



# University of Connecticut

## *Office of the General Counsel*

### **H-1B GENERAL INFORMATION**

The information on this page has been prepared for the use of the University of Connecticut (UConn), international employees and their hiring departments, and is for general information only. It does NOT constitute legal advice. Please contact UConn's Office of the General Counsel (OGC) for appropriate advice and guidance regarding your specific international employment situation, as each prospective employee's circumstances are unique. Any advice or course of action must be tailored to the individual employee's circumstances and the University department's needs. Also note that immigration laws may have changed since this information was compiled. Therefore it is in your best interest to obtain the most updated information from OGC to make an appropriate decision for your case.

#### **Description of H-1B**

The H-1B is a nonimmigrant classification used by a foreign national who will be employed temporarily in a **specialty occupation**. A specialty occupation is one that requires a specialized body of knowledge and usually requires at least a bachelor's degree to enter the profession. The employer is responsible for petitioning the United States Citizenship and Immigration Service (USCIS) to obtain permission to hire a particular foreign employee for a particular position. An employee cannot obtain H-1B status on his or her own.

The H-1B status is employer-specific and job-specific. This means that a new H-1B petition must be filed before an employee can move from one employer to another (e.g. a similar position in a different department), or change from one job to another (e.g. different position within the same department or in a different department) while working for UConn. Any changes in the position title, duties, or salary may also require a new H-1B petition. The H-1B duration is a maximum of 6 years (granted in increments of up to 3 years per petition.)

#### **Qualifying Criteria for H-1B**

Any petition for H-1B status must meet minimum criteria:

- A. The position must require theoretical and practical application of a body of highly specialized knowledge, and require a minimum of a Bachelor's degree in the specific specialty as a minimum for entry into the occupation in the United States.
- B. The prospective employee must have received the required degree in an appropriate field of study *before* the petition is submitted. The employee must have a diploma or other certification from the institution that all degree requirements have been met.
- C. The wage for the position must meet the requirements of the USCIS and U.S. Department of Labor (DOL) regulations. OGC will facilitate this process, but should not be viewed as setting the wage.

#### **Application Process**

The government agency process for obtaining an H-1B for an employment position has three phases:

1. The DOL must issue a prevailing wage determination (required for most postdoctoral positions).

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- The DOL must review a Labor Condition Application (LCA) to determine that the wage requirement is satisfied. OGC submits the LCA to the Department of Labor for approval.
- UConn's OGC submits the H-1B petition and approved LCA to USCIS. USCIS reviews the H-1B petition and the approved LCA and determines whether to grant H-1B status.

USCIS sends the approved H-1B petition directly to UConn's OGC. OGC will notify the department contact person. The department is responsible for keeping copies of the approved petition and accompanying documents as part of the employee's records.

#### Summary of H-1B Fees

Amount	Description	Charged by	Paid by
\$150	H-1B Administrative Fee*	UConn's OGC	Must be paid by hiring department
\$460	H-1B Petition Fee	U.S. Citizenship and Immigration Services (USCIS)	Must be paid by hiring department
\$500	H-1B Fraud Prevention and Detection Fee for <i>initial</i> H-1B petitions to UConn only	U.S. Citizenship and Immigration Services (USCIS)	Must be paid by department
\$1,225	Premium Processing Fee (Optional)**	U.S. Citizenship and Immigration Services (USCIS)	Paid by either department or employee

\* H-1B Administrative Fee is imposed for every H-1B request made to OGC, including multiple requests for one petition and upgrades from standard processing to Premium Processing.

\*\*Premium Processing Fee guarantees a response (not necessarily approval) from the USCIS within 15 calendar days.

#### ***Processing Time***

The **entire process - from the request submission to OGC to the H-1B approval by USCIS - ordinarily takes 6 to 7 months** in two phases:

- UConn's OGC Processing – up to 2 months, including working with the DOL to obtain the prevailing wage determination (for postdoctoral positions) and LCA (for all positions).
- USCIS Adjudication – 4-5 months.

Please note that OGC starts processing complete requests containing ALL necessary materials and information attached. Incomplete H-1B request packets will result in longer processing times. Inconsistent processing times in U.S. government agencies, requests for additional information issued by DOL and USCIS, or unexpected problems arising during the process will also lengthen the time needed for H-1B approval.

In addition, if the international employee is abroad and needs to apply for an H-1B visa at the local U.S. Consulate to enter the U.S. upon approval of the H-1B petition, additional time of up to 3 months must be considered before they may start employment at UConn. For these reasons, OGC always recommends that the hiring department begin the H-1B process **as soon as possible**.

If employee is...	With Standard Processing	With \$1225 Premium Processing Fee*	Comments
	All required materials should be received by OGC no later than...		
Outside the U.S.	8 months before the employee will begin work	3 months before the employee will begin work	Total time will depend on the time needed to obtain a visa at the U.S. Consulate. (Varies according to Consulate and country of employee's citizenship)
In the U.S. in a different immigration status (such as J-1 or F-1 with Practical Training)	5 months before the employee will begin work <i>or</i> before the current work permission ends	3 months before the employee will begin work <i>or</i> before the current work permission ends	If employee plans to travel outside the U.S. before getting final approval of the H-1B petition, more time may be needed. Contact OGC immediately to discuss.

In the U.S. in H-1B status and currently employed by another employer	3 months before leaving current (non-UConn) employment	Not usually necessary or recommended	If employee plans to travel outside the U.S. before getting final approval of the H-1B petition, more time may be needed. Contact OGC immediately to discuss. Employee must remain employed by original employer until UConn's petition is submitted to USCIS and OGC receives a USCIS receipt notice.
Already employed at UConn in H-1B status	3 months before the end of the current H-1B approval or I-94	Not usually necessary or recommended	If employee plans to travel outside the U.S. before getting final approval of the H-1B petition, more time may be needed. Contact OGC immediately to discuss.

\* Premium processing can be requested either before *or* after the petition has been filed with USCIS.

***Termination Notification***

If H-1B employment is terminated for any reasons before the H-1B petition end date, the hiring department **MUST** notify OGC of the termination. The employer is obligated to report the termination to USCIS and DOL. Failure to do so results in an obligation to continue paying the terminated employee.