H-1B & J-1 Employment at the University of Oklahoma
Nima Zecavati, Esq.
2015
IFSS assists the departments at the University of Oklahoma in obtaining and maintaining the appropriate immigration status for the employment of international faculty and staff. IFSS serves all three University of Oklahoma campuses.

- **HSC/Tulsa Staff:** Vicky Martin, Hanieh Pace, Serena Greenwell
  - **Phone:** 405-271-2189
  - **Website:** [http://hr.ou.edu/ifss/](http://hr.ou.edu/ifss/)

- **Norman Staff:** Isabel Chu, Adam Telfer
  - **Phone:** 405-325-4010
  - **Website:** [http://hr.ou.edu/ifss/](http://hr.ou.edu/ifss/)
H-1B Status at OU

- The H-1B is a non-immigrant status that allows OU to temporarily employ foreign workers in specialty occupations that requires theoretical or technical expertise in positions such as Assistant professor, Scientist, Engineer, or Computer Programmer.

- The H-1B occupation at OU must minimally require a Bachelor’s Degree and the degree must be specific to the field.

- The H-1B candidate must possess at least a Bachelor's Degree, specific to the field the occupation is in.

- OU is CAP Exempt and not limited to the private industry cap.
WHAT IS THE LENGTH OF TIME FOR THE H-1B STATUS?

- A Foreign National can be in the United States in a H-1B status for up to six years, in increments of up to 3 years per request.

- In some cases, a Foreign National in an H-1B status can be extended beyond 6 years, when a permanent residence filing step is taken before the FN’s 5th year anniversary in H-1B status.
OU H-1B DEPARTMENT RESPONSIBILITIES

- OU department pays **ALL** required H-1B filing fees associated with the OU H-1B
- Foreign National **CANNOT** pay OU H-1B filing fees
- Attest they are offering the higher of either:
  - The actual wage paid to other similarly employed or;
  - 100% of the prevailing wage of the occupation
- Liability of the reasonable cost of return transportation for an H-1B nonimmigrant who is dismissed before the end of the authorized employment
- Identify US Deemed Export Control
- Notify IFSS with any changes of condition in the worker’s employment
New Hire

- Requires an H-1B I-797 Approval before start date.
- Exception: H-1B sequential – those who already have an H-1B through another institution & transfer into OU. They may work off a receipt notice until a decision is reached on their petition.

Extensions

- Current OU H-1B employees may work off a receipt notice up to 240 days.

Change of Status:

- Student on OPT must have an approved change of status to H1b no later than the day OPT expires to continue employment.
IFSS H-1B PROCESS

The basic H-1B process is coordinated between the hiring department and IFSS.

1. Department fills out HR-129 and sends original to IFSS for further review.
2. Pull Prevailing Wage OFLC Online Data Center.
3. File Labor Condition Application with the Department of Labor
   ▶ Process can take up to 7 days to receive certified LCA
4. Request required documents to support the H-1B petition, put up Posting Notice, and send the department invoice(s) for the filing fee(s)
   ▶ Process can take 1-2 months.
5. IFSS will put together documents and fill out the necessary forms for processing.
Once the petition is submitted to USCIS, please allow up to 30 days to receive the Receipt Notice and up to 6 months for adjudication.

After receiving the receipt notice, you may check on the case status online: (www.uscis.gov)

Once IFSS receives the approval, the department and appropriate parties will be contacted.
Please allow at least 90 days to process the H-1B request.

The H-1B process cannot be started more than 6 months prior to start date.

Current USCIS Processing Times:

<table>
<thead>
<tr>
<th>Form</th>
<th>Classification Basis</th>
<th>Time Frame</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-129</td>
<td>H-1B - Visa to be issued abroad</td>
<td>4-6 Months</td>
</tr>
<tr>
<td>I-129</td>
<td>H-1B - Change of status in the U.S.</td>
<td>4-6 Months</td>
</tr>
<tr>
<td>I-129</td>
<td>H-1B - Extension of stay in the U.S.</td>
<td>4-6 Months</td>
</tr>
</tbody>
</table>

*Processing times are subject to change at any given time.*
Required Documents from Foreign National

- Valid Passport
- If Applicable:
  - Support letter from sponsoring faculty
  - DS-2019 copies/I-20 copies
  - Copy of EAD card
  - C.V./Resume
  - I-612 Waiver Approval or Department of State Letter
Required Documents from Foreign National

Evidence of Education

- If the required degree was issued by United States Institution:
  - Submit diploma and transcript.

