

## Instructions and Forms

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**Any petition for H-1B status must meet minimum criteria:**

The position must require theoretical and practical application of a body of highly specialized knowledge and require a minimum of a Bachelor's degree in the specific specialty as a minimum for entry into the occupation in the United States.

The employee must have received the required degree before the petition is submitted. The employee must have a diploma or other certification from the institution that all degree requirements have been met.

The wage for the position must meet the requirements of the USCIS and U.S. Department of Labor (USDOL) regulations. International Programs (IP) will facilitate this process, but should not be viewed as setting the wage.

H-1B status is employer specific; the employee or beneficiary may only work for the employer who sponsors the status. The employee may have more than one H-1B at a time.

An initial period of stay up to 3 years in H-1B status may be granted; extensions in up to 3 year increments thereafter. The cumulative duration in H-1B status is a maximum of 6 years.

H-1B status recognizes dual intent. This means an employee may apply for permanent residency while in H-1B status. Individuals interested in employment-based permanent residency options are strongly urged to contact International Programs so eligibility can be determined and procedures communicated.

As the office designated to handle international employee and scholar issues for the University, International Programs (IP) works with KU department representatives to prepare H-1B petitions.

# H-1B PETITION

## Department Portion

### H-1B PROCESS OVERVIEW

#### Step 1: Prevailing Wage and Actual Wage (5-7 weeks)

Once the necessary documentation is received from the department, the International Employee & Scholar Advisor will submit a request to the U.S. Department of Labor's National Prevailing Wage Center in Washington, D.C., for a Prevailing Wage Determination. The prevailing wage shall be the arithmetic mean of the wages of workers **similarly employed** in Lawrence, Douglas County. This process takes 5-7 weeks.

The Actual Wage is the wage or wage range that is offered for a particular position. The division, department, or center will need to compare the position (job title and duties) being offered to the nonimmigrant worker with other employees within the division/department/center who essentially do the same thing. The actual wage for the position is the wage offered by the employer for the job. In the case where there are several employees, who do the same thing or have the same background, the actual wage may be a salary range. Any large discrepancies in wages offered must be justified by legitimate business-related criteria (see Actual Wage form).

Note: H-1B regulations require that the employer pay 100% of the higher of the actual or the prevailing wage.

#### Step 2: Labor Condition Application (1 week) and Posting Notices (10 working days)

After the Prevailing Wage has been determined, a Labor Condition Application (LCA) will be filed by the Int'l Employee & Scholar Advisor and submitted online to the U.S. Department of Labor (DOL). By filing the LCA, the employer attests that the prevailing wage and working conditions will be offered (for more information see LCA section). A certified LCA must be submitted with the H-1B petition to USCIS; the LCA cannot be filed with DOL more than 6 months before the proposed start of employment. Also, a notice of the filing of the LCA must be given to other employees at the work site or locations where H-1B employee will be working.

#### Step 3: Submission to U.S. Citizenship & Immigration Services for Adjudication (3-4 months)

When all documentation has been received, the Int'l Employee and Scholar Advisor shall petition for H-1B status using USCIS Form I-129 and its supplements. The petition, along with LCA, the department's letter of support, employee's supporting documentation, and application fee(s) shall be filed with USCIS California Service Center. This process takes 90-120 days, possibly longer if USCIS requests additional information.

Note: For an additional fee of \$1,225 the department may request premium processing service with USCIS, a system where USCIS guarantees to adjudicate H-1B petitions within fifteen calendar days or less. Legally, the department must pay this additional cost in nearly all cases. Please contact IP for exceptions.

## DEPARTMENT CHECKLIST

In order to begin the application process, all of the following items must be received by International Programs, c/o Sr. International Employee, & Scholar Advisor. For questions concerning the H-1B process, please contact Keeli Nelson 785-864-6161 or by email at [keelinelson@ku.edu](mailto:keelinelson@ku.edu).

