**H-1 Visa Information and Procedures February 25, 2022**

This memo describes the Department's position regarding H-1B visa applications for prospective and current international employees and outlines the procedures to be followed when requesting the department to pursue H-1B status. This replaces a memo on the same subject issued March 4, 2003.

The administrative requirements of the H-l visa process are time consuming and costly. The decision to apply for H-1 visa status is determined by the department's needs and is used in cases where it is beneficial to the University. A request for an H-1B visa will not be approved solely on the desires of the individual.

# For prospective international employees

* H-1 visa status is intended for a temporary professional worker who has demonstrated distinguished merit, ability, and accomplishments in his/her field of specialization. Demonstrated distinguished merit and accomplishments in his/her field should be readily available through peers.
* The department's position is to limit H-1s to individuals that meet the criteria above, which typically requires a Ph.D., plus scientific publications beyond the Ph.D. research in his/her field. **The department prefers to limit requests for H-l visa status to tenure track faculty positions.**
* A written request to consider sponsoring H-1B status must be submitted to the department head by the faculty member who will provide support for the prospective employee. The letter should include a description of the work to be performed, why the job requires someone of distinguished merit, and explain why the supervisor considers the prospective employee to possess such merit. The CV of the prospective employee should be included. The department head may then decide to petition for H-1B visa. The supporting faculty must provide funds necessary for processing the application. This funding can’t come from sponsored projects.

# For current international employees

* For international employees currently on a J-1 visa, the request to change to H-1 status will not be undertaken simply because the employee has asked the faculty supervisor to do so. The criteria required for prospective international employees should be met and the request must be in the best interests of the University.
* A written request to change to H-1 status must be submitted to the department head by the international employee's supervisor. This letter should include a description of the work to be performed, should explain why the job requires someone of distinguished merit, and explain why the supervisor considers the prospective employee to possess such merit. The host department may then decide to petition for an H-1B visa. The supporting faculty must provide funds necessary for processing the application.

The H-1B visa application should be viewed as a request by the department to the University and the Bureau of Citizenship and Immigration Services [formerly the INS] for the individual seeking H-1 status. It should not be considered an application from the international employee or prospective employee. The department will not initiate the H-1 visa process for an international employee or prospective employee simply for personal reasons.

Although many internationals would qualify for either H-1 or J-1 status, there are some very important differences in these visa types described in the table below. Because of this, the H-1 is not as easily obtainable as the J-1 Exchange Visitor visa.

| **J-1 Exchange Visitor** | **H-1B Temporary Worker** |
| --- | --- |
| For visiting scholars, visiting professors and researchers and short-term visitors. Not for tenured or tenured-track positions.  Employment not required. | For professional employment. Must be full-time per university policy. |
| Five years maximum for research scholar and professor category. Six-month maximum for short-term scholars. | Six-year maximum. |
| May or may not be on payroll. Can use personal funds. | Must be on payroll and meet wage requirements. Status ends if employment ends. |
| Two-year home residence requirement in some cases limits future visa options. | No two-year requirement. |
| Usually not benefits eligible at U of I. | Benefits eligible if position qualifies. |
| Can transfer to other J sponsor for similar activity within 5-year limit. | Change of sponsor or position requires new H application, but portability allows new to employment to begin before new H is approved in change of sponsor cases. |
| Dependents in J-2 status can work with USCIS permission. | Dependents in H-4 status cannot work. |
| J program managed by US State Department. USCIS not involved when new J-1 comes from abroad or when extending. | All H-1B applications must be approved by USCIS. |
| Simple. One form needed to obtain status abroad or extend status. | Time-consuming applications. Prevailing wage assessment, Labor Condition Application and 10-day posting required. |
| No premium processing option. | Premium (expedited) processing an option for a fee. |
| Lead time: 2-3 months. More time needed if already in U.S. and applying for a change of status. | Lead time:4-6 months for new H-1, 2-3 months if premium (expedited) processing requested, 2-3 months if already on H-1 elsewhere or if extending. |
| Numerous regulations for J-1s: specific insurance requirements, cross-cultural activity. | Employer must pay return transportation if employment ends early. |
| J visa applicant must have permanent address abroad, demonstrate strong ties to home country and have no plans to immigrate. | Dual Intent allows H-1 to apply for green card. No ties to home country required. |
| J-1 sometimes not an option if individual has finished another J program within last 12 months. | H-1B not an option if individual has two-year home residence requirement due to previous J-1 status. |
| Two-year bar on repeat participation as a Research Scholar or Professor after any amount of time. | One year bar on new H status after 6 years. Must be outside U.S. |
| No annual limit. | Annual limit (H-1 cap) not applicable to universities. |

Other considerations for H-1s include employee in H-1 visa status may only work for one employer, they may receive payment from no other source, and dependents of H-ls may not be employed in capacity. Also, H-l status may currently be granted for an initial period of 3 years and extensions up to a total of 6 years. Visa processing costs are the responsibility of the supporting faculty member. No processing costs are to be paid by the applicant. Additional information is available on the International Student and Scholar Services website: <https://isss.illinois.edu/departments/general/j1vsh1.html>.

Only designated staff members in the International Student and Scholar Services office are authorized to sign immigration documents on behalf of the University of Illinois Urbana-Champaign. Private attorneys may not represent the University in any immigration proceedings.

Please be aware that due to liability issue, “volunteer” (unpaid) workers of either international or domestic origin are not permitted. This rule does not apply to zero-time visiting scholars appointed through normal channels.