
 - A. A copy of at least one of the following documents: Form I-94, Arrival-Departure Record (front and back), a printout of your electronic Form I-94 from www.cbp.gov/i94; a passport or other travel document. If you are filing Form I-765 under the (c)(9) category, these are not required.

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- B.** A copy of your last EAD (front and back). If you were not previously issued an EAD, you must submit a copy of a government-issued identity document (such as a passport) showing your picture, name, and date of birth; a birth certificate with photo ID; a visa issued by a foreign consulate; or a national ID document with photo and/or fingerprint. The identity document photocopy must clearly show your facial features and contain your biographical information.

NOTE: If you are filing under the (c)(33) eligibility category, you are not required to submit additional documentation beyond what you submit with Form I-821D under **2. What documents do you need to provide to prove identity** in the **Evidence for Initial Requests Only** section of the Form I-821D Instructions.

C. Photographs

You **must** submit two identical color passport-style photographs of yourself taken recently. The photos must have a white to off-white background, be printed on thin paper with a glossy finish, and be unmounted and unretouched.

The photos must be 2 by 2 inches with a full face, frontal view. Head height should measure 1 to 1 3/8 inches from the top of your hair to the bottom of your chin, and eye height should measure between 1 1/8 to 1 3/8 inches from the top of your eyes to the bottom of the photo. Your head must be bare unless you are wearing headwear as required by your religious denomination. Use a pencil or felt pen to lightly print your name and A-Number (if any) on the back of the photos.

Special Filing Instructions for Those With Pending Asylum Applications (c)(8)

4. Asylum and Withholding of Deportation Applicants (with a pending Form I-589) who filed ON OR AFTER January 4, 1995 – (c)(8).

Refer to [Website link] to verify that USCIS is currently accepting initial employment authorization applications based on a pending asylum application.

- A.** If you are requesting employment authorization under (c)(8), you must wait 365 calendar days from the date that USCIS or the Immigration Court accepts your asylum application before you may file your application for employment authorization;

B. Biometric Services fee and appointments.

Applicants for initial and renewal EADs under the (c)(8) eligibility category must submit biometrics at a scheduled biometric services appointment. If you fail to appear for your biometric services appointment, you may be ineligible for employment authorization.

C. One-year deadline to file for asylum.

If you file your asylum application on or after [EFFECTIVE DATE OF FINAL RULE] and file it more than one year after your most recent arrival in the United States, you will not be granted employment authorization under this eligibility category **unless and until** a USCIS asylum officer or an Immigration Judge determines that you meet an exception for late filing, as provided in section 208(a)(2)(D) of the Immigration and Nationality Act (INA). This prohibition does not apply to an alien who is an unaccompanied alien child, as defined by section 462(g) of the Homeland Security Act of 2002, 6 U.S.C. 279(g), INA section 208(a)(2)(E), 8 U.S.C. 1158(a)(2)(E).

D. Lawful entry into the United States through a port of entry.

If you entered or attempted to enter the United States at a place and time other than lawfully through a U.S. port of entry on or after [EFFECTIVE DATE OF FINAL RULE], you are ineligible for employment authorization based on a pending asylum application, unless you demonstrate that: (1) you presented yourself to the Secretary of Homeland Security or his or her delegate within 48 hours of your arrival **and** you expressed an intention to seek asylum within the United States or expressed a fear of persecution or torture in your home country; or (2) you establish good cause for not entering lawfully through a U.S. port of entry. USCIS will determine whether you meet the exception to the illegal entry bar based on your responses to **Items D. and E. in Item Number 3. in Part 3.** of Form I-765.

E. Arrests, charges, and convictions.

You cannot receive employment authorization under this eligibility category if:

- You have been convicted at any time in the United States or abroad of an aggravated felony as described in section 101(a)(43) of the Act;
- You have been convicted at any time of a particularly serious crime;
- There are serious reasons to believe that you have committed a serious non-political crime outside of the United States; or
- You are subject to a mandatory denial of your asylum application based on the criminal grounds described in 8 CFR 208.13(c).

