

# **T A M P A**

## **OFFICE OF HUMAN RESOURCES**

### **H-1B FAQs**

This information covers some commonly asked questions about the H-1B immigration status. Please be advised that the information below is not legal advice, nor should it be construed as legal advice in any manner. Consult with the Office of Human Resources if you have any immigration questions or concerns.

**Q: Who applies for an H-1B Visa?**

**A:** The Office of Human Resources should be notified as soon as a candidate has been chosen for employment and indicates a requirement for sponsorship of an H-1B Visa. With the assistance of outside immigration counsel, the Office of Human Resources will then submit an I-129 Petition on behalf of UT to the U.S. Citizenship and Immigration Services (“U.S.C.I.S.”)

**Q: Am I eligible for an H-1B?**

**A:** Petitions will only be filed on behalf of a non-U.S. citizen who has accepted an appointment for a tenure track or non-tenure track renewable faculty position.

**Q: Do I have to exhaust my OPT before applying for an H-1B?**

**A:** UT recommends that F-1 students exhaust their Optional Practical Training (“OPT”) and if applicable, OPT STEM before changing status to H-1B. Compared to OPT, the H-1B is more expensive, time-consuming, and poses a higher risk for the employee and additional obligations for UT.

**Q: My immigration status is J-1 Exchange Visitor. Am I eligible for H-1B status?**

**A:** Certain, but not all, J-1 Exchange Visitors may be subject to a Two-Year Country Physical Presence Requirement and are not eligible for the H-1B status until the requirement has been satisfied or waived by the U.S.C.I.S. based on a recommendation from the U.S. Department of State. If this two-year requirement does not apply, you are eligible for H-1B status if you meet other eligibility requirements. If you are uncertain as to whether this requirement applies to you, please seek assistance from Human Resources.

**Q: When is the best time to submit the H-1B application to the U.S.C.I.S.?**

**A:** The earliest an H-1B petition can be submitted to the U.S.C.I.S. is six months prior to the selected H-1B start date.

**Q: How long does the H-1B petition take?**

**A:** The U.S.C.I.S currently takes several months to process an H-1B petition. It is best to begin the process as soon as possible by contacting Human Resources.

**Q: Can I travel while the H-1B petition is pending?**

**A:** No, we do not recommend international travel while the change of status or extension of stay for the H-1B petition is in process, as this may negatively impact your petition.

**Q: When can I start employment with UT?**

**A:** Foreign nationals applying for a change of status to H-1B nonimmigrant visa status or applying for consular processing for a H-1B nonimmigrant visa will only be permitted to commence employment once the H-1B petition or H-1B visa has been approved.

If you are currently in H-1B status with another employer and we are requesting a transfer of this H-1B petition, you may begin working after the H-1B petition is filed with U.S.C.I.S. The best practice is to begin employment once U.S.C.I.S. cashes the H-1B filing fee check.

**Q: How long is an H-1B Visa Petition valid for?**

**A:** H-1B Visa petition approvals can be granted for up to a three-year period, and renewed for another three years, for a total of six years. Additional renewals are possible, but they are subject to very strict eligibility requirements.

**Q: What about my dependents?**

**A:** If you have been granted H-1B status, your spouse and children (under 21) will normally be eligible for H-4 status. If you and your dependents are in the U.S. in legal status and UT is requesting that your status, be changed to H-1B, your dependents may apply for a change to H-4 status. Pursuant to UT policy, you will be responsible for any attorney fees and government filing fees associated with changing your dependents status and/or consular processing.

**Q: What is the difference between H-1B visa and H-1B status?**

**A:** The H-1B “status” is your nonimmigrant classification in the U.S. The H-1B “visa” is a stamp in your passport placed by a U.S. embassy/consulate and provides you permission to travel to the U.S. H-1B visitors, unless visa exempt, are required to obtain a valid H-1B visa stamp at a U.S. embassy or consulate abroad in order to enter the U.S. The visa will show an expiration date. If the visa expires while the employee is in the U.S., it may not be a problem as long as the I-94 is valid. However, it is important to have a valid visa when reentering the U.S. after leaving the country. An H-1B entry visa can only be obtained at a U.S. embassy or consulate abroad.

If you have changed status to H-1B in the United States without traveling abroad, you will need to apply for an H-1B visa before you return to the U.S. from traveling abroad.