



The H-4 Visa Classification: Attracting and Maintaining Global Talent

Temporary workers—such as those in H-1B status—typically can bring their spouses and children with them to the United States in what is called H-4 status.¹ Many of those spouses have careers of their own or otherwise need to work to support their families. Providing work permits to the spouses makes the United States an attractive place to work. Therefore, since 2015, the federal government has granted work permits to certain spouses of H-1B workers.²

This fact sheet provides an overview of the H-4 visa category, details the characteristics of H-4 recipients, explains the work eligibility of certain H-4 spouses, and describes the benefits of continuing to allow these H-4 spouses to work.

Rules Governing the H-4 Visa Category

The H-4 is a temporary, nonimmigrant visa category for the spouses and unmarried children under 21 years of age (dependents) of individuals in one of the following nonimmigrant visa categories:³

- H-1B (workers in a specialty occupation)
- H-2A (temporary or seasonal agricultural workers)
- H-2B (temporary non-agricultural workers)
- H-3 (nonimmigrant trainees, other than medical or academic)

The H-4 status of an eligible spouse or child is dependent on the primary worker maintaining a valid immigration status.⁴ Thus, these individuals are referred to as “H-4 dependents.”

H-4 [dependents can attend school](#).⁵ However, they are not eligible for temporary employment related to their field of study—something available to some foreign students, such as those in an F-1 status.⁶

H-4 dependents can apply for an extension to remain in the United States with their spouse or parents, but the length of stay cannot exceed that of the primary worker.⁷ Further, H-4 dependents can apply to change to another nonimmigrant status.⁸

Characteristics of H-4 Visa Recipients

The [number of H-4 visas](#) allocated to family members of H-category nonimmigrant workers increased from 47,206 in Fiscal Year (FY) 1997 to 136,393 in FY 2017.⁹ Overall, the majority of H-4 dependents come from Asia (Table 1).

In FY 2017, most H-4 visas were issued to family members of foreign workers from India (86 percent), China (3 percent), Mexico (2 percent), the Philippines (1 percent), and South Korea (1 percent) (Table 1).¹⁰

Table 1. Total H-4 Visas Issued Fiscal Years 1997-2017, by Top Countries

| Fiscal Year | Total Number of H-4 Visas Issued | Countries with Highest Number and Percent of H-4 Visas Issued | | | | | | | | | |
|-------------|----------------------------------|---|----|-------|---|--------|---|-------------|---|-------------|---|
| | | India | | China | | Mexico | | Philippines | | South Korea | |
| | | No. | % | No. | % | No. | % | No. | % | No. | % |
| 1997 | 47,206 | 17,693 | 37 | 2,107 | 4 | 2,060 | 4 | 1,766 | 4 | 859 | 2 |
| 1998 | 54,595 | 24,303 | 45 | 2,562 | 5 | 1,791 | 3 | 1,818 | 3 | 964 | 2 |
| 1999 | 69,194 | 32,711 | 47 | 3,480 | 5 | 1,964 | 3 | 2,217 | 3 | 2,319 | 3 |
| 2000 | 79,518 | 38,705 | 49 | 3,769 | 5 | 1,922 | 2 | 2,387 | 3 | 2,295 | 3 |
| 2001 | 95,967 | 44,784 | 47 | 4,285 | 4 | 2,296 | 2 | 3,903 | 4 | 3,033 | 3 |
| 2002 | 79,725 | 33,798 | 42 | 4,041 | 5 | 2,496 | 3 | 4,266 | 5 | 2,745 | 3 |
| 2003 | 69,289 | 30,238 | 44 | 3,313 | 5 | 2,241 | 3 | 3,359 | 5 | 2,790 | 4 |
| 2004 | 83,128 | 40,394 | 49 | 3,632 | 4 | 2,633 | 3 | 3,635 | 4 | 3,170 | 4 |
| 2005 | 70,266 | 31,337 | 45 | 3,857 | 5 | 2,159 | 3 | 3,319 | 5 | 3,166 | 5 |
| 2006 | 74,326 | 38,999 | 52 | 3,563 | 5 | 2,237 | 3 | 2,891 | 4 | 3,014 | 4 |
| 2007 | 86,219 | 51,326 | 60 | 3,711 | 4 | 2,510 | 3 | 4,112 | 5 | 2,735 | 3 |
| 2008 | 71,019 | 44,277 | 62 | 2,870 | 4 | 2,009 | 3 | 3,465 | 5 | 2,003 | 3 |
| 2009 | 60,009 | 34,490 | 57 | 2,982 | 5 | 1,662 | 3 | 3,987 | 7 | 2,135 | 4 |
| 2010 | 66,176 | 38,833 | 59 | 3,216 | 5 | 2,124 | 3 | 3,527 | 5 | 2,194 | 3 |
| 2011 | 74,205 | 46,969 | 63 | 3,444 | 5 | 2,330 | 3 | 2,230 | 3 | 2,176 | 3 |
| 2012 | 80,015 | 53,877 | 67 | 3,355 | 4 | 2,927 | 4 | 1,925 | 2 | 1,824 | 2 |
| 2013 | 96,753 | 71,953 | 74 | 3,362 | 3 | 3,052 | 3 | 1,830 | 2 | 1,666 | 2 |
| 2014 | 109,147 | 85,900 | 79 | 3,678 | 3 | 2,687 | 2 | 1,446 | 1 | 1,499 | 1 |
| 2015 | 124,484 | 102,119 | 82 | 4,154 | 3 | 2,493 | 2 | 1,108 | 1 | 1,329 | 1 |
| 2016 | 131,051 | 110,003 | 84 | 4,601 | 4 | 2,161 | 2 | 1,065 | 1 | 1,178 | 1 |
| 2017 | 136,393 | 117,522 | 86 | 4,770 | 3 | 2,066 | 2 | 955 | 1 | 828 | 1 |

