2150 Shattuck Ave, Suite 500 510-642-2818 h1b@berkeley.edu

Berkeley, CA 94704

internationaloffice.berkeley.edu

**FORMS I-539 & I-539A, Application to Extend/Change Nonimmigrant Status for H-4 Dependents GUIDELINES FOR CHECKLIST & RELEASE OF LIABILITY**

The dependents (spouse and children under age 21) of H-1B nonimmigrants can be granted H-4 status. The Form I-539 (and I-539A for each additional dependent) can accompany H-1B requests that include dependents who will change to H-4 status or extend an already approved H-4 status. The Form I-539 and I-539A (if applicable) must be completed and signed by the H-4 dependent(s) themselves, not by the H-1B employee. Form I-539 and I-539A and USCIS instructions are available at <https://www.uscis.gov/i-539>. Please make sure you use the most current version of the form. Please follow the USCIS instructions for completing the form(s) and for documents required to be included.

Please do **NOT** complete this form:

* + For the (prospective) H-1B employee him or herself, or include the H-1B employee on this form.
	+ For dependents who are outside the U.S.
	+ For dependents who have and wish to continue in a separate, independent nonimmigrant status (such as F-1, J-1, or H 1B).

**Part 1: Guidelines for Checklist for I-539 Application (when applying for H-4 within the U.S.)**

|  |  |
| --- | --- |
| ❑ S**igned Form I-539** | ∙ Visit [www.uscis.gov/i-539](http://www.uscis.gov/i-539) to fill out the latest version of Form I-539 for your dependent(s) |
| ❑ S**igned Form I-539A (if more than one dependent)** | ∙ Supplemental Information for Application to Extend/Change Nonimmigrant Status (Biometrics) for each additional dependent applicant. |
| ❑ **Form I-539 Filing Fee** | ∙ Issue a check for $370 payable to **U.S.** **Department of Homeland Security**. The fee covers all filing fees for all dependents listed on the Form I-539, and I-539A if applicable.  |
| ❑ **Biometrics Fee** | ∙ Issue a check for $85 payable to **U.S.** **Department of Homeland Security** for each dependent listed on the Form I-539 and I-539A if applicable. There needs to be separate checks if there is more than one dependent. |
| ❑ **Passport Page** | ∙ Most recent passport biography page with date of expiration shown for each dependent |
| ❑ **Most Recent I-94 Record** | ∙ Most recent I-94 admission record from [www.cbp.gov/i94](http://www.cbp.gov/i94) for each dependent |
| ❑ **Entry/Arrival Stamps**❑ **Visa** | ∙ Most recent U.S. entry/arrival stamp for each dependent∙ Most recent U.S. visa stamp in passport (Canadians exempt) for each dependent |
| ❑ **Visa Documents, if any** | ∙ All prior I-20 forms if previously held F status |
|  | ∙ All prior DS-2019 forms if previously held J status |
|  | ∙ All prior I-797 approval notices if previously held H, L, O or TN status |
| ❑ **Employment Authorization Card (EAD), if any** | ∙ If previously held F-1 OPT, J-2 or L-2, etc. status |
| ❑ **Waiver Documents** | ∙ If previously subject to 2-year home residence, 212(e) under J-1 or J-2 status |
| ❑ **Marriage Certificate** | ∙ For spouse as proof of relationship to principal visa holder |
| ❑ **Birth Certificate(s)**❑ **Certified English Translation** | ∙ For children under 21 as proof of relationship to principal visa holder∙ Provide a certified English translation (See BIO sample) if documents are not in English |

**Part 2: Where to Submit**

**I-539 Dependent application being submitted together with Principal’s petition (i.e. H-1B & H-4 submitted by BIO, etc.)**:

Sign **Release of Liability** below and submit signed original I-539 and I-539A (if applicable) to BIO:

(Note: if you are paying with personal checks, please drop off the checks as well at BIO. All the other documents will be collected by Berkeley Regional Services to be submitted in ISD)

Berkeley International Office

2150 Shattuck Ave, Suite 500

Berkeley, CA 94704

**Release of Liability**

**Forms I-539 and I-539A**

**Please include this Release of Liability for the I-539 and I-539A (if applicable) to be given to Berkeley International Office (BIO). Each applicant must print and sign this Release of Liability. A parent or legal guardian can sign on behalf of an applicant under 14 years old.**

* I/we understand that BIO cannot legally provide advice regarding my/our I-539 or I-539A. I/we understand that I/we have the right to consult an immigration attorney regarding my/our I-539 or I-539A and my/our legal status.
* I/we understand that BIO is not responsible for the completeness or accuracy of my/our I-539 or I-539A, or for ensuring that all necessary supporting documentation including fee payment has been attached to it.
* I/We understand that the Berkeley International Office (BIO) may mail my/our Form I-539 or I-539A along with UC Berkeley’s H-1B petition for the principal beneficiary as a courtesy, and bears no responsibility for the decision made by U.S. Citizenship and Immigration Services (USCIS) on my/our application. I/we understand that the I-539 or I-539A is my/our own, personal application for an immigration benefit (change or status or extension of stay), and that BIO cannot represent me/us in this or any follow-up matters before USCIS or any other government agency. I/we hereby specifically release any liability on the part of BIO in the matter of my/our I-539 or I-539A.
* I/we understand that BIO is not responsible for lost documents, Notices of Action or any correspondence to or from USCIS. If I/we do not receive a decision, a Request for Evidence or a Notice of Action, I/we understand that I/we must pursue the matter independently.

