

Action Requested on I-129:	Consular Notification/Initial Petition	Change of Status	
WHAT IS THE IMPACT OF THE REQUESTED ACTION ON:	Your Status	Your H-1B status is not activated. You retain flexibility to activate the H only when you are ready (by leaving, visa stamping, and reentering). Please note that you should check with your employer to determine whether you may be responsible for the costs of international travel to “activate” the H-1B.	Your H-1 status automatically activates on the start date listed in your approval notice. Your prior status is gone, and you only need to visa stamp if you are returning to the US after a trip abroad.
	Travel	None. You can travel internationally if you are otherwise eligible.	You cannot travel internationally from the date of filing to the date the H-1B is approved/active.
	Spouse/Child(ren)	They will need to travel with you when you activate in order to get H-4 status through visa stamping.	They will not need to visa stamp unless they plan to return to the U.S. after a trip abroad.
	F-1 Cap Gap	Cap-Gap is NOT available.	Cap-Gap is available.
	Spousal Employment Authorization	If your spouse’s employment authorization is dependent on your current status, your spouse would retain employment authorization until you activate your H-1B status.	If your spouse’s employment authorization is dependent on your current status, your spouse would lose employment authorization when your status changes to H-1 (If you have an I-140 approval, your spouse would be eligible for work authorization in H-4 status).
	Six-Year Limit on H Status	No impact until you activate your H-1B status.	You begin consuming time in H status as soon as your status changes to H-1B.
	F-1 STEM	You retain flexibility to use your STEM up until you activate your H-1B status.	You lose the ability to use STEM once your status changes to H-1B.
	F-1 CPT	By selecting consular notification, you are not inviting questions about your CPT program and so you may end up avoiding the need to explain how your CPT status satisfies all legal requirements.	Choosing change of status means USCIS may require you to explain how your CPT program satisfies all legal requirements, with the risk that USCIS may say you did not maintain your student status.

	<p>Green Card Processing</p>	<p>You may want H-1B status (i) to facilitate international travel while you are green card processing or (ii) so you can exceed the six-year limit to cover you while you wait for your priority date to be current. The choice of Consular Notification or Change of Status does not limit your ability to achieve these goals.</p>
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There may also be tax implications on change of status vs. consular notification. You should consult with your tax advisor on those issues.

Keyword	Explanation/Context
<p>Visa Stamping</p>	<p>Unless you are Canadian, you will need a visa stamp to enter the U.S. If you are already in the U.S. and change your status to another visa type, you do not need a visa stamp unless/until you leave the U.S. and want to return. The only way to get a visa stamp is to apply at a U.S. Embassy or Consulate in a foreign country. Generally it takes two to three weeks to complete the visa application process, but there is a chance that security clearance processing could add weeks or even months to the time-line.</p>
<p>F-1 Cap-Gap</p>	<p>If you have F-1 OPT employment authorization that expires before the targeted October 1 start date of your H-1 petition, you can get employment authorization to cover you to October 1 if your OPT was unexpired when your H-1 petition was filed. This coverage is called “cap-gap.”</p>
<p>Spouse/Child(ren)</p>	<p>Unless your spouse or child(ren) have their own visa independent from your visa, then they are dependent on your status, with the result that when your status changes, you must ensure that your spouse/child(ren) also acquire the related dependent status (generally by joining you for visa stamping or by filing a change of status request along with you).</p>
<p>Spousal EAD</p>	<p>Some dependent visa categories (like the L-2, E-1, -2 or -3 dependent and in some cases H-4) will allow your spouse to work. For your spouse to work in the H-4 category, you would need to have an approved I-140, and the processing time for spousal work permit approval can be several months.</p>
<p>F-1 STEM</p>	<p>Certain STEM degree programs allow you to get an extra two years of work authorization following the one-year grant of optional practical training. Using any available STEM work authorization before activating your H-1 status is generally recommended, especially if you are in a retrogressed category, because it would provide more time within which to start green card processing so that your H-1 work permit could be extended beyond six years.</p>
<p>Green Card Processing</p>	<p>Some work permit categories (like the TN or O-1) do not align neatly with green card processing and so may complicate international travel. Switching to the H-1 visa addresses this travel issue. In addition, many work permit categories (including the L-1 visa) have a maximum term limit beyond which they cannot be extended and so would not be a viable solution for someone whose green card category has retrogressed/is not current. The H-1 work permit can be extended beyond its normal six-year limit if the green card process has reached a certain point and so is a good option for green card applicants whose priority dates are not current.</p>