

## NATIONAL INTEREST EXCEPTIONS

### FREQUENTLY ASKED QUESTIONS FOR TRAVELERS FROM INDIA

**Q1: What is the travel ban to India?**

**A:** Effective May 4, 2021, President Biden issued a [presidential proclamation](#) 10199 imposing a COVID-19 public health travel ban which prohibits the entry of foreign nationals who have been physically present in India within 14 days of their travel to the United States. Similar regional COVID travel bans currently exist for travelers from Brazil, China, Iran, Ireland, countries in the European Schengen Area, South Africa, and the United Kingdom.

**Q2: Are there exemptions from the travel ban?**

**A:** Yes, explicitly exempt from the bans are U.S. citizens and lawful permanent residents (green card holders) and their immediate family members, and [immigrant visa and fiancé\(e\) K visa](#) applicants. The ban **does not** apply to:

Any non-U.S. citizen spouse of a U.S. citizen or lawful permanent resident (LPR)

Any non-U.S. citizen who is the parent or legal guardian of a U.S. citizen or LPR child, provided that the U.S. citizen or LPR child is unmarried and under the age of 21

Any non-U.S. citizen who is the sibling of a U.S. citizen or LPR, provided both the non-U.S. citizen and the U.S. citizen or LPR sibling are unmarried and under the age of 21

Any non-U.S. citizen who is the child, foster child, or ward of a U.S. citizen or LPR, or who is a prospective adoptee seeking to enter the United States pursuant to the IR-4 or IH-4 visa classifications

Immigrant visa holders are not subject to the ban

K visa holders are also able to travel without any additional processing from the Embassy or Consulates.

**Q3: If I qualify under the automatic exemption as an immediate family member of a US citizen or LPR, do I need a pre-approval of some kind?**

**A:** No, you don't. However, you should carry proof of the qualifying relationship (such as a birth or marriage certificate) when initiating travel to the United States and be prepared to present it to the airline carrier and the CBP port of entry.

**Q4: What is the National Interest Exception (NIE)?**

**A:** Certain foreign nationals may be eligible for a discretionary waiver, called a national interest exception or NIE. The grant of an NIE is far from guaranteed and can take up to a few weeks or longer to be processed, given the substantial volume of such requests and the limited consular staff resources.

**Q5: Do F-1/M-1 Students and their dependents need NIE?**

**A:** Individuals who already possess a valid student (F-1 or M-1) visa and who will begin or resume their programs on or after August 1, 2021, may travel to the United States without further action from the Embassy or Consulates in India. The same is true for F-2 and M-2 derivatives. Direct travel to the United States from India with a F-1 or M-1 visa may begin no more than 30 days prior to the start date of a student's classes

**Q6: I have a valid visa stamp, what are my options for returning to the U.S.?**

**A:** You have two options:

Obtain an NIE from the consulate and then travel directly to the U.S.

Quarantine in a non-travel banned country for at least 14 days before returning to the U.S.

**Q7: I don't have a valid visa stamp; can't I just get a visa without an NIE and then quarantine for at least 2 weeks in a non-travel banned country?**

**A:** In theory there is the possibility of quarantining in a third (non-restricted) country for 14 days after leaving India. But the consulates will not issue a visa unless the applicant qualifies for an NIE, so in practice routing through another country is unlikely to help.

**Q8: I don't have a valid nonimmigrant visa but need to travel to India. Can I apply for NIE along with my visa application?**

**A:** Yes. The Consular Officer will adjudicate your NIE request along with your visa application. However, getting an appointment at the US Consulate in India is the issue. Wait time listed as "999 calendar days" indicates that the Consular Section is only providing that service to emergency cases. Please check the specific Embassy or Consulate website for further information at the link below. The Department of time

posts the wait times for visa appointments at the various Consular Posts at <https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/wait-times.html>

**Q9: Can I get an expedited appointment at a US Consulate in India?**

**A:** At this time, the U.S. Embassy and Consulates in India are only accepting emergency appointments in most visa categories. Applicants with an emergency need for travel can request an expedited appointment through the online appointment system at <https://www.ustraveldocs.com/in/expedited-appointment.html>. In the request, applicants need to clearly state which National Interest Exception may apply and provide any supporting documentation.

**Q10: What are the eligibility criteria for NIE Exemption?**

**A:** Travelers who believe their travel is within one of the below categories should consult the website of the nearest embassy or consulate for instructions on applying for an NIE.

Certain J-1 exchange visitors

Exchange students and academics (certain J visa categories in the professor, research scholar, short-term scholar, or specialist categories);

New or returning students and academics present in China, Brazil, Iran, South Africa

Educational Commission for Foreign Medical Graduates (ECFMG) J visa program participants

Journalists (I visas);

**Travelers providing executive direction or vital support for critical infrastructure sectors, or directly linked supply chains, as outlined at <https://www.cisa.gov/critical-infrastructure-sectors> - this is the most common category.**

**Travelers providing vital support or executive direction for significant economic activity in the United States.**

Pilots and aircrew traveling for training or aircraft pickup, delivery, or maintenance;

Those whose purpose of travel falls within one of these categories:

Lifesaving medical treatment for the principal applicant and accompanying close family members

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Public health for those travelling to alleviate the effects of the COVID-19 pandemic, or to continue ongoing research in an area with substantial public health benefit (e.g., cancer or communicable disease research)

Humanitarian travel, to include those providing care for a U.S. citizen, lawful permanent resident, or other nonimmigrant-in-lawful-status close family member

Medical escorts, legal guardians, or other escorts required by an airline or legally required by a foreign medical or law enforcement entity accompanying a U.S. citizen being repatriated to the United States;

National security; and

Derivative family members accompanying or following to join a noncitizen who has been granted or would be reasonably expected to receive a National Interest Exception (NIE), or is not otherwise subject to the Proclamations and who is engaging in certain types of long-term employment, studies, or research lasting four weeks or more.