- **H-1B Application for Departments**
- **H-1B Actual Wage Form**
- Copy of **job posting** or **announcement** (includes minimal educational and work experience required for position)
- Copy of job **offer letter** or **contract**, signed & accepted by employee
- **Export Control Review Form**  
Form should be completed by the person with the most knowledge of the projects or facilities that the employee will encounter or have access to in the job. <http://www.international.ku.edu/~oip/scholars/I-129%20export%20review.pdf> Send the signed form to KU Export Control Office by campus mail or scan and email a pdf; see form instructions. Departments should go ahead and submit all other documents for H-1B filing to IP first.
- **Departmental, Center, or Unit letter on letterhead in support of H-1B petition** (see template). Submit **2 originals** and signed in blue ink. The letter should outline the terms of employment including salary, the need for an advanced degree in the field, the individual's prior experience or training, and the temporary nature of the position.
- **USCIS filing fee(s)** in the form of **separate** checks made payable to the "Department of Homeland Security"; see amounts below.
  - **\$325** application fee for **Form I-129, Petition for a Nonimmigrant Worker**
  - **\$500 Anti-Fraud Fee** (new and transfer applications only)
  - **\$1,225 Optional Premium Processing Service-Form I-907**
  - H-4 dependent application (Form I-539) requires a \$290 filing fee, (all dependents can be included on one Form I-539), the filing fee can be paid by the employee or the employer.

**Note: H-1B-related immigration fees must be paid by the department. These fees can not be paid by or passed onto the international employee.**

### Important Reminders:

- Request employment for a period in which you currently have funding.
- The prospective employee cannot begin employment or volunteer in the position until the effective start date of H-1B approval, a transfer has been received, or he/she possesses some other form of employment authorization
- Maximum initial period of employment is 3 full years and the status may be renewed for an aggregate total of 6 years

# H-1B PETITION

## Department Application

EMPLOYER DATA-INFORMATION ABOUT HIRING DEPARTMENT, CENTER, OR UNIT		
Please return completed application to Keeli Nelson, keelinelson@ku.edu International Program, Room 300 Strong Hall or by fax at 864-4555.		
1. Dept Chair, Director, or Hiring Authority Last Name:	2. First Name:	
3. Title or Position:	4. Department/Center/Unit:	
5. Address of Department/Center/Unit:		
6. Phone:	7. Fax:	8. Email:
9. Person Preparing Form (if different from above):	10. Title or Position:	
11. Phone:	12. Fax:	13. Email:
JOB INFORMATION		
1. Type of H-1B Status Requested: <ul style="list-style-type: none"> <li><input type="radio"/> New Employment</li> <li><input type="radio"/> Amendment</li> <li><input type="radio"/> Extension</li> <li><input type="radio"/> Change of Employer</li> </ul>		2. Premium Processing Service Requested: <input type="radio"/> Yes <input type="radio"/> No (not needed for Extensions, Amend..., Change of Employer)
3. Prospective Employee's Name:	4. KU Employee ID #:	5. Email & Phone (if available):
6. Official Job Title:	7. Job Title of Supervisor for this position:	
8. Dates of intended employment as H-1B: From _____ To _____ (mm/dd/yyyy).		
9. Number of hours of work per week: Basic: _____ Overtime: _____.	10. Hourly Work Schedule: A.M. (h:mm): ____: ____ P.M. (h:mm): ____: ____.	
11. Basic Rate of Pay Offered: \$ _____. Is this rate of pay hourly or yearly? _____.		

