

## NRI Helpdesk: Can you change your profession after getting a Green Card?

### Synopsis

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



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

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

**My daughter is a [U.S.](#) citizen by birth; we moved to [India](#) when she was 2 years old. She did all her schooling and graduated from India. Now she is going to the U.S. to a community college for a year to do a course. She will be traveling soon. My question is, since she is traveling to the U.S. for the first time since her return, does she have to show any financial documents to support her studies at the Port Of Entry in the U.S?**

A US citizen needs only a US passport to enter the US.

**My brother-in-law took voluntary deportation from the US after having some troubles with immigration. He, along with his wife and two children (18 and 21 years), has now returned to India. We want to understand what the current status is for the children who were dependent on my brother-in-law. Are they eligible to continue their education back in the U.S.?**

Their father's voluntary departure should not have a direct bearing on the children's ability to obtain a student [visa](#). But, this could be a factor in the consulate's assessment for a visa. If the children were minors during their stay in the US, that could be a mitigating factor in their favor.

**I have been struggling to get an appointment for my visa to travel to India. My son has been stuck in India for over three years, and my visa has expired. Is there any way for me to get my son back from India? My son is an Indian citizen. Please help me. I cannot find any way to get through this.**

Try contacting the highest levels of management in the relevant Indian consulate. I have also found it useful to Tweet directly to the Minister of External Affairs of the Government of India.

**My sister is working in the U.S. on an H-4 visa and is required to travel to India for my dad's Medical Emergency. However, we are unable to get an appointment for her visa stamping as currently, dates are not available. Is an emergency visa stamping date possible for her to be able to go back? If yes, what would be the procedure?**

While traveling to India is an emergency, I think it would be difficult to make a case for returning back to the US as an emergency. See if she qualifies for dropbox or an interview waiver at the US consulate in India. The option of applying for a visa in a third country also exists.

**I am an H-1B visa holder currently living in the U.S.A along with my spouse and kids. My spouse and kids are on H-4 Visa. My Father in India is not well, and his health condition is deteriorating day by day. I am planning to travel to India as soon as possible, but I am not getting any Visa slots in the near time. Hence I am thinking of traveling to India alone (leaving my spouse and kids in the U.S.) and then request for an Emergency Visa Appointment on the basis of Family Separation. Could you please help me to know if it is a valid request or if there is a chance that [USCIS](#) will reject my request?**

You can try, but this is highly unpredictable. See if you qualify for dropbox or an interview waiver at the US consulate in India. The option of applying for a visa in a third country also exists.

**My son has applied for U.S. H-1B Visa He got the approval letter. My son's employer from the [USA](#) wants him to work in India for one and a half months. That is August and mid-September 2022. My query is can he work in India on the above available documents? Still, his H-1B stamping is pending, and it is due on 2nd September 2022 at the Delhi U.S. consulate. We are in a dilemma whether to accept his employer's assignment or to refuse it before the H-1B stamping.**

There is no law that stops him from working from India even if his H-1B visa at the consulate has not yet been stamped. He can work.

**My wife will be traveling to the USA by March 2023 as her company has provided her with the on-site opportunity. I**

would really need your help in clarifying these questions as I cannot find a reliable and simple answer for these on the web.

- Is it possible for me to travel with her on a dependent VISA?
- If I am a dependent, then will I be allowed to seek employment in the US?
- If so, what are the procedures and other relevant details which I should be aware of?

We will need information about what type of visa your wife has obtained. People on all work visas can have their spouses apply for derivative visas, but for citizens of India, only an L-1 visa allows the spouses to work right away. The details of the process are available on all consular websites.

a) Can I change my profession after getting a [Green Card](#)? I received my GC in EB2 as an Accountant. Now, I see the salaries in the software/IT sector to be much higher.

b) How long should I be working as an accountant before making a switch to the IT field? Just want to make sure there are no issues during naturalization.

Sure, you can change your profession as long as you did not have a pre-conceived intention to do so before you got your green card. I cannot say that there is any particular time frame attached to it.

I wish to assess my eligibility for the EB-1A category. I have a B.Tech., M.Tech., and Ph.D. from India, and I just finished a postdoc in the USA. I am currently employed in India as an associate professor at a good university. The following are my credentials.

1. I have over 25 publications in international journals and conferences that have undergone peer review.
2. I review articles for three high-quality journals.
3. I currently have 358 citations.

Just looking at the numbers is not enough. We need to look at the overall resume.

I had a quick question for you. I worked in the US from 2009 to 2012 on an H-1B visa, left the US in 2012, then came back on a new H-1B visa to work in the US from 2014 to 2017, and then left the US again in 2017. So overall, I didn't use 3 years on both my H-1B visas. Recently I came to the US on an H-1B visa in mid-2022 using the unused 3 years on my most recent H-1B visa issued in 2014. This H-1B visa expires in mid-2025.

- Do I need to leave the US for one year after mid-2025 to be eligible for a new H-1B visa, or am I eligible to apply for a new H-1B visa after mid-2025?
- Is it possible for me to recapture unused 3 years on my previous H-1B visa issued in 2009 after my current H-1B status expires in mid-2025?
- Is the only way for me to extend my H-1B visa status in the US after mid-2025 is to file for Perm ETA 9089 (pending over a year) or have an approved I-140?

Yes, you need to leave the [United States](#) because you have a total of six years. You are using the remainder left on that six years. You should have your ETA 9089 (PERM labor certification) pending for over a year, or have an approved I-140. There is no other way to extend this H-1B.

a) After the H-1B COS is approved, how long will I need to work with my current employer before I can file an H-1B transfer?

b) Do I need permission from my current employer for an H-1B transfer?

There is no law that requires you to wait a certain number of days before you can apply for a transfer. You can change employers without the first employer's permission. There is absolutely no issue.

**Can I continue to work with my new employer using my Green Card instead of H-1B?**

You can, but you should join the sponsoring employer within a commercially reasonable time.

**Is it possible for current Ph.D. students to apply for EB-2 NIW? I have been through websites where they have said It's Possible, but then why is it not possible for current MS students? Is it possible to work and study in F-1 OPT after completing the degree?**

Sure, you can apply for any of these green cards while you are still a student. Please go through my article in [The Economic Times](#).

NIW laws require only that you possess an advanced degree. A Master's degree is an advanced degree.

**a) I work on H1B. My I 485 and wife's I-485 was filed in April 2022; My priority date is 2014. My wife was born in Nepal. I believe due to the current India Priority date being current; I am eligible for filing and getting my GC without using cross-chargeability. Is there any implication that I should be aware of?**

**b) We are divorcing due to a mismatch in expectations. She may file cases against me in India – such as 498A, and claim that I used her Nepal birth for my GC. This was a genuine arranged marriage that was started through communication between our families. Can she harm my I-485 case by directly communicating to USCIS about her claims? What possible risks I should plan for.**

The way USCIS interprets legal separation or divorce as being the same status conceptually. While there is no direct law on your situation, since you do not need cross-chargeability, you should not have a problem. Regarding dowry complaints and charges like 498A, we have prevailed in several cases in both green card processes and naturalizations. As long as you can show that the charges are more likely than not untrue, you may be able to overcome the problem of criminal proceedings pending in India.

**My master's degree was officially completed after joining my current company, but I had already earned 54 out of 57 total credits of my master's degree before joining this company. So, can I use this master's degree to satisfy job requirements for my GC sponsored by this company?**

The answer is probably not for the same job for which you were hired. You cannot use your master's degree that you obtained after you joined as a software developer, but you could certainly use it for the next higher job.

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