Office of International Affairs (OIA)

H-1B/TN/E-3 Employee Orientation
OIA: Who We Are

Employee and Scholar Services Team: Provide immigration advisement to UChicago’s foreign national employees, scholars, and visitors.

- **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

- **Student Services Team** - Provides immigration advisement and programming to UChicago’s foreign national student population (primarily those in F-1 and J-1 student status).

- **Administrative Services Team** - Provides operational support for the OIA.

- **Nick Seamons**, Executive Director and Assistant Dean of Students
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, E3 & E3 Dependents

• 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.
Understanding the Basics:

H-1B, TN, and E-3 Employees
Understanding the Basics: H-1B, TN, E-3

• Definition: H-1B/TN/E-3 visa classification may be granted to a foreign national who will perform services (work) in a “specialty occupation” and be paid the required “prevailing wage”

• A *specialty occupation* requires theoretical and practical application of a body of highly specialized knowledge to fully perform the required duties, and a bachelor’s or higher degree in a specific field of study as a minimum for entry into the occupation
  
  – Ex. “A bachelor’s degree in economics, statistics or related field is required”

• H-1B/TN/E-3 status is for temporary workers
Understanding the Basics: H-1B, TN, E-3

- H-1B/TN/E-3 status is for temporary workers
  - Position may be a permanent one (i.e. tenured faculty), but the beneficiary/employee must be filling it temporarily

- H-1B is available to all foreign nationals that qualify
- E-3 limited to Australian citizens
- TN is limited to Mexican and Canadian citizens

- Status time limits per status:
  - H-1B: 6 years
  - TN: No limit, renewable every 3 years
  - E-3: No limit, renewable every 2 years
H-1B/TN/E-3 Status Documents

• Status Documents:
  - Approval Notice (Form I-797)--H-1B/E-3 only
    - I-797 Receipt Notice if working on an extension/amendment, or if working after transferring from another employer
  - Form I-94 online record of entry
  - Visa stamp/sticker
    - Only must be valid at time of entry or reentry into U.S.
    - Canadians exempt
  - Admission/entry stamp in passport
    - Many U.S. airports of entry have phased out stamping passports
Visa Validity Period

• The purpose of the visa (sticker in passport) is for entry to the U.S.

• This means it can expire while you are here.

• It does not determine your ability to remain in the U.S.

• If your visa expires before your planned re-entry date to the U.S. you must obtain a new visa prior to re-entering.
I-797 Approval Notice for H-1B or E-3 holders

- Your “Class of Admission” should read: H-1B or E-3
- 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.
Form I-94 Entry Document

- Confirms the details of your admission to the U.S.

- Retrievable online: https://i94.cbp.dhs.gov/I94

Your “Class of Admission” should read: H-1B/TN/E-3

The “Admit Until Date” should be that same as the end date listed on your I-797 Approval Notice

- 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.
Visa Sticker & Entry Stamp
Managing & Maintaining Your Immigration Status
Managing & Maintaining Your Status

• Your OIA Adviser is your resource.

• Consult your adviser with questions relating to your immigration status.

• We work alongside you and your department to facilitate your employment experience.

• Outside factors limit and/or inform our advisement.
Managing & Maintaining Your 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#howdoiapply

• 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/
Managing & Maintaining Your Status

• Conduct employment as only indicated in the H-1B/TN/E-3 job description.

• 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.
Managing & Maintaining Your 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

• Some changes require notification to the government in the form of a new H-1B/TN Petition or travel for TN holders.

• Report Address and/or Name Change to USCIS, OIA, UChicago HR
  • Report to USCIS within 10 days: http://www.uscis.gov/ar-11
Extension of Your Status
Extensions of Your Status

- Extensions are initiated by the host department
  - Extension requests can be submitted to OIA up to 6 months in advance of the current status expiration
- H-1B requires USCIS petition:
  - 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
Extensions of Your Status

- TNs must travel and reenter
- E-3s may either travel or file extension through USCIS
- Processing times vary:
  - H-1B and E-3s filing through USCIS: 45-70 days
  - TNs and E-3s: 2-4 weeks
Change of Employer & Concurrent Employment
Change of Employer

• You may obtain new employment and effectively “transfer” or “port” your status/work authorization.