<b>12. Any working Conditions that affect the rate of pay?</b> <input type="radio"/> Yes <input type="radio"/> No If yes, please specify the working conditions.	
<b>13. Does this position supervise work of other employees?</b> <input type="radio"/> Yes <input type="radio"/> No	<b>13a. If yes, number of employees worker will supervise</b> (if applicable) _____.
<b>14. Will travel be required in order to perform the job duties?</b> <input type="radio"/> Yes <input type="radio"/> No If yes, please explain the travel requirements.	
<b>15. Minimum U.S. diploma/degree required for position:</b> Indicate None; High School/GED; Associate's; Bachelor's; Master's; Doctorate (PhD); Other degree (JD, MD, etc.).	
<b>16. If 'Other Degree' specify diploma/degree req'd:</b>	<b>17. Indicate major(s) and/or other fields of study required:</b>
<b>18. Does employer require a second U.S. diploma/degree?</b> <input type="radio"/> Yes <input type="radio"/> No	<b>18a. If yes, indicate the second U.S. diploma/degree and major(s) and/or field(s) of study required:</b>
<b>19. Describe fully the job duties to be performed (begin with the important one first):</b> attach additional pages if needed.	
<b>20. Is individual currently employed at KU in this position?</b> <input type="radio"/> Yes <input type="radio"/> No If yes, years in current position _____.	
<b>21. Training for the job required?</b> <input type="radio"/> Yes <input type="radio"/> No If yes, specify number of months of training and indicate field(s)/type(s).	
<b>22. Is employment experience required?</b> <input type="radio"/> Yes <input type="radio"/> No If yes, specify number of months of experience required. Indicate the occupation required.	
<b>23. Special Requirements-List specific skills, licenses/certificates/certifications, and requirements of the job opportunity.</b>	

**PLACE OF EMPLOYMENT INFORMATION**

1. Worksite address 1

2. Address 2

3. City

4. County

5. State/District/Territory

6. Postal Code

7. Will work be performed in multiple worksites within an area of intended employment or a location(s) other than address listed above? ☐ Yes ☐ No

7a. If yes in question 7, identify the geographic place(s) of employment with as much specificity as possible. If necessary, submit an attachment to continue and complete a listing of all anticipated worksites, including the KU Medical Center and/or the KU Edwards Campus, if applicable.

**LCA ATTESTATION**

**KU must submit a Labor Condition Application (LCA) to the U.S. Department of Labor; the LCA must be certified before it is submitted with the H-1B petition to USCIS. Please read the statements below, initial each item indicating that you understand the requirements; sign and date at the bottom.**

\_\_\_\_\_ The salary being paid to the above-named employee is at least the actual wage being paid to all other individuals with similar experience and qualifications for the specific employment in question or the prevailing wage level for the occupation, whichever is higher.

\_\_\_\_\_ The vacation time, sick leave, and other benefits offered to this employee are equivalent to that offered to other U.S. workers in the same classification.

\_\_\_\_\_ Employing this person will not adversely affect the working conditions of U.S. workers similarly employed.

\_\_\_\_\_ There is no strike, lockout, or work stoppage due to labor dispute in this occupation.

\_\_\_\_\_ We will post a notice of our intent to hire an H-1B worker to other employees at the worksite; the notice must be posted before the LCA is filed with DOL, and remain posted for at least 10 days.

\_\_\_\_\_ Should I need to terminate an employee PRIOR to the end of period of stay requested, my department shall be responsible for the individual's return transportation to his/her home country. If H-1B petition is approved, I will notify International Programs of any changes in the employee's terms of employment or working conditions, including early terminations.

\_\_\_\_\_  
Signature of Dept Chair/Hiring Authority

\_\_\_\_\_  
Date



# H-1 B PETITION

## STATEMENT OF ACTUAL WAGE DETERMINATION

As per Department of Labor regulations, the following information must be available for public examination. The public inspection file shall be housed in Office of International Programs. Please keep a copy of this form with salary information of similarly employed individuals.

**H-1B Employee's Name:**

**Department ,Center, or Hiring Unit:**

**Position Title:**

**Salary Offer:**

Salary range of individuals in department, lab, institute, center, or other university unit with same job title, as well as ***similar job responsibilities, qualifications and experience*** as the applicant: from \$ \_\_\_\_\_ per year to \$ \_\_\_\_\_ per year.

