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Withdrawing one pending petition (H-4) when another is (F-1) approved

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Submitted by Chief Editor on Nov 4th 2015

My H-4 to F-1 is approved on October 08 2015. My Spouse Employer filed H-4 extension for me which is currently in Process. We sent this H-4 withdraw letter and it has been reached USCIS (Vermont Service Center) on Oct 13th 2015. Could you please let us know approx when do USCIS withdraw this H-4 extension?. If by mistake USCIS approves this H-4 Extension, can we fight with USCIS to withdraw this H-4 extension?

ANSWER:

See clip from Attorney Rajiv S. Khanna's conference call video that addresses this question.

<https://youtu.be/F0YZD8zWm88?t=72>^[2]

FAQ Transcript:

Let's take an example of this, F-1 is approved, but H-4 extension is pending. Since you want to stay on F-1, you should write immediately to USCIS, put it in writing and make sure that you send it through something like Fed-ex or UPS or certified overnight mail, so that you can prove the delivery of the letter. That way once you have sent the letter of withdrawal out there is a very good argument that any subsequent approval of H-4 does not hurt your F-1, since you have already indicated an unambiguous intention and made a request to USCIS to revoke or withdraw an application which is currently pending but you don't want to be acted upon.

The risk here is you got the F-1 already approved and don't want to be H-4 acted upon, because there is something called last action rule, which is really not a rule but merely a matter of common sense applied by the USCIS offer to the situation, that whatever status approved last would be your status. So you have F-1, H-4 going on same time, you got your F-1 approved. If your H-4 gets approved that means you are back on H-4. So at least that is the conventional wisdom and there is some question about whether or not that is correct but nevertheless smart thing to do is if you already received the approval that you want go ahead and revoke in writing what you don't want .

Nonimmigrant Visas:

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

[H-4 Visa](#) [4]

[Extension](#) [5]

Unless the context shows otherwise, all answers here were provided by [Rajiv](#) [6] and were compiled and reported by our editorial team from comments and blog on [immigration.com](#) [7]

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[2] <https://youtu.be/F0YZD8zWm88?t=72>

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

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

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