



## Office of International Affairs

### H-1B Orientation for Employees

#### OIA Contact Information

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#### H-1B Status

U.S. immigration law contains an alphabet soup of immigration statuses. Each is designed and intended for different groups of visitors such as tourists, pro-sport athletes, students, employees and scholars.

H-1B status may be granted to a foreign national who will perform services in a specialty occupation. A specialty occupation requires theoretical and practical application of a body of highly specialized knowledge to fully perform the required duties of the job. Additionally, specialty occupations require a bachelor's degree or higher in a specific field.

H-1B status is for temporary workers, even though the position may be a permanent one. An H-1B beneficiary must be temporarily filling the position for an amount of time up to the six-year maximum allowed. Any time spent inside the U.S. in H-1B status may be deducted from this six-year total.

As indicated above, the maximum duration of H-1B status is six years. It is possible to obtain extensions of your status up to the six-year maximum. Any such extension must be requested by your department at least 45 days prior to your status end date. If you are receiving an extension of your H-1B status, you do not need to leave the U.S. to obtain a new visa to continue to work. However, a new visa sticker in your passport may be required if you intend to travel internationally.

H-1B status does not have a formal grace period. Additionally, a beneficiary may not enter the U.S. more than ten days prior to the start of employment. If you terminate your employment with the University earlier than initially anticipated, your H-1B status will be revoked. By law, you must leave the U.S. on or before the date that your H-1B status/employment ends. An informal “grace period” **may** be granted by CBP, which allows the beneficiary to remain in the U.S. for an additional ten days after the end of the H-1B validity period. This informal “grace period” is reflected on the I-94 card/record or the admission stamp. However, this is not a guaranteed grace period provided for by law and there is no way to ensure that remaining beyond the last date of employment will not be viewed as an overstay of your immigration status.

### **Employment**

H-1B status is strictly employer-based and a worker may never self-sponsor for H-1B status. Prior to the commencement of employment, the H-1B worker must have the proper documentation. For new employees or employees who are changing status to H-1B from another non-immigrant status this includes an I-797 Approval Notice. H-1B employees who are “transferring” (formally called “porting”) from another employer can use the I-797 Receipt Notice as work authorization. All H-1B employees who are working at the University of Chicago must also have an I-94 card/record that indicates they are in H-1B status. Often times, a new I-94 card is printed on the I-797 Approval Notice.

Since H-1B employment is employer-specific, an H-1B petition must be filed by the new employer anytime additional employment is gained. Additionally, to “transfer” someone’s H-1B status from one employer to another, the new employer must file an H-1B petition with USCIS.

If you are visiting another institution or organization, you may give lectures and speeches, but you may not receive payment other than for the reimbursement of travel expenses or reasonable living expenses during your stay. To receive payment, the other institution or organization would have to file an H-1B petition on your behalf for concurrent employment.

### **Social Security Numbers (SSN)**

As an H-1B employee, you will need to apply for a social security number in order to receive payment from the University. You will need to bring your appointment letter and your I-797 Approval Notice when applying for a social security number to demonstrate proof of employment and your employment authorization. Additional information regarding social security numbers is available on our website at: <https://internationalaffairs.uchicago.edu/ssn>.

### **Insurance**

Individuals in H-1B status are employees of the University and are eligible for University of Chicago health insurance coverage. Specific information on the University of Chicago’s insurance benefits can be found on the Human Resources website: <http://hr.uchicago.edu/benefits/>.

## Maintaining H-1B status

While you are in the U.S., it is important that you comply with H-1B regulations. If you fail to do this, you will jeopardize your status and you may have to stop your activities at the University of Chicago and leave the U.S.

To maintain your H-1B status, you must follow these simple steps:

- 1) Continue your employment with the University of Chicago. If you were to lose your position, your H-1B status would end even if you have an I-797 Approval Notice and I-94 card/record that appear to be valid.
- 2) Maintain your documents. Your passport and I-94 card/record must remain valid. The visa sticker in your passport may expire without consequence.
- 3) Conduct employment as indicated on the petition. While you are authorized to teach and/or conduct research in your department, you may not accept any other positions at the University or elsewhere without the appropriate action being taken to reflect these changes. If you anticipate there may be a change in your employment (such as a change in location or position), please contact your adviser before this change occurs.
- 4) Report any change of address. You are required to report to USCIS any change of address or name. Address changes must be reported within ten days of your move. Addresses can be updated online at the USCIS website by filing a Form AR-11: <https://egov.uscis.gov/coa/displayCOAForm.do>. USCIS will send you an email confirmation when your address has been updated. We recommend saving or printing this email for your records.