F. Availability of (c)(8) Employment Authorization During the Asylum Process.

If you are granted employment authorization while your asylum application is pending with USCIS or the Immigration Court, you may seek renewal of your EAD as long as the asylum application remains pending (unless your EAD is revoked or terminated).

If you have an EAD based on a pending asylum application and your asylum application is denied by USCIS, your EAD will automatically terminate on the date of the denial of the asylum application. If you have an EAD based on a pending asylum application and your asylum application is denied by the Immigration Court, your EAD will automatically terminate after 30 days unless you file a timely appeal with the Board of Immigration Appeals (BIA). If you file a timely appeal with the BIA, your current employment authorization will continue while your asylum application is on review at the BIA (unless revoked or terminated). There is no need to file another Form I-765, unless your EAD is about to expire or will expire during the time your case is on appeal. If the BIA affirms the denial of your asylum application, your employment authorization terminates automatically on the date of the BIA's denial.

G. Additional Evidence requirements for category (c)(8) applicants:

If you are a category (c)(8) applicant who has met the requisite 365 calendar-day waiting period to file Form I-765, file your Form I-765 with the following evidence, where applicable:

- If your asylum application was filed with USCIS, a copy of the following: the USCIS Acknowledgement of Receipt that was provided to you and your USCIS Asylum Interview Notice (scheduling, re-scheduling, or cancelling your asylum interview); your Form I-797C Notice (ASC appointment notice) for the biometrics appointment for your asylum application; or other evidence that your asylum application was filed with USCIS.
- If you lodged or filed your asylum application with the Executive Office for Immigration Review (EOIR), a copy of acknowledgement of receipt of your application or other available evidence.
- If you were granted employment authorization under the (c)(8) category and an Immigration Judge (IJ) subsequently denied your asylum application, and you are now seeking renewal of your EAD, evidence that you timely appealed the EOIR IJ's decision on your Form I-589 to the BIA and the appeal remains pending.
- If the BIA remanded your asylum application to an EOIR IJ for further adjudication of your underlying asylum claim:
 - A copy of the BIA decision and order remanding your case to the EOIR IJ; and
 - Evidence that your asylum claim remains under review by the EOIR IJ.
- If a federal court remanded your asylum claim to the BIA for further action and your claim is still pending with the BIA, you must submit a copy of the Federal Court's remand order.

H. Evidence of Arrests and Conviction.

You must submit certified police and court records for any criminal charges, arrests, or convictions you may have.

- If you were **EVER** arrested or detained by a law enforcement officer for **any** reason in any country, including the United States, and no criminal charges were filed, you must submit:
 - An original or certified copy of the complete arrest report; and
 - Either an official statement by the arresting or detaining agency or prosecutor's office OR an applicable court order that indicates the final disposition of your arrest or detention;
- If you were **EVER** charged for any reason (even if you were not arrested) in **any** country, including the United States, you must submit:
 - An original or certified copy of the complete arrest report; and
 - Certified copies of **BOTH** the indictment, information, or other formal charging document **AND** the final disposition of each charge (for example, a dismissal order or acquittal order);
- If you were **EVER** convicted or placed in an alternative sentencing or rehabilitative program (such as probation, drug treatment, deferred adjudication, or community service program) in **any** country, including the United States, you must submit:
 - An original or certified copy of the complete arrest report;
 - Certified copies of the following: the indictment, information, or other formal charging document; any plea agreement, whether in the form of a court filing or recording in a hearing transcript; and the final disposition for each incident (for example, conviction record, deferred adjudication order, probation order); and
 - Either an original or certified copy of your probation or parole record showing that you completed the mandated sentence, conditions set for the deferred adjudication, or rehabilitative program OR documentation showing that you completed the alternative sentencing or rehabilitative program; or
- If you **EVER** had any arrest or conviction vacated, set aside, sealed, expunged, or otherwise removed from your record in **any** country, you must submit:
 - An original or certified copy of the complete arrest report; the indictment, information, or other formal charging document; any plea agreement, whether in the form of a court filing or recording in a hearing transcript; and the final disposition for each incident (for example, conviction record, deferred adjudication order, probation order); and
 - A certified copy of the court order vacating, setting aside, sealing, expunging, or otherwise removing the arrest or conviction.

