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H-1B Transfer, AC21 and I-140 Process

H-1B Transfer, AC21 and I-140 Process [1]

Submitted by Chief Editor on Mar 20th 2018

1. While I am moving my H-1 New Employer B, What if something goes wrong during H-1 transfer or after that in GC processing with new employer like RFEs etc comes up, can I move back to employer A if employer A is willing to take me back. Does AC 21 portability rule applied to my case also? Since I have not filed I-485 yet, as per my understanding this rule does not apply to me. While my GC is in process with new Employer B and I am in waiting mode for I-140 approval with new employer, What will happen if my time to extend H-1 petition comes up.
2. Can I still extend my H-1 with new Employer even if I-140 with new employer is in process and not yet approved. Can I use my old Employers approved I-140 to extend my H-1 in this situation.

ANSWER:

Watch the Video on this FAQ: If H-1B transfer is denied, can I go back to my old employer? When does AC21 job portability [2]

begin? Can H-1B be extended through a new employer while I-140 is in process? [2]

Video Transcript

1. You can apply for an extension based upon two reasons either the first year anniversary of your green card filing that your PERM was filed a year ago or based upon I-140 approval. So, yes you can file for a one year extension if PERM was started a year ago.
2. The answer is yes, as long as one of the two things exist. Either the I-140 has not been revoked in that case you can use it for extensions or the I-140 was revoked by the old employer, but after 180 days of approval in both cases you can extend your H-1 through some other employer like employer B even while employer B's own I-140 is still in process. More... [2]

Note: This is a verbatim transcript of the referenced audio/video media delivered as oral communication, and, therefore, may not conform to written grammatical or syntactical form.

Nonimmigrant Visas:

[H-1 Visa](#) [3]

[General Nonimmigrant Visa](#) [4]

Green Card:

[AC21 AOS Portability](#) [5]

[Form I-140](#) [6]

[Form I-485](#) [7]

[PERM - Labor Certification](#) [8]

FAQ Transcript:

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Unless the context shows otherwise, all answers here were provided by [Rajiv](#) [9] and were compiled and reported by our editorial team from comments and blog on [immigration.com](#) [10]

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Links:

[1] <https://immigration.com/faq/ac21-aos-portability-form-i-140-form-i-485-perm-labor-certification/h-1b-transfer-ac21-and-i-140>

[2] <https://youtu.be/kEkanogTJw4?t=463>

[3] <https://immigration.com/visa/nonimmigrant-visas/h-visa/h-1-visa>

[4] <https://immigration.com/visa/nonimmigrant-visas/general-nonimmigrant-visa>

[5] <https://immigration.com/greencard/green-card/adjustment-status/ac21-aos-portability>

[6] <https://immigration.com/greencard/green-card/form-i-140>

[7] <https://immigration.com/greencard/green-card/form-i-485>

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[9] <http://www.immigration.com/law-offices-rajiv-s-khanna-pc>

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