H-1B/TN/E-3 Employee Orientation

Nick Seamons, Director
Dan Ashton, Associate Director, Scholar & Employee Services
Alexandra Kirshenbaum, Senior International Scholar and Employee Adviser
Reshecoa Flanders, International Scholar and Employee Adviser
Courtney Singleton, International Scholar and Employee Adviser
OIA Services

- Immigration advising & processing for J-1 Scholars, J-2 Dependents, F-1 & J-1 Students, Non-Degree Visiting Students, H-1B Employees, H-4 Dependents, TN Employees & TD dependents
  - Two Teams: Employee & Scholar Services Team; Student Services Team
  - OIA Staff Directory: [https://internationalaffairs.uchicago.edu/directories/full/office-of-international-affairs-staff-directory](https://internationalaffairs.uchicago.edu/directories/full/office-of-international-affairs-staff-directory)
- Employee Services Team
  - Dan Ashton: Department of Medicine (BSD), Center for Translational Data Science (BSD), BSD Dean’s Office, Pritzker School of Molecular Engineering, Provost & President’s Office, and all clinical cases
  - Reshecoa Flanders: Physical Sciences Division and Humanities Division
  - Alexandra Kirshenbaum: Social Sciences Division, IT Services, and Professional Schools (Booth, Harris, Graham, Divinity, Law School, SSA, Alumni Relations, College, Chapin, etc.)
  - Courtney Singleton: Biological Sciences Division, except Medicine, Dean’s Ofc, and CTDS
- Orientations and programming for UChicago’s international and foreign national populations
- Limited advice on SSNs, State of Illinois driver’s licenses, housing, taxes, lawful permanent residency, and other daily matters that affect the non-immigrant experience in the U.S.
- Notary public service available
Overview of H-1B/TN/E-3 Status

• H-1B/TN/E-3 are employment statuses/visas, that can only be petitioned for by a U.S. employer seeking to employ an international in a “specialty occupation”
  • A specialty occupation requires the theoretical and practical application of a body of highly specialized knowledge to fully perform the required duties
  • A specialty occupation minimally requires bachelor’s degree in a specific field of study for entry into the occupation
• H-1B status is a dual intent status → nonimmigrant & immigrant
  • TN and E-3 statuses are nonimmigrant intent
• UChicago is a cap-exempt petitioner, meaning we can file H-1B applications without numerical or date limitations
Overview of H-1B/TN/E-3 Status

• Position may be a permanent one, but the beneficiary must be filling it temporarily (6 years maximum; 3-year increments)
• Tenure track positions are appropriate for H-1B status
  • Not for TN or E-3
• Prior time in H-1B status is deducted from the six-year total
  • Unless there has been a minimum of 12 consecutive months spent outside the U.S. between periods of H-1B status
  • No time limits to TN or E-3 statuses
• Application is employer-based; worker cannot self-sponsor
• H-1B/TN/E-3 statuses are employer specific – beneficiary must work only for the employer that sponsors (i.e. UChicago)
Overview of H-1B/TN/E-3 Status

• Obtaining a Social Security Number
  ▪ Employees may apply for a Social Security Number 10 days after arrival
  ▪ Documents: passport, I-94, I-797 (H-1B only), employment/offer letter
  ▪ Additional information is available on the OIA website: https://internationalaffairs.uchicago.edu/ssn#howdoapply

• Health Insurance & Benefits
  ▪ H-1B/TN/E-3 employees (staff/academic positions) are eligible for University of Chicago health insurance coverage and other benefits
  ▪ Direct questions to UChicago Human Resources or department
  ▪ Additional information is available on the HR website: https://humanresources.uchicago.edu/benefits/healthwelfare/medical/
Overview of H-1B/TN/E-3 Status

- Status Documents:
  - Approval Notice (Form I-797) -- H-1B only
    - I-797 Receipt Notice if working on an extension/amendment, or if working after transferring from another employer
  - I-94 arrival/departure card or online record
  - Admission/entry stamp in passport
  - Visa stamp/sticker
    - Only must be valid at time of entry or reentry into U.S.
    - Canadians exempt
I-797 Approval Notice

- Your “Class of Admission” should read: H-1B
- The H-1B Approval Notice lists your dates of eligible employment
- If you did a change of status or change of employer, your new I-94 card will be at the bottom of the I-797 Approval Notice.
H-1B Visa Stamp/Sticker and Admission Stamp
Electronic I-94 Record

- Confirms the details of your admission to the U.S.
- Retrievable online: https://i94.cbp.dhs.gov/I94
- The “Admit Until Date” should be that same as the end date listed on your I-797 Approval Notice
- Your “Class of Admission” should read: H-1B
- If your record does not list H-1B as your status or the expiration date listed on your I-797 Approval Notice, contact OIA immediately.
Maintaining H-1B/TN/E-3 Status

