



Understanding H-1B Employee Status: Advanced Office of International Affairs

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THE UNIVERSITY OF
CHICAGO

**Campus and
Student Life
International Affairs**



Overview:

- Job descriptions
- Off-site/Multiple work locations
- Porting vs. Concurrent Employment
- Part-time employment
- Maintaining status during green card process
- Extensions beyond the 6th year
- Processing tips
- STEM OPT



Job Descriptions

Requisition number for official job description

- Exception: postdoctoral scholars
- Functions/duties for the position
- Supervision of other employees
- Required verses preferred
 - Do not tailor to employee
- Educational requirement
- License/Training requirements (quantifying years required, when possible)



Off Site Multiple/Work Locations

- All work locations need to be listed on the H-1B request (new, extension, port, and concurrent)
 - 2 LCA postings must be hung per worksite
- Contact OIA if change or addition to worksite
 - Most changes in work location require a new LCA (and postings) and a new H-1B petition
- Additional worksite may increase prevailing wage requirement



Porting vs. Concurrent Employment

- Portable (or transfer) petition:
 - employee will end their current H-1B employment to come work for UChicago
- Concurrent petition
 - employee will continue some form of employment with their current employer and work for UChicago simultaneously

NOTE: Premium processing is rarely required for Portable and Concurrent petitions since employees can begin working for UChicago on the basis of the receipt notice due to the 240 day rule



Part time Employment

- Part time employment is permissible for H-1B employees working at UChicago **under rare circumstances**
- Additional follow-up and coordination is required to accommodate a part time position under H-1B sponsorship
- UChicago's Policy on H-1B sponsorship available on HR website



Maintaining Status During Green Card Process

OIA strongly recommends maintaining H-1B status until the actual green card is received

- Safety net if I-485 denied
- As of May 26, 2015, certain H-4 dependents will be eligible for work authorization



Extensions Beyond the 6th Year

- Under certain circumstances it may be possible to extend an employee's H-1B status beyond the 6th year
- Recapture of time spent outside the U.S.
- Extensions during LPR processing



Processing Tips

Notify OIA **PRIOR** to any changes in employee's work:

- job title/duties
- work location
- salary decreases
- change in work hours

Contact OIA when H-1B employment ends



Processing Tips

Timelines

- 30-45 days internal processing at OIA
- 3-4 months USCIS: regular processing
- 15 calendar days USCIS: premium processing

In cases of Extension, Concurrent, Portable petitions, employee may continue working on basis of Receipt Notice for 240 days



Processing Tips

- Travel outside U.S. is not possible when a Change of Status petition is pending
- Travel *may* be possible for other petition types (extension, port, concurrent); check with OIA prior to employee traveling



OPT/STEM

F1 - OPT/STEM

- More flexible: changing employers, multiple employers
- Buy time in employment status
- Can accept alternative funds such as grants
- No minimum salary requirement
- Myth of “H-1B is better”
- One-time benefit (use it or lose it)

Pre-completion OPT

Standard post-completion OPT (12 months)

STEM extension OPT (additional 24 months)



OPT/STEM

- New rule goes into affect tomorrow, May 10
- Extension period for STEM fields increase from 17 to 24 months
- Increased reporting responsibilities for employers and sponsoring schools
- Employees on OPT STEM are under the sponsorship of their graduating institution; all questions regarding new STEM requirements should be directed to international adviser at the graduating institution
- See OIA guidance and Fragomen Q & A handouts for general overview



Questions???