

H-1B Visa Classification Information Packet



*University of Pittsburgh
Office of International Services*





Greetings

The Office of International Services (OIS) at The University of Pittsburgh (Pitt) has prepared this packet of information to assist foreign nationals and their hiring departments at Pitt with the process of preparing an H-1B petition for adjudication by the U.S. Citizenship & Immigration Services (USCIS). In order to ensure that everything goes smoothly, it is important that you read the materials in this packet very carefully and that you follow the instructions. This will avoid delays in the processing of your case.

More H-1B Information

Please note that there is a wealth of information about H-1B status and regulations, the H-1B petition process, academic department responsibilities and H-1B employee responsibilities available in the [H-1B section](#) of the OIS web site.

Contents

Administrative Information	2
H-1B Process Overview.....	2
Required Documents.....	3
Fees	4
Processing Times	5
Department Information and Responsibility.....	6
What information must I provide OIS about my department's H-1B employees?.....	6
Can we request H-1B status for a longer duration than the employee's appointment?..	6
Sample Department Letter for the USCIS in Support of the H-1B Petition.....	7
Applicant Information and Responsibility.....	10
Do I need to get an H-1B visa? How can I do that?	10
What documents are required for my family members?.....	10
Do I need a foreign academic credential evaluation? How do I get this?.....	10

Administrative Information

H-1B Process Overview

Please be aware of the steps required by the academic department administrator, the international employee, and the Immigration Specialist in the Office of International Services. Also, please be aware that the processing times referenced below are government processing times and are subject to change without notice.

Part 1: Submission

The designated administrator in the sponsoring department selects the appropriate OIS H-1B Request Cover Sheet and fills in the required information (cover sheets available on the OIS web site in the “Department Use Only” section of <http://www.ois.pitt.edu/Forms.html>). The administrator compiles all supporting documents listed on the cover sheet and submits them, with the cover sheet, to OIS.

Part 2: Questionnaires

Once the Immigration Specialist receives complete materials, he or she will send emails to both the department administrator and the international beneficiary with links to online questionnaires. Follow the instructions in the email to complete and submit the questionnaires.

Part 3: Prevailing Wage Determination

With all materials and questionnaires submitted, the Immigration Specialist will determine the prevailing wage for the position. In many cases, OIS can use a “pre-approved” wage for a common position. However, a prevailing wage determination from the Pennsylvania Department of Labor & Industry in Harrisburg may be required. This process may take up to **30 days** from the time OIS submits the PWD to Harrisburg. See the [Department of Labor Requirements page on the OIS web site](#) for more information about prevailing wages and potential prevailing wage problems.

Part 4: The Labor Condition Application and Posting Notices

- With the prevailing wage is determined, your Immigration Specialist will email the department administrator notices of the Labor Condition Application (LCA). Two of these notices must be posted in a conspicuous location for at least ten consecutive business days.
- Once the notices are posted, the department administrator will follow the instructions in the posting notice email to confirm posting.

- The Immigration Specialist will then file the actual Labor Condition Application (LCA) with the U.S. Department of Labor. H-1B petition processing cannot proceed until the LCA is certified.
- Federal regulations mandate that the LCA will be certified “usually...within seven working days.”

Part 5: Petition Submission

OIS prepares and submits the petition to the U.S. Citizenship & Immigration Services (USCIS). Adjudication usually takes 2-4 months, possibly longer if USCIS requests additional information.

If the Department wishes to expedite the USCIS processing time, the Department (or, in some cases, the international employee) may elect to pay a \$1,000 premium processing fee (see “[Premium Processing or Not?](#)” on the OIS web site). The USCIS will then adjudicate the case within 15 calendar days.

Important Note: To minimize any potential problems with the processing times outlined above, it is important that Departments submit the H-1B materials to the OIS 6 months in advance of the requested start date.