You must disclose all arrests and charges, even if the arrest occurred when you were a minor. An adjudication of juvenile delinquency is not a "conviction" under U.S. immigration law, but a juvenile can be charged as an adult for an offense committed while a juvenile. If you were convicted as an adult, there is a conviction, regardless of whether you were tried before a criminal court or a juvenile court. An adjudication of juvenile delinquency could also be relevant to the exercise of discretion. If you claim that an arrest resulted in an adjudication of delinquency, and not in a conviction, you must submit a copy of the court document that establishes this fact.

In general, you do **not** need to submit documentation relating to traffic fines and incidents that did not involve an actual physical arrest if the penalty was only a fine of less than **\$500** or points on your driver's license. However, you must submit such documentation if the traffic incident resulted in criminal charges or involved alcohol, drugs, or injury to a person or property.

If you are not able to obtain certified copies of any court dispositions relating to the above, please submit:

- An explanation of why the documents are not available, including (if possible) a certificate from the custodian of the documents explaining why the documents are not available;
- Any secondary evidence that shows the disposition of the case; or
- If secondary evidence is also not available, one or more written statements, signed under penalty of perjury under 28 U.S.C. 1746, by someone who has personal knowledge of the disposition.

5. Asylum and Withholding of Deportation Applicants (with a pending Form I-589) who filed BEFORE January 4, 1995 – (c)(8). You may file Form I-765 at any time; however, we will only grant your employment authorization if we find that your asylum application is not frivolous. File Form I-765 with a copy of the following documents, where applicable:

- A. Your date-stamped previously filed Form I-589;
- B. If you filed your Form I-589 with the former Immigration and Naturalization Service (INS), an INS Acknowledgement of Receipt;
- C. A USCIS Asylum Interview Notice (scheduling, re-scheduling, or cancelling your asylum interview);
- D. Form I-797 Notice, Fingerprint Notification (for a fingerprint appointment for your Form I-589);
- E. If you filed your Form I-589 in exclusion or deportation proceedings, evidence that your Form I-589 was filed with EOIR;
- F. If you are currently in exclusion or deportation proceedings, a copy of Form I-221, Order to Show Cause and Notice of Hearing, or Form I-122, Notice to Applicant for Admission Detained for Hearing Before Immigration Judge; or
- G. Evidence that your Form I-589 remains under administrative or judicial review.

6. Asylum application under the ABC Settlement Agreement--(c)(8). If you are a Salvadoran or Guatemalan national eligible for benefits under the ABC settlement agreement, *American Baptist Churches v. Thornburgh*, 760 F. Supp. 796 (N.D. Cal. 1991), you are entitled to an EAD under the ABC settlement.

Your Form I-765 will be decided within 60 days if:

1. You identify yourself as an ABC class member by selecting the box in **Part 3., Item A.** in **Item Number 3.** of this application;
2. You pay the filing fee; and
3. You have a complete pending asylum application on file. You must have filed your asylum application (Form I-589) with us (former Immigration and Naturalization Service (INS) or USCIS) or with an EOIR IJ to receive an EAD. Therefore, submit evidence that you previously filed a complete asylum application when you submit Form I-765. You are not required to submit this evidence when you apply, but it will help us process your request more efficiently.

Where to File?

Please see our website at www.uscis.gov/I-765 for the most current information about where to file this application. If you are requesting an EAD as an initial TPS applicant or a TPS beneficiary, see the Form I-821 Instructions and the most recent Federal Register notice regarding a TPS designation, re-designation, or extension for your country for additional guidance and filing location. You can find information on countries designated for TPS on our website at www.uscis.gov/tps.

Premium Processing

To determine if your requested classification or category is available for Premium Processing, please visit the USCIS website at www.uscis.gov/forms/how-do-i-use-premium-processing-service. If you are requesting Premium Processing Services, you **must** also file [Form I-907, Request for Premium Processing Service](#), with the filing fee.

Address Change

If you are not a U.S. citizen, you must notify USCIS of your new address within 10 days of moving from your previous residence. For information on changing your address, go to our website at www.uscis.gov/addresschange, or call the USCIS Contact Center.

NOTE: Do not submit a change of address request to the USCIS Lockbox.