(If the employee is the only one in the position in your unit, consult with Human Resources to determine the salary range for similarly employed individuals at KU. Employees working in similar positions in different units can be used to determine the actual wage. If no similarly qualified individuals can be identified, please contact International Programs at 864-6161.

**Please check which of the following factors were considered when determining salary:**

☐

Education

☐

Previous work Experience

☐

Skills/specialized knowledge

☐

License/certifications

☐

Level or responsibility/supervision

☐

Publications

☐

Other objective business-related criteria\*

**I hereby certify that the salary listed above reflects the wage level paid to all other individuals with similar experience and qualifications working in this department, institute, center, or laboratory.** If there are more than one wage paid, I am able to explain the reason(s) for this differential in wage rates. If required to do so, I am able to provide documentation that will include the names and payroll records of similarly employed individuals to verify these statements for the Department of Labor. \* Please define business-related criteria on additional page.

\_\_\_\_\_  
**Signature of Department Chair, Director, or Hiring Authority**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Name and Title**

Please return completed form to Keeli Nelson, Sr. International Employee & Scholar Advisor, International Programs, Room 300 Strong Hall.

The University of Kansas • International Programs • 1450 Jayhawk Blvd., Room 300 Strong Hall • T: 785-864-6161 • F:785-864-4555



# H-1B PETITION

## SAMPLE LETTER OF SUPPORT

*On Department Letterhead or Stationary (one page, if possible)*

### Date

U.S. Citizenship & Immigration Services  
California Service Center  
ATTN: CAP EXEMPT H-1B Processing Unit  
24000 Avila Road, Room 2312  
Laguna Niguel, CA 92677

RE: H-1B Petition on behalf of **[Employee's Name]**

Dear Sir or Madam,

This letter is written in support of the H1-B petition for **[employee]**. The University of Kansas wishes to employ **[employee]** in the specialty occupation of **[position title]** at **[department, center, laboratory, institute, etc.]** for **[length of time]**. The minimum requirement for this professional position is a **[Ph.D., Master's, etc.]** degree in **[discipline or field of study]**. As a beneficiary, **[Mr./Ms.] [Employee]** will be involved in **[brief, non-technical description of research/teaching, activities, and/or duties.]**

**[Mr./Ms.] [Employee]** is amply qualified **[or an exceptional candidate]** for this professional position. **[He/She]** obtained a **[Ph.D., master's, etc.]** degree with an emphasis on **[area of study]** from **[institution]** in **[location]**. **[Describe knowledge, skills, relevant experience, and other special qualifications needed by the employee to carry out the position].**

Based on **[employee]'s** professional experience, we wish to employ him/her on a **[full-time or part-time basis]** from **[beginning date]** to **[ending date]** with an annual salary rate of **[\$ per year or per hour]**. **[His/Her]** work will be supervised and reviewed by **[name of supervisor]**. **[Mr./Ms.] [Employee]** will not perform services at a third-party worksite. **[He/She]** will work at our **[city and state]** location. **[His/Her]** salary will be paid by the University.

The temporary nature of the H-1B status is understood, and should our H-1B petition be approved, we fully intend to comply with the regulations regarding employment of individuals in H-1B status. I confirm that in the event that **[employee]** is dismissed before the end of his/her period of authorized employment, we will be responsible for the reasonable cost of **[his/her]** return home.

Your favorable consideration in granting this petition would be greatly appreciated.

Sincerely,

Name  
Department Chair, Director, or Hiring Authority





# H-1B PETITION

## Labor Condition Application (LCA)

Employers seeking to hire H-1B nonimmigrant workers in specialty occupations must submit ETA 9035 or "Labor Condition Application" (LCA) to the Department of Labor Employment and Training Administration. The LCA must be approved by the Dept. of Labor before the H-1B petition is submitted to U.S. Citizenship and Immigration Services for adjudication. By completing and submitting the form electronically, International Programs is certifying that on the behalf of the university and hiring departments, the following conditions have been met:

