H-1B Visa Application Instructions and Regulations

Individuals on H visas are in the U.S. for temporary employment or training. Seton Hall University occasionally sponsors individuals on H-1B visas, which are for individuals with specialty occupations.

In order for an individual to be approved for an H-1B visa, they must first have an offer of employment from the University. Then Human resources must file Form ETA 9035 – Labor Condition Application (LCA) with the Department of Labor (DOL). This form can be filed up to 6 months before the start date of the position. Please note, if you are in the U.S. on another visa status, your completed H-1B application must be received by immigration before your status expires. This means that the LCA must be approved and all other required documents must be completed. Therefore if you are here on another visa, please be sure to begin the LCA process as soon as possible (6 months before your visa expires).

Duration of Stay - The initial stay for an H-1B visa is up to 3-years and a 3-year extension is possible. Individuals are not allowed to remain in the U.S. beyond 6 years on an H-1B visa. Individuals subject to the 2-year home residency requirement are not eligible for H-1B visas.

Dependents - Dependents of H-1B can enter the U.S. on an H-4 visa. In this status they are allowed to study full or part time but they are prohibited from working under any circumstances unless they are eligible to change their status to an H-1B in their own right.

Steps and Required Documents to Apply for an H-1B visa

1. Offer of Employment – First the individual must be given an offer of employment, i.e. a full-time faculty member probationary contract signed by all parties or a contract or offer letter offering the position with all signatures required.
2. SEE LCA INSTRUCTIONS AND PROCEDURE FORM.
3. Letter from Employer – (Submit original plus two copies)
   This letter must be from the hiring official in the department and should be addressed to U.S. Citizen and Immigration Services. It should contain the following information:
   - Brief description of duties
   - Dates of appointment - (May not exceed 3 years initially)
   - Salary (Monthly or Annually)
   - A testament to the fact that this individual possesses highly specialized knowledge and skills and the relevant credentials, which make him/her uniquely, qualified for this specialty occupation.
4. Form I-129 with H Supplement - filled out by OIP with information provided on the prospective employee information sheet attached.
5. Three copies of prospective employee’s highest degree/diploma. If this diploma is not in English, a certified translation is required. The certification must include the translator’s name, signature, date and the following statement: “I certify that I am competent to translate (name of language) into English and that this is an accurate translation of the original.”
6. Three copies of resume or CV.
7. A listing of educational and professional history.
8. A list of professional memberships, awards, and honors.
9. A list of publications.
10. Processing Fee - In addition to these forms, individuals must pay a $320.00 processing fee. However, if individuals would like premium processing (which means a much shorter processing time, usually 2 weeks as opposed to up to 2 months) they must pay a $1,000 fee and fill out a premium processing form. Checks should be made payable to U.S. Citizenship and Immigration Services (USCIS).
11. **Processing fee for Petitioner (Hiring Department) to pay**: $500.00 (as of March 8, 2005) made out to the U.S. Citizenship and Immigration Services (USCIS), this fee is for Fraud Prevention and Detection. **Must be paid. No exemptions.**

Additionally, H-1B applicants currently in the U.S. must submit the following:

12. Two copies of both sides of Form I-94 (small white card stapled into passport) (do not submit original)
13. Two Copies of your passport with all U.S. visas issued within

For all family members currently in or out of the U.S. applying for H-4 status:

14. Two copies of forms(s) I-94 (front and back), passport and visa (if applicable), otherwise the I-797 Notice of Action with the approval of the visa.
15. Form I-539 (original plus one copy)

For H-1 applicants currently in F-1 status:

17. Two copies of all previous I-20 documents all pages (Do not submit original) & Two copies of your Employment Authorization Card (if applicable)

For H-1 applicants currently in J-1 status:

18. Two copies of current and all previous form DS-2019 or IAP-66. (Do not submit original)
19. Two copies of waiver form Immigration to waive 2-yr. home residence requirement, unless clearly not subject.

For applicants currently in H-1 status with a different employer:

20. Two copies of all forms I-171C or I-797 (Approval of H-1 Petition) (do not submit original).

If the visa is approved, a Notice of Action form (I-797) will be sent indicating approval. If you are in the U.S., you should staple this form in your passport and use it as proof of legal status. If you are outside of the U.S. then this form will be sent to you and you will need to take it to the U.S. embassy or consulate abroad and apply for your visa. In this case you will also need to complete a non-immigrant visa application form (DS-156).