It is important that any changes in an H-1B employee's work status be brought to OIA's attention. The Department of Homeland Security has implemented the Administrative Site Visit and Verification Program (ASVVP). Under ASVVP, unannounced pre- and post-adjudication site inspections to verify information contained in H-1B petitions are conducted. As part of these site visits, a representative from the U.S. Department of Homeland Security may contact you directly and request several documents, such as copies of your paystubs or W-2s. These are legitimate requests. Should you have any questions about any such request, please contact your adviser. Also, please note that these visits and requests are of a routine nature and are conducted on a random basis.

## Changing Status to H-1B

An employee who is changing status to H-1B may not work on the basis of the pending H-1B petition. If no other valid employment status applies, all activities related to employment with the University must cease until the change of status petition is approved.

You cannot travel internationally while your petition to change status to H-1B is pending. H-1B regulations state that if a beneficiary leaves the U.S. between the filing of a change of status petition and the petition's approval, USCIS may consider the change of status request abandoned. This would not automatically prevent the approval of the petition, but the approval may be issued in the form of a consular notification. This would require that you travel outside of the U.S., apply for an H-1B visa sticker and re-enter U.S. in order for the new status to take effect.

## **Portability**

An H-1B employee who holds valid H-1B status with another employer may work for the University of Chicago for up to 240 days while the change of employer petition is pending with USCIS. If you are “porting” your H-1B, you will need to maintain valid H-1B status with your previous employer until you are contacted by OIA regarding the filing of your change of employer petition.

International travel during the portability period (between the filing of the change of employer petition and its approval) is strongly discouraged. If travel is necessary during this period, you must contact OIA before you travel.

## **Extensions**

H-1B extensions are initiated by the Human Resources or Academic Affairs Professional for your department. OIA will contact you to request documents after the request is received. An extension petition must arrive at USCIS prior to the expiration date of the current H-1B status. Keep in mind that it takes approximately 45 days for OIA to process and file an extension petition with USCIS.

An I-797 Approval Notice is not required to continue employment during an extension. You may continue your employment for up to 240 days while an extension petition is pending, assuming the petition was filed before your status end date. During this period, you may receive a letter or email from the Office of Financial Services. This is an automated process and does not reflect whether or not OIA has received an extension request in your case. Please contact your Human Resources or Academic Affairs Professional if you have any questions or concerns about this.

International travel during a pending extension is allowed, though not recommended. However, you must have a valid Approval Notice and H-1B visa sticker in your passport to re-enter the U.S. If you will be traveling, you should contact OIA before departing the U.S.

## **Recapture of H-1B time**

As a general rule, days spent outside of the U.S. during the validity period of your H-1B status will not be counted toward the six-year maximum period of stay. This allows you to “recapture time” spent outside of the U.S. and apply those days to an extension of your status. In order to recapture this time, evidence of your time spent outside of the U.S. must be provided to USCIS. Copies of your I-94 card (front and back) or I-94 record, entry and exit stamps in your passport, plane tickets, and boarding passes from trips abroad may be used to verify the dates you spent outside of the U.S. If you anticipate that you will recapture time, please be sure to save these documents and to request stamps in your passport when entering and exiting countries.

## **Dependents**

Your spouse and children (under age 21) are eligible for H-4 status. Dependents may apply for H-4 status together with the H-1B petition for the primary beneficiary, or, dependents can apply at a later time. Dependents can change status within the U.S. by filing a Form I-539 with USCIS. In addition, H-4 status may also be obtained after the primary beneficiary’s petition is approved by

applying for an H-4 visa sticker at a U.S. Embassy or Consulate outside of the U.S. The dependent must bring a copy of the primary H-1B beneficiary's I-797 Approval Notice, a photocopy of the primary beneficiary's entire H-1B petition, photocopies of the primary beneficiary's passport, visa, I-94 card/record, and proof of the relationship, such as a marriage or birth certificate to the visa interview.