Part 6: Receipt Notice Received

- The receipt notice should arrive within 2-3 weeks of petition submission (or a few days in the case of premium processing). The receipt number will allow case tracking on the [USCIS web site](#)
- In the case of an H extension/amendment or an H change of employer, a Permission to Work memo may be required to keep the employee on payroll without a gap in employment. See “[The 240-Day Rule and Portability](#)” on the OIS web site for more information.

Part 7: Approval

If approved, OIS will notify the international employee and provide him/her with the Form I-797 Approval Notice, along with other documentation and instructions as necessary.

Required Documents

A document checklist is available in the [H-1B Request Cover Sheets](#). Please note that this cover sheet should be requested only by the department administrator, not the international employee.

Fees

When preparing to pay fees for an H petition, keep the following in mind:

- All fees must be paid, except where noted, in the form of a check or money order made payable to “**U.S. Department of Homeland Security.**”
- All checks or money orders should be submitted to OIS with all other application materials and should NOT be sent directly to USCIS.
- Separate checks must be submitted for each fee.
- For internal check processing purposes at Pitt, please use the following address information for all checks (but again, do NOT send checks directly to this address; send to OIS):

**USCIS California Service Center
24000 Avila Road, 2nd Floor
Laguna Niguel, CA 92677**

Fees that must be paid by the department¹

Pursuant to federal regulations at 20 C.F.R. § 655.731(c)(9)(ii), (c)(9)(iii)(C), and (c)(10)-(11), the following fees MUST be paid by the employer as a normal business expense, except where otherwise noted:

1. USCIS H-1B Application Fee: **\$320**;
2. DHS Fraud Prevention Fee: **\$500** (*not required for extensions when the H-1B employee is already employed by Pitt*);
3. OIS Cost Recovery Fee: **\$600** (NO CHECK NECESSARY. This fee is processed via an internal transfer of funds using a department budget number. The department will be asked for this account number in the INS Zoom Department Questionnaire, and will receive email confirmation of the charge.)

Fees that must be paid by the applicant

USCIS I-539 application fee for H-4 dependents: **\$300** (if applicable)

Fees that may be paid by either the department or the applicant

USCIS Premium Processing Fee: **\$1,000** (*optional*)

If the petition is being submitted via “premium processing” because the department needs the foreign national employee to start right away, then the department MUST pay the \$1,000 fee. If the petition is being submitted via “premium processing” for reasons purely personal to the foreign national employee, then the employee may pay the fee of \$1,000. Under no

¹ Departments may not charge back these fees to the foreign national employee in any manner whatsoever, nor otherwise expect repayment from the foreign national employee. Failure to comply with these guidelines could subject your department and the University as a whole to significant assessments of back pay, civil money penalties, and/or disqualification from the H-1B and other immigration programs.

circumstances may the department require the international to pay the premium processing fee.

ALL USCIS FEES ARE SUBJECT TO CHANGE WITHOUT NOTICE

Processing Times

Your H request will go through two stages:

1. Your Immigration Specialist will prepare the H petition. This **takes up to six weeks after submission of complete paperwork** to OIS. Please note that OIS does not have any form of expedited or “premium processing” – our processing time is the same even if you have requested premium processing from the U.S. Citizenship and Immigration Services (USCIS).
2. The USCIS will adjudicate the H petition. USCIS processing times vary, but typically an H-1B petition will take 2-4 months. If the university requests [premium processing](#), the USCIS will adjudicate the petition within 15 calendar days or refund the premium processing fee.

When judging the total processing time of an H request, it is important to keep the following factors in mind:

- **Time to gather documents.** Remember that OIS’ six week processing time does not start until we receive complete paperwork.
- **Mailing time.** It typically takes 2-3 weeks to receive a notice of action or receipt notice from the USCIS. The exception is an approval notice in a premium processing case – OIS sends a UPS overnight waybill and envelope with the petition so that the USCIS may overnight the approval notice. Also, in cases of consular processing, OIS must mail the approval notice and supporting documents to the H-1B employee overseas, which typically takes 2-5 business days.
- **[Requests for Evidence \(RFEs\)](#).** Be aware that an RFE will delay adjudication, possibly by several weeks or more.
- **[Consular Processing](#).** If the prospective H-1B employee is outside the U.S. and must obtain an H-1B visa at the U.S. embassy or consulate abroad, take into account the time required for this step. Wait times for visa interviews vary greatly from consulate to consulate, from same day visa interviews to 90-day waits and longer.