• Contact OIA *immediately* if there are any changes to your employment
  ▪ Location, hours, job duties, job title, decrease in rate of pay, etc.
  ▪ Upcoming date of employment termination or resignation
  ▪ Amendment required for a “material change”
• Report Address and/or Name Change to USCIS and OIA
  ▪ Report to USCIS within 10 days: [http://www.uscis.gov/ar-11](http://www.uscis.gov/ar-11)
• Conduct employment as only indicated in the H-1B/TN/E-3 application
• Additional employment requires a separate application to be filed for each position (“concurrent”) and or each employer
• Conferences and Lectures
  ▪ Beneficiaries may give lectures and speeches at other institutions, but **MAY NOT** receive payment
  ▪ Reimbursement for travel expenses and reasonable living expenses is allowed but should not represent a payment for services
Extension of H-1B/TN/E-3 Status

- Extensions can only be initiated by the department
- OIA will contact the employee to request current/updated documents and information once the request is received
- H-1Bs
  - An extension petition must be filed with USCIS/immigration prior to the expiration of the current H-1B status
  - Approval Notice is not required to continue employment
    - May continue employment for 240 days on the basis of the Receipt Notice
- TNs and E-3s must travel and reenter
- Processing times vary:
  - H-1Bs: 45-60 days
  - TNs and E-3s: 2-4 weeks
An H-1B employee may transfer or change employers during 6-year H-1B status duration

Only employer can file H-1B application to request change of employers

Employee may begin working for the new employer and in new job on basis of H-1B Receipt Notice (once start date listed on I-129 arrives)
  - Best practice is to file with expedited Premium Processing when transferring employers

Ideal if no gaps between jobs

Travel during the portability period is **strongly** discouraged
  - If you must travel while petition to change employers is pending, contact OIA or new employer to discuss ASAP
• Domestic travel is possible without restriction
• International travel and re-entry to the U.S. requires:
  ▪ Valid passport (valid at least 6 months into the future)
  ▪ Valid visa sticker/stamp
  ▪ Original H-1B Approval Notice (Form I-797)
  ▪ Entire H-1B/TN/E-3 packet received from OIA
  ▪ Travel Letter (request from OIA 1 week before traveling)
  ▪ Employment confirmation letter from your department
• Visa stickers/stamps are only available outside of the United States at U.S. consulates: [https://www.usembassy.gov/](https://www.usembassy.gov/)
• Check the expiration date on your visa sticker before you travel internationally; schedule visa appointment in advance
Travel

• Administrative Processing
  • In some cases, the U.S. consulate may refer a visa to "administrative processing" or 221(g) (background check) based on various factors such as your field of study or research, type of job in U.S., country of citizenship, location of the visa application, etc.
  • This can add 4 to 8 weeks to the visa process, although times vary
    • Requests by universities or applicants to expedite are not encouraged
    • Please notify your OIA adviser if you are subject to administrative processing
      • If a specific document is requested from the employer, let us know ASAP
  • If you conduct research, you are encouraged to bring letter from your department/PI detailing your specific area of research
    • Please see a sample letter on our website
Travel

• Secondary Inspection
  • If CBP cannot quickly confirm your admissibility into the U.S. in H-1B, TN or E-3 status, they may refer you to Secondary Inspection at the airport/port of entry for closer examination of your documents
  • If you are referred to secondary inspection, prepare for a potentially lengthy wait time; remain polite and cooperate with the process
  • We recommend having OIA’s contact information available
    • Regular office hours: **773-702-7752**
    • After hours: call UChicago Police
Travel Considerations

• Is international travel recommended?
  • No, unless absolutely necessary (i.e. medical need, family emergency, etc.)
  • Reentry may be delayed, especially if you don’t have a valid entry visa
  • May need National Interest Exception (NIE); contact U.S. consulate for approval

• Covid-19
  • Travel restrictions worldwide
  • Quarantine and vaccination requirements vary by country
  • Consulate closures and backlogs; vary by country
  • Travel Bans, Executive Orders, Presidential Proclamations
    • See OIA website: https://internationalaffairs.uchicago.edu/news/geographic-covid-19-proclamations-affecting-entry-certain-countries
Complete OIA’s Travel Re-Entry Form

Travel Re-Entry Form

This form and a copy of your recent admission stamp should be submitted to International Student Affairs before dependents return from travel. Please verify the status in which your status end date. We will include a copy if it is

First Name:

Middle Name:

Last (Family) Name:

Gender:

Date of Birth:

Phone Number:

Address:

City:

State:

Zip Code:

Country:

Email Address:

Institution:

Institution Address:

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Recapture of H-1B Time

- H-1B status is limited to 6 years in most instances
- As a general rule, days spent outside the U.S. while in H-1B status will not be counted toward the 6-year maximum period of stay if they are “recaptured”
  - Any trip outside of the U.S. for 24 hours or more may be “recaptured” and subtracted from or added back to the 6-year maximum duration
- Items that can be used to document time spent outside the U.S.:
  - I-94 cards/records
  - Entrance and exit stamps in passport
  - Plane tickets and boarding passes
Under updated AC21 Regulations, effective 1/17/2017:
- H-1B/TN/E-3 employees are permitted formal 10 day grace periods
  - Up to 10 days before the validity period of the petition begins; and up to 10 days after the validity of the petition ends
  - Unless otherwise authorized (e.g., through portability employment), the beneficiary may not work except during the validity period of the petition.
  - These 10-day periods, especially the 10-day period after the validity of the petition ends, are not automatically given
  - Must appear on petition approval notice or I-94, or it doesn’t exist
- H-1B/TN/E-3 employees are permitted a one-time 60 day grace period for “cessation of employment” between jobs/statuses
  - Once during each authorized validity period
  - DHS will not consider the worker and his or her dependents "to have failed to maintain nonimmigrant status solely on the basis of a cessation of the employment on which the alien's classification was based."
  - What is the "authorized validity period? -The employment end date on the Form I-797 approval notice of the petitioner's Form I-129 H-1B petition? -The expiration date on the H-1B nonimmigrant’s Form I-94?
  - This grace period is not like the F-1 60-day grace period. Whereas the F-1 grace period is tacked on to the end of a student's program end date after completing a course of study, the H-1B 60-day grace period is the sooner of 60 consecutive days after the cessation of work or the petition end date, i.e., whichever comes first. And so, the 60-day employment-based grace period can occur at any time during the nonimmigrant's authorized validity period, but only once during that period.
  - Whereas the F-1 grace period is tacked on to the end of a student's program end date after completing a course of study, the H-1B 60-day grace period is the sooner of 60 consecutive days after the cessation of work or the petition end date, i.e., whichever comes first. And so, the 60-day employment-based grace period can occur at any time during the nonimmigrant’s authorized validity period, but only once during that period.
Covid-19 has led to many UChicago employees needing to work remotely
  • Contact OIA about requirements
  • Work through first with your department in accordance with HR policy
Department of Labor (DOL) regulations require H-1B and E-3 workers who may now be working remotely to post a copy of their certified Labor Conditions Application (LCA) at their remote work location for 10-days, within 30-days of moving to the new work location
A copy of an H-1B or E-3 workers LCA was provided at the time of approval and would have been included in the documents you retrieved from OIA. The LCA is also noted as ETA Form 9035 (which would be noted on the form itself)
Lawful Permanent Residency

• Several ways to apply for LPR, immigrant status or a green card:
  • Family-based
  • Employer-based
  • Self-petition (EB-1A, National Interest Waiver, DV Lottery, etc.)
• OIA does not process Lawful Permanent Residence (LPR) applications
  • Can only provide general information, not advice or guidance
• All LPR applications filed on behalf of UChicago are filed by outside immigration attorneys
  • EB-1B Outstanding Research or Professor, EB-2 & EB-3 PERM
• Please speak with your Academic Affairs/HR Professional for departmental policies and process for LPR sponsorship
• Review the University’s current LPR policy:
  http://humanresources.uchicago.edu/fpg/policies/200/p211.shtml
Recommended UChicago Events:

**English Language Institute**
Through academic, professional, and intercultural programming, the English Language Institute supports individuals for whom English is an additional language at the University of Chicago:
https://esl.uchicago.edu/

**UChicago International House Events**
Various events throughout the year including Global Voices Performing Arts & Lecture Series, Diplomatic Encounters Series, and happy hour every Tuesday (summer only) at 6 p.m. in the court yard:
https://ihouse.uchicago.edu/events/upcoming_programs/

**UChicago Arts**
The arts are central to the mission of the University of Chicago. With a strong tradition of cross-disciplinary practices, intricately mixed with intellectual curiosity and creative energy, the University fosters a bustling arts community on Chicago’s South Side:
https://ihouse.uchicago.edu/events/uchicago_arts_guide/

**UChicago Institute of Politics**
A non-partisan extracurricular program with lectures and speakers with political leaders of the world:
https://politics.uchicago.edu/events
Office of International Affairs

Internationalaffairs.uchicago.edu
773-702-7752
International-affairs@uchicago.edu
University Press Building, 1427 E. 60th Street, 2nd Floor, Room 251
Mon-Thurs: 9 a.m. to 4:30 p.m.; Fri 10:00 a.m. to 4:30 p.m.
THANKS FOR ATTENDING!

ANY QUESTIONS???