H-1B REGULATIONS AND PROCESS

Global Support Services,
Office of Immigration Services

Employment Services, VUMC Medical Center
Human Resources
## IMMIGRATION RESOURCES

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<th>Immigration Services</th>
<th>International Student and Scholar Services</th>
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<td><strong>O-1</strong>: Extraordinary Ability</td>
<td></td>
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<tr>
<td><strong>TN</strong>: NAFTA Professionals</td>
<td></td>
</tr>
<tr>
<td><strong>E-3</strong>: Specialty Occupations from Australia</td>
<td></td>
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<td><strong>Permanent Residency</strong></td>
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<td><strong>F-1</strong>: Students</td>
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<td><strong>J-1</strong>: Exchange Visitors</td>
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</tbody>
</table>
PRESENTATION OVERVIEW

- H-1B Overview
- H-1B Steps
- Permanent Residency Options
WHAT IS AN H-1B?

- An H-1B visa allows an employer to temporarily employ a foreign worker in the U.S. on a non-immigrant basis in a specialty occupation.
  - Applicant must have theoretical and practical application of a highly specialized body of knowledge
  - Applicant must have a minimum of a Bachelor's degree or its equivalent related to the field the job they are offered is in

NOTE: Vanderbilt Global Support Services must file the H-1B petition; prospective employees cannot obtain H-1B visas on their own
EXAMPLES

- The "minimum requirement" for a job is a high school diploma plus 1 year of relevant experience. The applicant has a masters.
  - The job does not qualify for H1B sponsorship.

- The minimum requirement listed for the job is an associates degree and bachelors preferred. The applicant has a BS.
  - The job does not qualify for H1B sponsorship.

- The job requires a Masters degree in finance. The applicant holds a foreign Masters which is equivalent to a U.S. Bachelors.
  - The applicant does not qualify for H1B sponsorship in this position.

- The job requires a Bachelors degree in chemistry plus 2 years of relevant experience. The applicant holds a Bachelors in nursing plus 2 years of experience in chemistry.
  - The applicant does not qualify for H1B sponsorship in this position.
EMPLOYER AND EMPLOYMENT SPECIFIC

- May only work for the company that sponsored the H1B in the position sponsored
- Must amend the H1B petition for a new position or significant changes to the current position (such as salary, hours, duties)
- May have multiple H1Bs for different employers
WAGE REQUIREMENT

• Per Department of Labor regulation, the H1B worker must be paid the higher of the prevailing wage for the occupation in the area or employment or the actual wage being paid to all other individuals with similar experience/qualifications for the specific employment.

• GSS CANNOT file if the wage requirement is not or will not be met.
SIX YEAR LIMIT FOR H-1B

- Each H-1B petition is approved for a maximum of 3 years at a time for a combined total of 6 years

- Time spent outside of the US while on H-1B may be recaptured
STEPS FOR AN H-1B PETITION

1. Department and employee submit required information and documentation
2. The required wage is determined
3. A Labor Condition Application (LCA) is submitted to the Department of Labor (DOL)
4. After the approved LCA is received the H-1B is filed with the US Department of Citizen and Immigration Services (USCIS)

5. A decision is made by USCIS and the department and the employee are notified
PROCESSING TIMES

- Vanderbilt Processing
  4-8 weeks

PLUS +

- Regular Processing:
  6-8 months prior to month needed.

- Premium Processing:
  8+ weeks prior to date needed
WHEN CAN THEY START?

• Not currently on H-1B:
The employee is changing status and **must** wait for a decision to be made in order to begin working.

• Has H-1B with a different employer:
Once the VUMC H-1B petition has been received by USCIS the employee may begin work.

• Current employee with H-1B:
The employee may continue working without interruption as long as an extension has been filed prior to the date of the current H-1B expiration.
WHAT IS PREMIUM PROCESSING?

- Premium Processing allows for USCIS to approve, deny, or issue a Request for Evidence (RFE) within 15 days
- Fee: $1,225.00*
- May be paid by department or employee
- OIS will determine based on the type of case, start date and travel requirement if it is premium processing is needed
WHAT IS A REQUEST FOR EVIDENCE (RFE)?