Source: U.S. Department of State Bureau of Consular Affairs, "Nonimmigrant Visa Issuances by Visa Class and by Nationality: FY1997-2017 NIV Detail Table," accessed March 20, 2018.

Employment Authorization for the H-4 Visa Category

On May 26, 2015, U.S. Citizenship and Immigration Services (USCIS) implemented a new regulation which [permitted certain H-4 dependents to work](#) in the United States.¹¹ Under the regulation, the only H-4 dependents eligible to apply for employment authorization are H-4 **spouses** of H-1B nonimmigrants who are in the multistep process of becoming lawful permanent residents (LPRs) or who have H-1B status under the amended American Competitiveness in the 21st Century Act of 2000.¹²

Work authorization for eligible H-4 spouses is unrestricted, meaning that the H-4 dependents can work for any employer. Yet their work authorization, like their immigration status, is dependent on the H-1B worker maintaining a valid immigration status.¹³

In the two years that followed implementation of the regulation authorizing employment for certain H-4 spouses, the U.S. government approved nearly 105,000 [H-4 applications for employment authorization](#) (Table 2).¹⁴

**Table 2: Approved Employment Authorization Documents (EAD)
for H-4 Spouses of H-1B Visa Recipients, FY 2015-2017**

| Fiscal Year | Number of Approvals of EADs for H-4 Spouses |
|-------------|---|
| 2015 | 26,858 |
| 2016 | 41,526 |
| 2017* | 36,366 |

* Numbers reported by USCIS Oct. 1, 2016, through June 29, 2017.

Source: U.S. Citizenship and Immigration Services, “EADs by Classification and Basis for Eligibility, Oct. 1, 2012 - June 29, 2017,” Immigration and Citizenship Data, updated Feb. 28, 2018.

Advantages of Allowing H-4 Spouses to Work

Authorizing H-4 spouses to work is advantageous for several reasons. Notably, allowing spouses to work brings the United States in line with other [countries competing to attract talented foreign nationals](#).¹⁵

The highly-skilled individuals U.S. employers hope to attract and employ on a H-1B nonimmigrant visa often have a spouse or family to consider. The potential worker may have a spouse with an established career or a family needing the support of two working parents. If a spouse retains the option of being employed, the U.S. employer can provide a more appealing and competitive job offer.¹⁶

Highly-educated immigrants are more likely to choose a country where immediate family members are welcome. For instance, when immigrant scientists and engineers are asked why they chose the United States as a destination, the most common response is [“family-related reasons.”](#)¹⁷

In addition, the ability to work can facilitate the integration of H-4 spouses into the United States and reduce isolation. Since the majority of [H-4 spouses are female](#), authorizing their employment also empowers women to contribute their skills to American society, while strengthening their families' economic well-being.¹⁸

An Uncertain Future for H-4 Employment

In 2017, President Donald Trump issued an executive order that outlined changes to the employment eligibility for H-4 spouses.¹⁹ The "[Buy American and Hire American](#)" executive order announced the administration's intent to revoke the regulation permitting certain H-4 spouses to apply for work authorization.²⁰ The [regulatory agenda](#) published in Fall 2017 reaffirmed this intention, though few details have been made available.²¹

In order to change the employment eligibility of certain H-4 spouses, USCIS first will have to propose a new regulation which will invite comments from the general public. The agency must consider and respond to those comments before publishing a final rule that then takes regulatory effect.

