

INTERNATIONAL FACULTY & SCHOLARS

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H-1B Quick Reference

What Is H-1B Status?

- Temporary employment authorization for professional positions
- H-1B status allows **temporary professional employment** for a **maximum of six (6) years**, generally approved in increments of **up to three (3) years**
- A new six-year period may be possible **only after at least one (1) full year outside the U.S.**

Who Qualifies for H-1B Status?

The position must be a **specialty occupation**, meaning it requires the **theoretical and practical application of highly specialized knowledge** and meets **at least one** of the following:

- Requires a **bachelor's degree or higher (or equivalent)** in a **specific academic discipline** as the standard minimum requirement; and/or
- Requires a **full state license** to practice the occupation (e.g., medical licensure)

H-1B petitions **cannot** be filed for positions requiring less than a bachelor's degree.

Petition Length, Funding & Wages

- Each H-1B petition may be filed for **up to three (3) years**
- The requested validity period **may not exceed guaranteed salary funding**
- **IFS will not file** an H-1B petition without confirmed funding
- By law, UA must pay **at least the higher of**:
 - The **Actual Wage** paid to similarly employed workers, or
 - The **Prevailing Wage** for the occupation and geographic area (*20 CFR § 730*)

Labor Condition Application (LCA) Requirements

By filing the LCA, the University of Arizona certifies that:

- Employment of the H-1B worker will **not adversely affect** the working conditions of similarly employed workers;
- On the date of filing, there is **no strike, lockout, or work stoppage** in the occupational classification;
 - If one occurs after filing, UA will notify DOL within **three (3) days**, and the LCA may not be used until resolved;
- A copy of the LCA **has been or will be provided** to the H-1B employee;
- Notice of filing has been provided to workers in the occupation; and
- The LCA posting notice **has been or will be posted for ten (10) consecutive working days in at least two (2) conspicuous locations** at each worksite.



Position & Degree Requirements

- Position must require **at least a bachelor's degree in a specific field**
- Foreign national (FN) must have:
 - A **U.S. bachelor's degree**, or
 - A **foreign equivalent**, or
 - **Equivalent work experience** (credential evaluation required, at FN's expense)
- H-1B petitions **cannot** be filed for positions requiring less than a bachelor's degree

Employer-Specific Status

- H-1B status is **employer-specific**
- FN may work **only for the University of Arizona (UA)** as listed in the petition
- **Concurrent H-1B employment** with another employer is possible **only if separately approved**

H-1B Transfers (Coming to UA)

- A new H-1B petition must be filed by UA
- Prior H-1B approval with another employer **does not authorize work at UA**
- FN may begin employment **once the petition is timely filed with USCIS**
- Employment may begin **no earlier than the petition start date**
- IFS will notify the department and FN when the **I-797 Receipt Notice** is received

Wage & Labor Condition Application (LCA)

- FN must be paid **100% or more of the prevailing wage**
- FN will receive a copy of the **certified Labor Condition Application (LCA)**
- If pay is **below the LCA wage**, contact **IFS immediately**

Dual Intent

- H-1B allows **dual intent**
- FN may pursue **permanent residency (PR)** while in H-1B status

Dependents (H-4 Status)

- **Spouse and unmarried children under 21** qualify for H-4
- H-4 dependents:
 - **May not work or volunteer**
 - **May study full-time or part-time**
- Form **I-539**:
 - Required if dependents are in the U.S.
 - FN is responsible for filing



Compensation & Activities

- FN **may not accept compensation or honoraria** from other entities
- Permitted:
 - **Reimbursement only** for reasonable travel and living expenses
 - Activities must relate to approved UA employment

Travel & Grace Period

- FN must depart the U.S. **on or before the I-94 end date**
- A **10-day grace period** may be granted at entry (not guaranteed)
- Grace period, if granted, appears on the **I-94** at the bottom of the I-797 Approval Notice

Processing & Timing

- Petition assembly by IFS: **~3–4 weeks**
- Government processing times vary and are **not guaranteed**
- USCIS processing times: <https://egov.uscis.gov/processing-times/>



What Is the Difference Between a Visa, a Visa Stamp, and Visa Status?

Visa Stamp:

A U.S. nonimmigrant visa (visa stamp) is placed in an individual's passport by a U.S. consular officer at a U.S. embassy or consulate outside the United States.

- A visa is used **only for entry or re-entry** to the United States
- A visa **does not determine how long** an individual may remain in the U.S.
- An individual **may remain in the U.S. after a visa expires** as long as their **immigration status is valid**
- Most visas allow **multiple entries**
- **Visa stamps cannot be renewed inside the United States**
- A new visa stamp must be obtained **abroad** after expiration, before re-entering the U.S.

 International scholars at UA must use the visa type that matches their **actual UA activities** (e.g., H-1B, O-1, J-1). Engaging in employment or research activities while in B-1/B-2 visitor status may constitute a violation of immigration regulations and may result in adverse immigration consequences.

Visa Status:

Visa status refers to the legal immigration classification and period of authorized stay granted to an individual after entry into the United States.

- Visa status is recorded on the **Form I-94 (Arrival/Departure Record)**
- The I-94 shows:
 - Immigration **status** (e.g., H-1B, O-1)
 - The **expiration date** of authorized stay
- The I-94 expiration date—not the visa stamp—determines **how long an individual may remain in the U.S.**
- For H-1B holders, the authorized period of stay is also reflected on the **Form I-797 Approval Notice**



What are the penalties for violation of the Federal Regulations?

Filing an LCA which misrepresents a material fact:

- Civil money penalty up to \$1,000/violation
- Notice to USCIS & ETA regarding debarment from H-1B program
- Any other actions the DOL deems appropriate
- Up to \$10,000 fine and/or 5 years' imprisonment [18 U.S.C. 1000]

Failure to pay required wages:

- Back wages to H-1B employee
- Civil money penalty up to \$1,000/violation
- Notice to USCIS & ETA regarding debarment from H-1B program
- Any other actions the DOL deems appropriate

Failure to provide required working conditions:

- Civil money penalty up to \$1,000/violation
- Notice to USCIS & ETA regarding debarment from H-1B program
- Any other actions the DOL deems appropriate

NOTE: Willful misrepresentation of a material fact on the Labor Condition Application (LCA) may result in civil monetary penalties ranging from \$5,000 to \$35,000 per violation and debarment from the H-1B program for a minimum of two (2) to three (3) years.

Other LCA-related violations, including but not limited to filing an LCA during a strike or lockout, failure to provide required notice, failure to be specific on the LCA, failure to make the LCA and required documentation available for public inspection, failure to retain required documentation, or failure to otherwise comply with LCA regulations, may result in:

- Civil monetary penalties of up to \$1,000 per violation, and
- Any other actions deemed appropriate by the U.S. Department of Labor (DOL).