Wait times for a particular consulate can be checked [online](#). Also, be prepared for possible visa delays.

An Immigration Specialist can help you to determine a tentative timeline for a specific case.

Department Information and Responsibility

What information must I provide OIS about my department's H-1B employees?

Notify your Immigration Specialist if any of the following events occur during the duration of H-1B status:

- Substantive change in day-to-day activities required for this position.
- Any decrease in wage
- Any increase in wage resulting in pay at least 25% higher than the wage listed on the Labor Condition Application.
- Resignation, termination, or any other departure from employment at the University of Pittsburgh.

Can we request H-1B status for a longer duration than the employee's appointment?

Each H-1B petition may be for a period of time up to three years. It is not necessary for the international faculty/staff member to have an appointment for the full duration of the requested H-1B dates, but there should be an expectation that the employment may continue for the full period of H-1B status.

Please note that if H-1B status is terminated prior to the H-1B end date for any reason, the employer must offer to pay transportation costs for the H-1B employee to depart the U.S. This applies if the H-1B worker is fired, laid off, or simply not re-appointed.

Sample Department Letter for the USCIS in Support of the H-1B Petition

Required Components of the Letter for an Initial H-1B Petition

New to H-1B status or new to the University of Pittsburgh

1. Establish purpose.
2. Background on the school or department; outline job requirements.
3. Outline the foreign national's education and experience.
4. Connect the foreign national's background with the job requirements. Be as specific as possible.
5. Set forth the specific terms of employment.

Sample Letter for an Initial H-1B Petition

New to H-1B status or new to the University of Pittsburgh

Date

Adjudicating Officer
USCIS California Service Center
24000 Avila Road, 2nd Floor
Laguna Niguel, CA 92677

Dear Adjudicating Officer:

This letter is being written in support of the H-1B non-immigrant petition filed by the University of Pittsburgh on behalf of Dr. Jane Doe.

The University of Pittsburgh, School of Public Health, established the Department of Health Policy and Management to conduct research into the areas of health services and development. The Department is currently seeking to fill the position of Program Coordinator II. The individual selected for this position will be responsible for the design and supervision of physiologic and behavioral data collection that are part of a research study of Anger and Cardiovascular Risk in Urban Youth supported by the National Health, Lung and Blood Institute. The position will also include supervision of technicians conducting impedance cardiography and related physiologic studies of cardiac and vascular function under mental stress. The qualified applicant must possess a masters degree or higher in a related field of study.

Dr. Doe is particularly and uniquely suited for this position. She is a clinical psychologist with expertise in psychophysiological assessment. As part of her academic training she has written a masters thesis on "Cognition Associated with the Experience of Anger" and a doctoral thesis on "Modes of Anger Expression and their Relation to Cardiovascular Reactivity". The Department of Health Policy and Management has not come across any

other candidates with such a similarly suited background. Her expertise is critical to achieving the goals of the referenced project and there are other projects pending support that will also require her skills. Dr. Doe is also experienced in data analysis and has developed the essential administrative skills.

We seek H-1B status for Dr. Doe beginning September 1, 2008 through August 31, 2010 at an annual salary of \$40,000.00. Dr. Doe will be eligible for all benefits available to other similarly situated employees. Should Dr. Doe be dismissed before the end of her authorized period of stay, the Department of Health Policy and Management will be responsible for the costs of her return transportation abroad.

You must include the following language in the closing paragraph and attach a copy of the original or most recent offer letter:

“The actual terms of the individual’s employment are set forth in the letter of appointment issued by the University of Pittsburgh, dated [INSERT DATE] (see attached). This letter in support of the H-1B petition is in no way intended to amend or alter the terms set forth in the appointment letter.”