• Ideally, no gaps between employment
  • To avoid potential gaps, please discuss your employment end date with your department and OIA adviser.

• Travel during while the transfer is in process is strongly discouraged.

• Transfer/Port must be initiated by your new employer.
Change of Employer

• **H-1B:**
  • Employer must file ‘Change of Employer’ petition with USCIS
  • Employee may begin new employment using the Receipt Notice
  • Must have time left in H-1B status (6 year max participation).

• **TN:**
  • To change employers, it will be required to depart the U.S., and re-enter using support documentation from new position/new company/organization.

• **E-3:**
  • New Labor Certification Application must be certified.
  • Employer may submit ‘Change of Employer’ petition with USCIS or employee may travel initiate the new employment.
Concurrent Employment

• It is possible to hold multiple jobs. Examples: hold two positions at the same organization/company or work for two different employers.

• You must be authorized to work for each job.

• Employer may restrict multiple positions and/or obtaining outside employment.

• H-1B:
  • Employer must file ‘Concurrent’ petition with USCIS
  • Employee may begin new employment using the Receipt Notice
  • Must have time left in H-1B status (6 year max participation).

• TN:
  • To add an employer, it will be required to depart the U.S., and re-enter using support documentation from new position/new company/organization and UChicago roles.

• E-3:
  • New Labor Certification Application must be certified.
  • Employer may submit ‘Concurrent Employment’ petition with USCIS or employee may travel add the new employment.
Additional Status Information
Grace Periods and Loss of Employment

Under AC21 Regulations:

• 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
Grace Periods and Loss of Employment

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.
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
Remote Work

• Covid-19 has led to many UChicago employees needing to work remotely.
  • Per immigration regulations, remote work is generally permitted.
  • Must be approved by your department/the University
  • Restrictions, depending on location (other states, outside the U.S.)

• 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).
International Travel
Travel

- 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 (Not required for Canadian nationals)
  - Original H-1B/E-3 Approval Notice (Form I-797)
  - Entire H-1B/TN/E-3 packet received from OIA
  - Employment verification letter from your department

- Visas (sticker in passport) 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 Re-Entry Form

• We recommend completing the OIA Travel Re-Entry Form.

• Allows OIA to review re-entry information issued by CBP
  • We review for common mistakes that can have immigration and/or employment implications

• Form located on OIA website

• Requires uploading entry documents:
  • Form I-94
  • Visa, if recently renewed
  • Entry stamp, if issued
Travel Re-Entry Form

This form and a copy of your recent I-94 record and/or admission stamp (if issued one) should be submitted to OIA whenever you or your dependents return from traveling outside of the U.S. Your advisor will verify the status in which you were admitted to the U.S. and your status end date. We will contact you if there are any issues with the documents. If you received a new visa stamp while you were abroad, please include a copy of it.

First Name: *

Middle Name:

Last (Family) Name: *

Gender:

Date of Birth: *

Email Address: *

Division: *
Administrative Processing for Visa application

- 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.
Secondary Inspection at US Port of Entry

• 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
Current Travel Considerations

• Travel risks vary. Circumstances that influence international travel and visa renewals are fluid.

• Consult with your adviser and department on any upcoming travels.

• Delays re-entering the U.S. can have employment/payroll implications.

• OIA provides travel updates on the homepage of our website.
Statement on Lawful Permanent Residency (LPR)
Lawful Permanent Residency (LPR)

- OIA advisement is limited
  - Provide general information, connection to resources
  - Any inquiries should be directed to Nick Seamons
- 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.)
Lawful Permanent Residency (LPR)

• 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
Questions & Discussion