• If the USCIS officer feels there is not adequate information to make a decision or needs more recent information to make the officer will issue an RFE.
PAYMENTS

• Charges to the cost center (*info received from the Visa Case Initiation form*) will be processed via journal entry each month

• For employee paid services (i.e. optional Premium Processing) checks can be made out to: *Office of Immigration Services*
### Fees

<table>
<thead>
<tr>
<th>Visa Petition Type</th>
<th>USCIS / Department of State Fees</th>
<th>OFS Compliance Fees</th>
<th>Optional Premium Processing Fee</th>
<th>Total Due from Department Cost Center</th>
</tr>
</thead>
<tbody>
<tr>
<td>H-1B (New)</td>
<td>$825</td>
<td>$900</td>
<td>Not Applicable</td>
<td>$1,725</td>
</tr>
<tr>
<td>H-1B (New with Optional Premium Processing Fee)</td>
<td>$825</td>
<td>$950</td>
<td>Not Applicable</td>
<td>$3,000</td>
</tr>
<tr>
<td>H-1B (Extension)</td>
<td>$825</td>
<td>$800</td>
<td>Not Applicable</td>
<td>$1,625</td>
</tr>
<tr>
<td>H-1B (Extension with Optional Premium Processing Fee)</td>
<td>$825</td>
<td>$800</td>
<td>$1,225</td>
<td>$2,850</td>
</tr>
<tr>
<td>H-1B amendment for position or department change</td>
<td>$825</td>
<td>$375</td>
<td>$1,200</td>
<td>$1,200</td>
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<tr>
<td>E-3 (New)</td>
<td>$825</td>
<td>$900</td>
<td>Not Applicable</td>
<td>$1,725</td>
</tr>
<tr>
<td>E-3 (Extension)</td>
<td>$825</td>
<td>$800</td>
<td>Not Applicable</td>
<td>$1,625</td>
</tr>
<tr>
<td>TN (processed in the US)</td>
<td>$325</td>
<td>$900</td>
<td>Not Applicable</td>
<td>$1,225</td>
</tr>
<tr>
<td>TN (processed at the border)</td>
<td>$0</td>
<td>$900</td>
<td>Not Applicable</td>
<td>$900</td>
</tr>
</tbody>
</table>

Note: the fee at the border is $56 to be paid by the employee

**Request for Evidence**
- $150-$500
  - Note: only when requested by USCIS; based on complexity of request

**Translations, Evaluations**
- $75-$250
  - Note: based on number of documents, date needed and language
# FEES FOR DEPENDENTS

<table>
<thead>
<tr>
<th>Visa Petition Type</th>
<th>Legal Fees</th>
<th>Foreign National Dependent USCIS/DOS Fees</th>
<th>Total Due Per Dependent</th>
</tr>
</thead>
<tbody>
<tr>
<td>H-1B (New)</td>
<td>$260</td>
<td>$290</td>
<td>$550</td>
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<tr>
<td>H-1B (New with Optional Premium Processing Fee)</td>
<td>$260</td>
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Note: based on number of documents, date needed and language

**Request for Evidence**
Note: only when requested by USCIS; based on complexity of request

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Vanderbilt University  
Vanderbilt Medical Medical Center
TRAVEL

Leaving

• Before departing the employee should complete a Travel Letter Request

Returning

• After arrival the employee should complete a Re-Entry Form
TRAVEL

- The employee may not re-enter the US while the H-1B is pending unless they are within the validity dates of the current H-1B

- Administrative Processing: Up to the Consular Official to determine if additional screening is needed – there is no average time and no option to expedite
CHANGES TO A POSITION

- Any changes to the:
  - Job title
  - Job duties
  - Location
  - Salary

Any or all of these may require an amendment to the H-1B petition!
AMENDMENTS

• What we do to stay compliant:
  Re-file to notify DOL and USCIS of changes

• What happens if we don’t notify:
  Serious repercussions for VU/VUMC

Please contact your Immigration Program Coordinator when you think there may be a change to an employee’s position, we can help you determine whether or not an amendment is needed.

• $1,200.00 fee
TERMINATION

When employment ends:

- Termination
- Resignation
- Expiration of H-1B and I-94

The foreign national is out of status and must exit the country.