Thank you for your consideration in this matter.

Sincerely,

Required Components of the Letter for an H-1B Extension

1. Establish purpose.
2. Background on the school or department; importance of H-1B’s continued employment.
3. Set forth the specific terms of employment.

Sample Letter for USCIS in Support of an H-1B Extension

Date

Adjudicating Officer
USCIS California Service Center
24000 Avila Road, 2nd Floor
Laguna Niguel, CA 92677

Dear Adjudicating Officer:

This letter is being written in support of an extension for the H-1B petition filed by the University of Pittsburgh on behalf of Dr. Jane Doe.

Dr. Jane Doe, a clinical psychologist, has been responsible for the design and supervision of physiologic and behavioral data collection that are part of a research study of Anger and Cardiovascular Risk in Urban Youth supported by the National Health, Lung and

Blood Institute. Dr. Doe's expertise is critical to achieving the goals of the referenced project and other projects pending support that will also require her skills.

We wish to extend Dr. Doe's H-1B petition for a period beginning September 1, 2008 through August 31, 2010 at an annual salary of \$40,000.00. Dr. Doe will be eligible for all benefits available to other similarly situated employees. Should Dr. Doe be dismissed before the end of her authorized period of stay, the Department of Health Policy and Management will be responsible for the costs of her return transportation abroad.

You must include the following language in the closing paragraph and attach a copy of the original or most recent offer letter:

"The actual terms of the individual's employment are set forth in the letter of appointment issued by the University of Pittsburgh, dated [INSERT DATE] (see attached). This letter in support of the H-1B petition is in no way intended to amend or alter the terms set forth in the appointment letter."

Thank you for your consideration in this matter.

Sincerely,

Applicant Information and Responsibility

Do I need to get an H-1B visa? How can I do that?

Individuals outside the U.S. must obtain an H-1B visa once the H-1B petition has been approved (except for citizens of Canada, who are exempt from visa requirements). OIS will mail you the H-1B approval notice. Please contact the U.S. Embassy/Consulate for details of how to obtain a visa and what documentation is required.

What documents are required for my family members?

If you and your dependents are currently in the U.S. and extending your H-1B status or changing status to H-1B, your dependents (spouse and children under the age of 21) will need to file a Form I-539 to change status to H-4 or to extend their H-4 status. Only dependents currently in the U.S. must be included on the I-539. Submit the I-539 and supporting materials to OIS so that we can file the I-539 along with your H-1B petition.

Submit the following materials:

- [Form I-539](#) (one per family, not one per dependent).

Important Note: Form I-539 should be completed by the *dependent* (spouse or child under the age of 21) rather than the *primary* (H-1B employee). If the I-539 is solely for a child under the age of 18, the H-1B employee should help to fill in the form and sign his or her name in “Part 7. Signature of Person Preparing Form, if Other than Above.” Ask your Immigration Specialist if you’re unsure about this.

- \$300 application fee check or money order made out to the U.S. Department of Homeland Security

For each dependent, two copies of the following:

- Proof of dependent relationship to applicant (with official English translation if applicable). This can be a birth certificate, marriage certificate, family register, or other official documentation.
- Current I-94 card(s) (front and back) with entry stamp
- Passport pages showing ID, expiration date, and visa stamp.
- All previous forms I-797 (if currently in H-4 status) or previous visa documents such as I-20, DS-2019, etc. (if in a status other than H-4)

Do I need a foreign academic credential evaluation? How do I get this?

If your highest relevant degree is from a non-U.S. institution, you will need to submit a credential evaluation. For information regarding evaluations of educational credentials from all countries of the world, please consult one of the following web sites: <http://www.wes.org>; <http://www.aacrao.org/international/foreignEdCred.cfm>; <http://www.aice-eval.org>, or <http://www.naces.org>.