By signing below, I/we acknowledge that I am/we are responsible for the information presented on my/our I-539 or I-539A, any supporting documentation with these forms, and any decision USCIS makes regarding my/our I-539 or I-539A. I/we understand it is my/our responsibility to maintain continuous lawful immigration status in the U.S. Therefore, I/we release and hold harmless the University of California, the Board of Regents of the University, the University’s faculty, staff, agents, and employees from any claim which could result from any failure on my/our part to maintain lawful immigration status.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Print Name**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Signature Date**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Print Name**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Signature Date**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Print Name**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Signature Date**

**Helpful Tips for Completing Certain Sections of the I-539 Form:**

**Part 1**: **Information about You**

* **Family Name:** Enter the name of the spouse seeking H-4 status or H‑4 extension. If the spouse is not present in the U.S., or will continue in a separate nonimmigrant status, enter the information on the oldest dependent child seeking H-4 status or H-4 extension.
* **Alien Registration Number:** An Alien Registration Number is typically associated with your Permanent Residency applications, if any. Leave it blank if you do not have one. This is not your USCIS# or card # listed on your EAD, or A# on I-94.
* **U.S. Mailing Address:** Enter the address where you receive your mail.
* **U.S. Physical Address:** Enter the address where you physically reside. This can be the same as your mailing address
* **Other Information About You:**
	+ #15.b.: If on H-4 status, enter the Admit Until date on your most current I-94, or the end date on your H-4 Approval Notice; if on F-2 status, enter the end date on your most recent I-20, or the end date on your F-1’s most recent EAD; if on J-2 status, enter the end date on your most recent DS-2019.
	+ #16.: Check this box if you are currently on F or J.

**Part 2: Application Type**

* If the nonimmigrant dependents already have H-4 status, choose item “**2”**
* If the nonimmigrant dependents hold some other immigration status, choose item “3.a.**”**, enter the H-1B employee’s requested H-1B start date in 3.b., and enter “**H-4”** as the "change of status I am requesting” in 3.c.

**Part 3: Processing Information**

* # 1.:- The requested end date must be the end date used for the H-1B employee's H-1B request.
* #2.a:- If Form I-539 is being filed with the H-1B employee's petition, answer “**No”**
- If the H-1B employee has already received his/her extension of stay, change of status, change of employer or concurrent H-1B employment,
 answer **"Yes"** to this question, and enter the USCIS Receipt Number from the H-1B's Form I-797 approval notice in # 2.b.
* #3.a.:
- If Berkeley International Office is filing the Form I-539 with the H-1B employee's petition, choose "Yes, filed with this I-539".

**-** If the H‑1B petition has already been submitted to USCIS, but has not yet been approved, choose **"**Yes, filed previously and pending with
 USCIS. USCIS receipt number:" Then enter the H-1B I-797 receipt number in # 3.b.

* #4 and 5:- Complete these sections ONLY if the H-1B petition is already pending (submitted but not yet approved). If applicable, then complete with the name of the H‑1B employee applicant, and the receipt date on the H-1B Form I-797 receipt notice as “Date Filed”.

**Part 4: Additional Information**Provide information for the dependent listed in Part 1, not for the H-1B employee.

* #14
-If you answer “No” , go to Part 9 on page 8 referencing Page 3 Part 4 Item 14, and describe how you are supporting yourself on page 8. If you are in H-4 status, you can indicate that you are in H-4 status and are supported by your spouse who is in H-1B status, and include your spouse’s salary and employer (eg. UC Berkeley)

-If you answer “Yes” , go to Part 9 on page 8 referencing Page 3 Part 4 Item 14 and fully describe the employment on page 8. Include the name of the person employed, name and address of the employer, weekly income, and whether the employment was specifically authorized by the USCIS.

* #15:

-If you answer **“Yes”**, go to Part 9 on page 8 referencing Page 3 Part 4 Item 15 and enter your name and the dates you maintained status as a J-1 or J-2.

**IMPORTANT: Be sure to sign and date on bottom of page 8.**

**Part 5: Applicant’s Statement, Contact Information, Declaration, Certification and Signature**Must be that of the person listed in Part 1. SIGN THE FORM IN BLACK INK. Parents or guardians may sign on behalf of children under 14. A legal guardian may also sign for a mentally incompetent person.

**General Information for Form I-539A**

* This is completed and included ONLY if there are additional unmarried children under 21 of the H‑1B employee who wish to apply for H-4 status. Please DO NOT use this form for the H-1B employee, or the person listed in **Part 1** of the Form I-539.
* Every co-applicant included on the primary applicant’s Form I-539 must submit and sign a separate Form I-539A
* Parents or guardians may sign on behalf of children under 14. A legal guardian may also sign for a mentally incompetent person.
* The co-applicant can use Part 7 on Page 6 of the I-539A to enter any additional information.
* IMPORTANT: The co-applicant must sign and date on bottom of Page 6 if information is entered here.

**Frequently Asked Questions:**

**What is processing time for the new Form I-539?**

Expect longer processing time for USCIS adjudication of the new I-539 application. Due to the new biometrics requirement, dependent applications will no longer be granted concurrently with the principal beneficiary’s Form I-129 petition for which premium processing service was requested.

**Who must pay for the biometrics fee?**

Every applicant and co-applicant must pay an $85 biometric services fee. A separate check of $85 is required for each applicant and co-applicant. They can be personal checks. Every applicant and co-applicant will receive a biometric services appointment notice, regardless of age, containing their individual receipt number. The biometric services appointments will be scheduled at the Application Support Center (ASC) closest to the primary applicant’s address.

**How do I prepare for the biometrics appointment?**

Visit USCIS’ [website](https://www.uscis.gov/forms/filing-guidance/preparing-for-your-biometric-services-appointment) for more information on how to prepare for your biometrics appointment.