H-4 dependents may study, but are not permitted to be employed in the U.S. (unless they are very far along in the green card application process). If an H-4 dependent wants to work, they must change their status to an employment eligible status, such as H-1B.

### **Travel outside of the U.S.**

While you are here in H-1B status, you may need to travel internationally. Before leaving the U.S., you must have (or obtain before re-entering) an original, unexpired Form I-797 Approval Notice, a valid H-1B visa sticker in your passport, a valid passport, the entire H-1B packet you received from OIA, a travel letter obtained from OIA, and an employment confirmation letter from your department. Travel letters can be obtained from OIA by submitting a travel letter request on our website. Travel letters should be requested at least a week prior to the planned travel.

A valid visa sticker in your passport is required for re-entry into the U.S. unless you are a citizen of Canada or you are re-entering on the basis of "automatic visa revalidation" (details below). The documents required for a visa interview vary greatly among U.S. Embassies and Consulates (posts) throughout the world. As a visa applicant, you should always consult the website of the post where you intend to apply to determine what documents are required and what the lead times are for a visa appointment. Visa stickers can only be obtained outside of the U.S. so it is important to plan ahead as processing and lead times vary depending on the post and the time of year.

Many applicants find themselves subject to background checks by the U.S. Department of State. This can delay the visa application process significantly. There are various reasons for these background checks. Some have to do with the nationality or cultural background of the applicant, whereas others have to do with the field of study or research. For employees working in scientific fields, it is helpful to provide a letter explaining your proposed activities with the visa application. Such a letter may help avoid a field of study-based background check. This letter should be written by your department, on departmental letterhead. A template for this letter is available on the OIA website. If you are subject to a background check, please note that the consular officers are not at liberty to discuss the specifics of a background check with our office and OIA cannot expedite your background check.

Not every trip requires a new or valid visa sticker to re-enter the U.S. You may be able to re-enter the U.S. using an expired visa sticker on the basis of "automatic visa revalidation". If you are traveling to Canada or Mexico, you can use your expired H-1B visa to re-enter the U.S. as long as: 1) your trip did not last longer than thirty days and, 2) you did not visit any other countries on your trip. When using automatic visa revalidation to re-enter the U.S., you must carry all relevant travel documents except a valid visa sticker in your passport. Automatic visa revalidation is not available to citizens of Cuba, Iran, North Korea, Sudan and Syria.

After traveling, please remember to submit the electronic travel re-entry form located on OIA's website. Your adviser 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. The form can be found on this page of our website: <https://internationalaffairs.uchicago.edu/travelreentryform>.

### **Dependent Travel**

If an H-4 dependent is traveling internationally, they should have a valid H-4 visa sticker and an I-94 card/record, a valid passport, a copy of the primary H-1B beneficiary's I-797 Approval Notice, a photocopy of the primary beneficiary's entire H-1B petition, photocopies of the primary beneficiary's passport, visa, I-94 card/record, and proof of the relationship, such as a marriage or birth certificate.

### **Taxes**

OIA is not directly involved with the payment of visitors, nor can we provide you with taxation advice for your specific tax situation. Please contact Lauren Bautista ([lbautista1@uchicago.edu](mailto:lbautista1@uchicago.edu)) in Financial Services with any questions relating to your individual tax situation and refer to the OIA website for general advice on U.S. taxes.

### **Legal Permanent Residency**

OIA provides very limited advisement on legal permanent residency/green card issues. Before contacting OIA, you should speak with your Human Resources or Academic Affairs Professional regarding legal permanent residency sponsorship. The University's current policy on green card sponsorship may be found on the University's website at: <http://hrservices.uchicago.edu/fpg/policies/200/p211.shtml>.

### **Other Useful Links**

Driver's License:

[http://www.cyberdriveillinois.com/departments/drivers/drivers\\_license/home.html](http://www.cyberdriveillinois.com/departments/drivers/drivers_license/home.html)

Financial Services: <http://finserv.uchicago.edu/>

Visa versus Status: <https://internationalaffairs.uchicago.edu/page/visa-vs-status>

Visa Wait Times: [http://travel.state.gov/visa/temp/wait/wait\\_4638.html](http://travel.state.gov/visa/temp/wait/wait_4638.html)