



# THE CATHOLIC UNIVERSITY OF AMERICA

*International Student and Scholar Services*

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## **H-1B Temporary Worker in Specialty Occupation**

### **Purpose**

H-1B status is for the temporary employment of internationals in positions that require the application of a specialized body of knowledge.

### **Eligibility Requirements**

To be eligible for H-1B status the following requirements must be met:

- The position must be one that requires the application of a specialized body of knowledge. Translated, this means that the position must require at least a bachelor's degree in a specific field or closely related field.
- The individual must have the required education/experience at the time of filing.

### **Duration**

- An individual can hold H status for a total of 6 years. However, Immigration cannot grant H-1B status for more than 3 years at a time.
- Extensions beyond the 6th year may potentially be possible if a permanent residency application has been filed and meets certain conditions.

### **The Required Wage**

- Employers sponsoring individuals in H-1B status are required to pay a certain wage level. This wage will vary depending upon occupation, level of responsibility and the relative wages paid by the University and the wages paid by area employers for the position. CUA must do two wage comparisons:
- Once these wage levels are determined, CUA is required to pay the higher of either the actual wage or the prevailing wage. CUA must pay at least 100% of the prevailing wage.

### **Sponsorship Process**

There are three steps in applying for H-1B temporary worker status.

- The process does not officially start until ISSS receives the completed forms and supporting documentation from both the hiring department and the foreign national. It is their responsibility of the foreign national to initiate this process by meeting with the chair/director of the department and ISSS.
- Once ISSS receives the Department's portion of the form, ISSS can begin the preliminary work of determining whether the wage offered meets the prevailing wage

requirements for H-1B. Once ISSS has determined that there are no wage issues, ISSS will prepare and send to the hiring department a posting notice, two copies of which must be posted in two conspicuous locations for two weeks. This is a Federal requirement that we cannot avoid. At the time that ISSS sends the posting notice, ISSS will also send a [Confirmation of Posting Form](#) that is to be completed by appropriate departmental administrative personnel to confirm that the notices have been posted.

- CUA's [H-1B Request Form](#) consists of two distinct parts. One part is completed by the CUA hiring department; the other is completed by the foreign national. (Will email questionnaires to the Foreign National).
- Once the notices have been posted, ISSS will submit a Labor Condition Attestation to the Department of Labor and prepare for the authorized signature (Provost for Academic Positions and VP Finance for Staff positions) for all of the Immigration forms that will be submitted to the government.

*This information is intended to provide basic, general information only and should not be used as a substitute for professional advice from qualified immigration specialists.*

*University's Policy May Be Changed at any Time Without Prior Notice*

### **Costs to Sponsoring Department**

These fees below are paid by the Department/School not the employee.

<b>Type of Petition</b>	<b>Filing Fee</b>
Basic H-1B filing Fee (all H petitions must submit this fee)	\$325
Security fee (must be paid <u>only for initial</u> H-1B petitions)	\$500
Premium Processing Fee (Optional)	
Payment responsibility can fall on either the foreign national or department/school depending upon who has initiated the request.	\$1225

### **Timeframe of Application Process**

The petition can be filed up to 6 months before the requested start date on the H-1B petition. It is highly recommended the scholar initiates the sponsor process 6 months prior to their expiration date of the current status.

Once USCIS receives the petition, it can take up to 3 or 6 months to adjudicate using their normal processing service. USCIS does offer expedited processing which can be adjudicated in 15 days. This option is entirely up to the scholar and the fee payment required is at the discretion of the department involved in sponsoring the scholar.

## **Maintaining H-1B Status**

In order to maintain valid H-1B status, temporary workers must:

- Maintain a valid passport at all times, unless exempt from passport requirements;
- Work only for the employer(s) sponsoring the approved H-1B petition.
- Report a change of address to ISSS Office within 10 days of the change;
- Notify their International Scholar (IS) Advisor whenever there is any change in their work (change in title, duties, or department, hours, if they are leaving the job, etc.)
- Apply for an extension before the current H-1B status expires (in order to continue working at CUA). Processing usually takes four months, so allow ample time. The application must be filed with the USCIS prior to the expiration date on the I-797 Notice of Action Form in order for the employee to be able to continue working without interruption.
- There is no grace period for foreign nationals in H-1B status after the authorized period of stay ends unless specifically authorized by the DHS at the port-of-entry.
- If the individual is in CUA-sponsored H-1B status and an extension is filed, then he or she can continue working for CUA for an additional 240 days beyond their current H expiration while USCIS adjudicates the extension. This is known as the 240 day rule.

## **Change of Employer**

- H-1B temporary workers may transfer their status to a different employer. Before the employee starts work with the new employer, the new employer must first file an I-129 petition with the USCIS and confirm that it has been received.
- USCIS often requests copies of recent pay stubs for transfer applications, so it is important that foreign nationals continue working for their current employer until the receipt notice has been received.