- **Employing an H-1B worker will not adversely affect the working conditions (hours, leave, shifts, and other fringe benefits) of the workplace.**
- **It is understood at the time the LCA is filed, there is no labor dispute that has resulted in a strike, lockout, or other work stoppage.**
- **The salary being paid to the H-1B worker is at least the actual wage being paid to all other individuals with similar experience and qualifications for the specific employment in question OR the prevailing wage level for the occupation in the area of employment, whichever is higher.**
- **The employer is required to inform their employees of the intent to hire an H-1B employee, therefore, a notice of the intent to file a LCA must be posted in two conspicuous locations and will remain posted for ten (10) consecutive business days** (The draft LCA and a corresponding cover sheet will be provided to you by International Programs for posting at the appropriate time)
- **A copy of the certified LCA has been given to the H-1B worker no later than the date he/she begins work. This will be documented and be available for inspection by the Department of Labor.**

During the LCA procedure, any aggrieved person or organization may file a complaint. Therefore, supporting documentation for the LCA shall be kept on file in International Programs and shall be available for investigation. Failure to meet the condition in the LCA may result in the following:

- Monetary penalties up to \$1000 per violation.
- Employers ordered to provide for payment of back wages.
- Employers being barred from filing LCAs or permanent labor certifications, or obtaining approval of H, L, O, and P nonimmigrant or employment-based immigrant petitions for at least one year.

It is extremely important that the department, center, or unit does not misrepresent any fact or situational development. ***It is the responsibility of each department to notify the International Employee and Scholar Advisor in advance if any conditions of employment change at any time so that IP may notify the proper government agency if necessary.*** In any event that the University of Kansas is audited by the Department of Labor, IP is not responsible for any misinformation provided by Department sources.

# H-1B PETITION

## Employee Portion

### EMPLOYEE CHECKLIST

Please submit the following items to the International Employee & Scholar Advisor in International Programs. For questions concerning the H-1B process or the required documentation, please contact Keeli Nelson at keelinelson@ku.edu.

**PLEASE DO NOT STAPLE  
DOCUMENTS.**

- ☐ **H-1B Employee Data Sheet**
- ☐ **2 Copies of all current and previous immigration documents:**
  - H status: current and previous I-797 Notice of Action (approval)
  - F status: all I-20s issued and EAD card(s) for OPT, if applicable
  - J-1 status: all DS-2019s or IAP-66s, letters authorizing Academic Training, and waiver of the 2-year home residency requirement (212e), if applicable.
  - J-2 status: include copies of any EAD cards, all DS-2019s or IAP-66s, and waiver of the 2-year home residency requirement (212e), if applicable.
- ☐ **2 Copies of Resume or CV**
- ☐ **2 Copies of documentation of highest degree earned**
  - 2 Copies of the diploma (or if diplomas has not yet been received, 2 final transcript verifying that the degree has been awarded)
  - If your degree was earned outside the U.S., you must additionally obtain a credential evaluation to verify that your degree is equivalent to one awarded in the U.S. at the same level. Contact IP for more information.
- ☐ **2 Copies of the following documentation (please do not alter the scan or photocopies):**
  - 2 Copies of your passport page showing photo, date of birth, and expiration date;
  - 2 Copies of current visa stamp, front & back of I-94 card, if currently in U.S.;
  - 2 copies of the I-140 Receipt or Approval Notice, if applicable;
  - 2 copies of the I-485 Receipt Notice, if applicable.
- ☐ **2 copies of two to three most recent paystub (if applying for concurrent employment or change of employer)**

**Dependents:** If your dependents are currently in the U.S., please submit the following items for each dependent you wish to change to or extend his/her H4 status with Form I-539:

- 2 copies of passport identification page(s); with expiration date;
- 2 copies of front & back of I-94 card and visa page(s)
- 2 copies of marriage certificate and/or birth certificate, translated into English.
- 2 original letters from H-1B applicant verifying his/her ability to support dependent(s) while in the U.S.;
- 1-\$290 check, application fee for Form I-539, payable to "Department of Homeland Security."