Please notify your Program Coordinator for Immigration of terminations in order to have the petition withdrawn.
AUDITS

• 30-40% of H-1Bs are audited by USCIS

Inform your Immigration Program Coordinator of any correspondence with USCIS

• Answer only the questions you are able to answer
• Answer all questions you are able to answer
VISA DEEMED EXPORT QUESTIONNAIRE

- Completed by the employee's supervisor


- Emailed to vec@vanderbilt.edu

- Export Compliance will respond to all

  ***H-1B petition cannot be submitted prior to completion***
Subject: Immigration Instructions

Dear Dr. Shen:

My name is Amy Burnard and I am assisting attorney Tracy Schauf, outside immigration counsel for Vanderbilt University. In a short time, you should be receiving an email with an authorization code for the Fragomen/Vanderbilt Immigration Home Page (IHP) and instructions for activating this code and accessing the IHP. Once you have completed the activation process and accessed the IHP, kindly complete the "Visa Employee Questionnaire" under the "Fact Gathering" link and attach copies of the requested documents (i.e. your passport, resume, academic/educational documents, etc.). Please note, not all of the questions may apply to you. Simply answer the questions to the best of your ability. If we have any questions about the answers you provided, we will email you for further information. If you have dependents (spouse and/or children) that will travel to the U.S. with you, or are in the U.S. in dependant status, then please include their information and documents in your questionnaire. If you are unable to attach any documents, please email them to me separately.

Please note that in accordance with data protection and security requirements of these countries, in instances where data is being transferred on the IHP from Portugal, Germany, or Belgium, written acceptance of the privacy statement is required before the IHP account activation process can be completed. Should this be necessary in your case, you will be prompted to print out a hard copy of the privacy statement, sign it, and fax it to my attention at the number below.

The Immigration Home Page (IHP) also contains the most recent updates from the USCIS. Please feel free to check this site to gather information on current immigration news, updates, FAQs, and to check company specific immigration policy and procedures.

If you have any questions at all, please do not hesitate to contact me. I look forward to working with you!

Sincerely,

Amy Burnard | Senior Paralegal

FRAGOMEN WORLDWIDE
50 W. Big Beaver Road, Suite 200, Troy, MI 48084, USA
Main: +1 248 649 5404 | Direct: +1 248 282 5723 | Fax: +1 248 649 5121
ABurnard@Fragomen.com
Hi,

As requested, we are preparing the paperwork required for Yurui Gao’s H-1B petition by Vanderbilt University. The process requires us to obtain a certified Labor Condition Application (LCA) from the U.S. Department of Labor. One of the requirements associated with the filing of the LCA is that notice of filing must be posted at the place of employment. The posting notice is attached (if you prefer to post the multi-page LCA instead of the one page posting notice so that the offered wage is less visible, please let me know and we can email it to you). Please review the notice and let us know if any edits are needed.

I kindly ask you to do the following:

1. Please print two (2) copies of the notice and post it in two (2) conspicuous locations at the physical work site in Nashville, TN. Appropriate locations would include bulletin boards where Wage and Hour, OSHA, or other related notices are posted. The notices must remain posted for ten (10) consecutive business days.

2. As soon as the two copies of the notice have been posted, please email me to confirm that this has been done. We can NOT file the LCA with DOL for processing until we receive your email confirmation the notices have been posted.

3. After the notices have been posted for ten (10) consecutive business days, the notices should be removed and the bottom portion should be completed. The original posting copies should be sent to Tabitha Roberts at Vanderbilt University at 2525 West End Ave., 5th Floor, Nashville, TN 37235 so that it may be placed in the Public Access File for this LCA (which will be sent under separate cover).

Let me know if you have any questions.

Sincerely,

Amy Burnard | Senior Paralegal
Notice of the Filing of a
Labor Condition Application with the
Employment and Training Administration

1. H-1B nonimmigrant workers are being sought by Vanderbilt University through the filing of a labor condition application with the Employment and Training Administration of the U.S. Department of Labor.
2. One such worker is being sought.
3. This worker is being sought as a TITLE.
4. A wage of SALARY.
5. The period of employment for which this worker is sought is 00/00/0000 through 00/00/0000.
6. The employment will occur at ADDRESS.
7. The labor condition application is available for public inspection at the offices of Vanderbilt University Department of Human Resources.

“Complaints alleging misrepresentation of material facts in the labor condition application and/or failure to comply with the terms of the labor condition application may be filed with any office of the Wage and Hour Division of the United States Department of Labor. Complaints alleging failure to offer employment to an equally or better qualified U.S. worker, or an employer’s misrepresentation regarding such offer(s) of employment, may be filed with: U.S. Department of Justice * 10th Street and Constitution Avenue, NW * Washington, DC * 20530.”

Date posted: ________________________________

Date removed: _______________________________

Locations of Posting: __________________________

Notice of filing of this Labor Condition Application was posted in a location where job posting notices and position vacancies are normally posted and fully accessible visible.

______________________________
(signature)
QUESTIONS?