Processing Information

You must have a United States address to file this application.

Initial processing. Once USCIS accepts your application, we will check it for completeness. If you do not properly complete this application, you will not establish a basis for your eligibility and we may reject or deny your application.

Requests for More Information. USCIS may request that you provide more information or evidence to support your application. We may also request that you provide the originals of any copies you submit. If we request an original document from you, we will return it to you after USCIS determines it is no longer needed.

Requests for Interview. We may request that you appear at a USCIS office for an interview based on your application. During your interview, USCIS may require you to provide your biometrics to verify your identity and/or update background and security checks.

Decision. The decision on Form I-765 involves a determination of whether you have established eligibility for the immigration benefit you are seeking. USCIS will notify you of our decision in writing.

Approval. If your application is approved, we will either mail your EAD to you or we may require you to visit your local USCIS office to pick it up.

Denial. If USCIS cannot approve your application, you will receive a written notice explaining the basis of your denial.

USCIS Forms and Information

To ensure you are using the latest version of this application, visit www.uscis.gov.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-765, we will deny your application and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

SSA Privacy Act Statement

Sections 205(c) and 702 of the Social Security Act authorize SSA to collect information to assign you an SSN and issue a Social Security card. The information you furnish on this application is voluntary. However, failure to provide the requested information may prevent SSA from issuing you an SSN and Social Security card. SSA will maintain the information used to assign you an SSN and issue you a Social Security card in SSA's system of records [Master Files of Social Security Number (SSN) Holders and SSN Applications, 60-0058]. Complete lists of approved routine uses for the information used to assign you an SSN and issue you a Social Security card are available in the System of Records Notice 60-0058, available at www.ssa.gov.

DHS Privacy Notice

AUTHORITIES: The information requested on this application, and the associated evidence, is collected under the Immigration and Nationality Act, 8 U.S.C. section 1324a, and 8 CFR 274a.13.

PURPOSE: The primary purpose for providing the requested information on this application is to determine eligibility for certain aliens who are temporarily in the United States requesting an Employment Authorization Document. DHS uses the information you provide to grant or deny the immigration benefit you are seeking.

DISCLOSURE: The information you provide is voluntary. However, failure to provide the requested information, including your Social Security number, and any requested evidence, may delay a final decision or result in the denial of your application.

ROUTINE USES: DHS may, where allowable under relevant confidentiality provisions, share the information you provide on this application and any additional requested evidence with other Federal, state, local, and foreign government agencies and authorized organizations. DHS follows approved routine uses, as described in the associated published system of records notices [DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System; DHS/USCIS-007 Benefit Information System; DHS/USCIS-010 Asylum Information and Pre-Screening; DHS/USCIS-017 Refugee Case Processing and Security Screening Information System; DHS/USCIS-018 Immigration Biometric and Background Check] and the published privacy impact assessments [DHS/USCIS/PIA-016(a) Computer Linked Application Information Management System and Associated Systems; DHS/USCIS/PIA-027 Asylum Division; DHS/USCIS/PIA-056 USCIS Electronic Immigration System; and DHS/USCIS/PIA-068 Refugee Case Processing and Security Vetting], which you can find at www.dhs.gov/privacy. DHS may also share this information as appropriate for law enforcement purposes or in the interest of national security.

Paperwork Reduction Act

USCIS may not conduct or sponsor an information collection, and you are not required to respond to a collection of information, unless it displays a currently valid Office of Management and Budget (OMB) control number. The public reporting burden for this collection of information is estimated at 4.72 hours per response, including the time for reviewing instructions, gathering the required documentation and information, completing the application, preparing statements, attaching necessary documentation, and submitting the application. The collection of biometrics is estimated to require 1 hour and 10 minutes. The public reporting burden for the collection of information for Form I-765WS is estimated at 30 minutes per response, including the time for reviewing instructions, gathering the required documentation and information, completing the application, preparing statements, attaching necessary documentation, and submitting the application. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Office of Policy and Strategy, Regulatory Coordination Division, 5900 Capital Gateway Drive, Mail Stop #2140, Camp Springs, MD 20588-0009; OMB No. 1615-0040. **Do not mail your completed Form I-765 to this address.**