- If the required degree was issued by a foreign institution:
  - A U.S. credential evaluation must be done an all foreign degrees used to qualify for the specialty occupation.
I-797 Approval Notice

**Name:** BOOMER SOONER  
**Class:** H1B  
**Petitioner:** UNIV OF OK HEALTH SCI CTR  
**Address:** 1100 N LINDSAY SCB 119 OKLAHOMA CITY OK 73104

**Receipt Number:** WAC-01-234-56789  
**Valid From:** 01/01/2011  
**Until:** 12/31/2013

The above petition and change of status have been approved. The status of the named foreign worker(s) in this classification is valid as indicated above. The foreign worker(s) may work for the petitioner, but only as detailed in the petition and for the period authorized. Any change in employment requires a new petition. Since this employment authorization stems from the filing of this petition, separate employment authorization documentation is not required.

The petitioner should keep the upper portion of this notice. The lower portion should be given to the worker. He or she should keep the right part with his or her Form I-94, Arrival-Departure Record. This should be turned in with the I-94 when departing the U.S. The left part is for his or her records. A person who seeks a change of status who leaves the U.S. must normally obtain a visa in the new classification before returning. The left part can be used in applying for the new visa. If a visa is not required, he or she should present it, along with any other required documentation, when applying for reentry in this new classification at a port of entry or at a pre-authorized inspection station. The petitioner may also file Form I-485, Application for Acquisition of Permanent Resident Status or Green Card, with this office to request that we notify a consulate, port of entry, or pre-authorized inspsection office of this approval.

The approval of this petition does not in itself grant adjustment status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for permanent residence to the United States, or for an extension, change, or adjustment of status.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

**U.S. Citizenship & Immigration Services**  
**California Service Center**  
**P. O. Box 50111**  
**LAGUNA HIGUEL, CA 92650-1111**  
**Customer Service Telephone:** (800) 375-5283  
**Form I-797A (Rev. 09/07/09)**
H-1B EMPLOYMENT RESTRICTIONS

- After a petition has been filed and approved, the following are restrictions to changes in the employment:
  - Employer
  - Title
  - Duties
  - Salary
  - Locations, including internal department changes & promotions

- **Please Note:** Any purposed changes in employment must be verified by IFSS. An amendment to the petition is possible in order to make such changes.
H-1B Termination

- There is no grace period for Foreign National who hold an H-1B status, when their job is terminated or they resign.

- When the employer terminates, they must offer a one-way plane ticket to the Foreign National’s last place of residence. If the Foreign National resigns, this is not available.
Foreign Nationals holding a H-1B status, may bring a spouse and dependant children under the age of 21.

If the dependant(s) are outside the United States, then they can obtain a H-4 status by processing a H-4 visa stamp directly at a U.S. consulate abroad.

If the dependant(s) are already in the United States, then they may apply for a change of status or extension.

- Form I-539
- $290.00 Filing Fee

Please Note: H-4 spouses can live and study in the United States, but they cannot work--unless their H-1B spouse has an approved I-140. They must generally seek their own H-1B in order to work.
The Exchange Visitor Program promotes mutual understanding between the people of the United States (U.S.) and the people of other countries by educational and cultural exchanges, under the provisions of U.S. law.
Program Categories

- **Research Scholar**
  - Engaging primarily in conducting research, observing, or consulting in connection with a research project or similar types of activities for up to 5 uninterrupted years.

- **Short-Term Scholar**
  - Exchange Visitor may lecture, observe, consult, and participate in seminars, workshops, conferences, study tours, professional meetings, or other types of similar education and professional activities up to 6 months. **Can not be extended past 6 months.**
2-year Research Scholar & Professor Bar

- Any individual who participates in an Exchange Visitor program in the Researcher Scholar or Professor category on or after 11/18/06 is subject to a 24-month bar on "repeat participation" in those categories. Scholars subject to the 24-month bar may not return to the United States as a J-1 scholar in the Research Scholar or Professor category for the 24-month period. This bar also applies to J-2 dependents.

2-year Home Residence Requirement

- The two-year home country residence requirement prevents an Exchange Visitor who is subject to the requirement from changing visa status to H temporary worker or trainee, L intra-company transferee, or permanent resident of the U.S.
The J-1 process is coordinated between the hiring department and IFSS

1. The hiring department is responsible for filling out HR-129
2. IFSS will review the form and advise the hiring department to make any necessary changes
3. Our Alternate Responsible Office will register and issue the DS-2019 Certificate
4. An e-mail will be sent to the hiring department to come pick up the J-1 Exchange Visitor Packet
Private Immigration Attorneys

- All H-1B requests for the employment of foreign nationals at the University of Oklahoma must be processed through IFSS. Only the IFFS staff is authorized to sign the legal documents and forms required to sponsor international faculty and staff for H-1B status.

- Private Immigration Attorneys are prohibited from representing the University of Oklahoma in employment based petitions.

- OU Departments are prohibited from signing the G-28 form authorizing a private attorney to represent OU in immigration matters.