Endnotes

1. 8 U.S.C. § 1101(a)(15)(H)(i)(b)-(iii); see also U.S. Citizenship and Immigration Services (USCIS), "Temporary (Nonimmigrant) Workers" webpage, last updated September 7, 2011, <https://www.uscis.gov/working-united-states/temporary-nonimmigrant-workers>.
2. 8 C.F.R. § 214.2(h)(9)(iv).
3. 8 U.S.C. § 1101(a)(15)(H)(i)(b)-(iii); see also USCIS, "Temporary (Nonimmigrant) Workers."
4. 8 C.F.R. § 214.2(h)(9)(iv).
5. See, e.g., USCIS, "Change My Nonimmigrant Status," last updated July 15, 2015, <https://www.uscis.gov/visit-united-states/change-my-nonimmigrant-status-category/change-my-nonimmigrant-status> (stating that "You do not need to apply to change your nonimmigrant status if you wish to attend school in the United States, and you are the spouse or child of someone who is currently in the United States in any of the following nonimmigrant visa categories...[including] Temporary workers (H visa)").
6. 8 C.F.R. § 214.2(f)(10).
7. *Id.* § 214.2(h)(9)(iv).
8. See 8 C.F.R. § 248.1.
9. U.S. Department of State Bureau of Consular Affairs, "FY1997-2017 NIV Detail Table," Nonimmigrant Visa Statistics webpage, accessed Mar. 20, 2018, available at https://travel.state.gov/content/dam/visas/Statistics/Non-Immigrant-Statistics/NIVDetailTables/FYs97-17_NIVDetailTable.xls.
10. *Ibid.*
11. Employment Authorization for Certain H-4 Dependent Spouses, 80 Fed. Reg. 10283 (Feb. 25, 2015) (to be codified at 8 C.F.R. pts. 214 and 274a), available at <https://www.federalregister.gov/d/2015-04042>.
12. 8 C.F.R. § 214.2(h)(9)(iv).
13. *Id.*
14. USCIS, "Number of Approved Employment Authorization Documents, by Classification and Basis for Eligibility, October 1, 2012 - June 29, 2017," Immigration and Citizenship Data webpage, updated Feb. 28, 2018, available at <https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/BAHA/eads-by-basis-for-eligibility.pdf>.
15. Employment Authorization for Certain H-4 Dependent Spouses, 80 Fed. Reg. at 10285 ("The rule also will bring U.S. immigration policies concerning this class of highly skilled workers more in line with those of other countries that compete to attract similar highly skilled workers.").
16. *Ibid.*
17. Nirmala Kannankutty and Joan Burrelli, "Why Did They Come to the United States? A Profile of Immigrant Scientists and Engineers" *InfoBrief* NSF 07-324 (Arlington, VA: National Science Foundation, 2007): 2-3, available at <http://www.nsf.gov/statistics/infbrief/nsf07324/>.

18. Divya Ravindranath, "Visa Regulations and Labour Market Restrictions: Implications for Indian Immigrant Women in the United States," *The Indian Journal of Labour Economics* 60, no. 2 (June 2017): 217-232, <https://doi.org/10.1007/s41027-017-0095-y>.
19. Exec. Order No. 13788, 82 Fed. Reg. 18837, (April 21, 2017), available at <https://www.federalregister.gov/d/2017-08311>.
20. Ibid.
21. See DHS-USCIS Proposed Rule 48: Removing H-4 Dependent Spouses From the Class of Aliens Eligible for Employment Authorization, RIN 1615-AC15, 83 Fed. Reg. 1664, 1721 (proposed in Unified Agenda and Regulatory Plan Jan. 12, 2018), available at <https://www.federalregister.gov/d/2017-28207/p-1321>.