**Q11: Can I apply for an NIE from the U.S. or elsewhere outside India?**

**A:** No – the consular posts require that the traveler be physically present in India to apply for the NIE.

**Q12: How do I get an NIE and what are my chances?**

**A:** The NIE criteria are quite stringent as noted above. Most applicants will need to show that they are seeking to provide vital support or executive direction for critical infrastructure or to provide vital support or executive direction for significant economic activity in the U.S.

The NIE grant is entirely up to the discretion of the consular officer and is not guaranteed.

**Q13: How long will it take to find out if the NIE is granted?**

It may take a few days or a few weeks to get a response.

**Q14: What is the NIE process in India for travelers with a valid visa stamp?**

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If you have a valid visa and need an NIE for specific travel plans, you may contact the Embassy or Consulate that issued your visa to request a national interest exception prior to travel:

U.S. Embassy New Delhi     [NewDelhiNIE@state.gov](mailto:NewDelhiNIE@state.gov)

U.S. Consulate General Chennai     [ChennaiNIE@state.gov](mailto:ChennaiNIE@state.gov)

U.S. Consulate General Hyderabad     [HyderabadNIE@state.gov](mailto:HyderabadNIE@state.gov)

U.S. Consulate General Kolkata     [KolkataNIE@state.gov](mailto:KolkataNIE@state.gov)

U.S. Consulate General Mumbai     [MumbaiNIE@state.gov](mailto:MumbaiNIE@state.gov)

The email must include the following information for all travelers seeking an exception, as it appears on the visa:

Last name:

First name:

Date of birth, in DDMMYYYY format (ie – 01JAN2021):

Gender (M/F):

Country of birth:

Country of citizenship:

Passport number:

Visa Number\* and Category:

Issuing Post Name (upper left corner of visa):

Travel dates:

Travel purpose and national interest category, including a clear justification for receipt of a NIE:

\*The visa number, also known as the visa foil number, is located on the lower right of the visa.

If you have need a valid visa, you will submit your NIE request along with your visa application following the instructions on the specific Consulate website.

**Q15: What does the NIE approval look like?**

**A:** The NIEs are processed electronically and do not require any additional letters for the airlines. There will typically be an annotation on the visa stamp. There are many types of cases that will not receive an annotation, including those who have demonstrated that they are not subject to the Proclamation, those whose visas were issued prior to the

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Proclamation, and certain categories of visa holders who are eligible for blanket waivers, including F-1 and M-1 students with start or resumption dates on or after August 1, 2021.

**Q16: If granted, how long will the NIE be valid for?**

**A:** Once approved, NIEs are valid for multiple entries for 12 months from the date of issuance, for the same purpose of travel.<sup>1</sup>

**Q17: Can I go to Canada for visa stamping?**

**A:** From the Section Chief in Toronto on 8/30/2021: There is very limited capacity for third country nationals (non-Canadian citizens) in Toronto even in normal times. “Please encourage clients to not travel and extend/change status in the United States whenever possible. Canadian residents or citizens should look at the website to see if they qualify to renew their visas via interview waiver.”

**Q18: Can I go to Mexico for visa stamping?**

**A:** Similarly, there is very limited capacity for third country nationals (TCN) (non-Mexican citizens) at the U.S. Consulates in Mexico, even in normal times, and currently, it is highly unlikely to get a visa appointment in Mexico as a TCN.

**Q19: What if I plan to work remotely from abroad for a prolonged period of time?**

**A:** The NIE request includes an argument that your physical presence in the U.S. is required to do your job, which is hard to make if your plan is to work remotely from India for several months. Moreover, the rule has been that the NIE request must be based on the need for “immediate travel” to the U.S. However, since that rule was established the State Department has extended the validity of a granted NIE from 30 days to 12 months, so it is possible the anticipated travel date is no longer a point of great concern for consular officers.

**Q20: If I am in the U.S. now and travel internationally, will I need to justify why I left the U.S.?**

**A:** Both the consular officers and CBP have begun asking why individuals who are already in the U.S. are departing to travel banned countries, especially if they are needed critically in the U.S.

<sup>1</sup> See Extension of validity for National Interest Exceptions (NIEs) for Travelers from China, Iran, Brazil, South Africa, the Schengen Area, the United Kingdom, Ireland, and India <https://travel.state.gov/content/travel/en/News/visas-news/extension-validity-for-nies-for-china-iran-brazil-south-africa-schengen-uk-ireland-india.html>

Even those who are eligible to submit their application through the dropbox/ interview waiver system, may be called for interview at the discretion of the consular officer. We recommend being prepared to address this question if it comes up.

**Q21: What kind of assistance can Larrabee Albi Coker LLP provide with my travel?**

**A:** We can provide specific travel advice and assist with the preparation of an NIE request.

We can also assist with preparation of the DS-160 Nonimmigrant Visa Application preparation.

Please note that these matters are outside the scope of the nonimmigrant petition matter which we may or may not have been retained for. The NIE assistance would be billed at an hourly rate; the DS-160 preparation is a billed at a fixed fee per applicant. Authorization from the company would be required prior to incurring these costs unless the traveler wishes to cover the costs personally.

**Q22: Where can I get additional information?**

**A:** <https://in.usembassy.gov/visas/national-interest-exception-frequently-asked-questions/>