*If dependent(s) are coming directly from overseas, no need to submit the I-539 or immigration documents for the dependent(s) will need to apply for H4 visa(s) before entering the U.S.*

# H-1B PETITION

## Employee Data Worksheet

<b>EMPLOYEE DATA</b> (complete all fields)			
<b>1. Family/Last Name:</b> (as appears in passport)		<b>1a. Given/First:</b>	
<b>1b. Middle:</b> (if any)			
<b>2. Other Names used:</b> (if applicable)			
<b>3. Date of Birth:</b> (mm/dd/yyyy)		<b>4. Country of Birth:</b>	
<b>5. Province of Birth:</b>			
<b>6. Country of Citizenship:</b>		<b>7. Social Security Number:</b> (if any)	
<b>8. Alien Registration Number:</b> (if any)			
<b>9. Passport #:</b>		<b>10. Date Passport Issued:</b> (mm/dd/yyyy)	
<b>11. Date Passport Expires:</b> (mm/dd/yyyy)			
<b>12. Home Phone #:</b>		<b>13. Office Phone #:</b>	
<b>14. Email:</b>			
<b>15. Foreign Mailing Address:</b> (Street number and name, city or town, state or province, country, and zip/postal code)			
<b>CURRENT STATUS</b> (complete if in the U.S.)			
<b>1. Current U.S. Address:</b> (Street number and name, city, state, and zip code)			
<b>2. Current Nonimmigrant Status:</b>		<b>3. Date Status Expires:</b> (mm/dd/yyyy)	
<b>4. Date of Last Arrival:</b> (mm/dd/yyyy)		<b>5. I-94 #:</b> (Arrival/Departure Card)	
<b>6. If currently in F-1 status on Optional Practical Training, when does the EAD card expire?</b>			
<b>7. If currently in J-1 status on Academic Training, when does work permission expire?</b>			
<b>8. Are application(s) by dependent(s) being filed with the H-1B petition?</b> <input type="radio"/> Yes <input type="radio"/> No If yes, how many?			

<b>EDUCATIONAL BACKGROUND INFORMATION</b> (complete all fields)		
<b>1. Highest Degree Earned:</b> (Bachelor's, Master's, Doctorate)	<b>2. Major Field of Study:</b>	<b>3. Date Degree Awarded:</b> (mm/dd/yyyy)
<b>4. If Degree was Obtained in the U.S., please provide Institution's Name and Address:</b>		
<b>OTHER RELEVANT INFORMATION</b> (complete all fields)		
<b>1. Specify basis for classification and requested action:</b> <ul style="list-style-type: none"> <li><input type="radio"/> In the U.S., in another lawful status and need to change to H-1B status;</li> <li><input type="radio"/> Currently in H-1B status at KU and need to extend or amend authorized period of stay.</li> <li><input type="radio"/> Currently in H-1B status at another institution and need to transfer H-1B status.</li> <li><input type="radio"/> Outside the U.S., and will need to obtain H-1B visa at a U.S. consulate or embassy,</li> </ul> <p>Address of consulate/embassy where you will apply for visa:</p>		
<b>2. Have you...</b> <b>ever been in H-1B status?</b> <input type="radio"/> Yes <input type="radio"/> No    If yes, list period of stay in H-1B status:  <b>ever been denied H-1B status?</b> <input type="radio"/> Yes <input type="radio"/> No		
<b>3. Have you or anyone else ever filed and immigrant (I-140) petition for you?</b> <input type="radio"/> Yes <input type="radio"/> No If yes, please explain. Form I-140 pending or approved?		
<b>4. Have you ever been in exclusion or removal proceedings?</b> <input type="radio"/> Yes <input type="radio"/> No If yes, please explain:		
<b>5. If currently or previously in J status, are/were you subject to the "2-year home residency requirement?"</b> <input type="radio"/> Yes <input type="radio"/> No    If yes, has a waiver of this requirement been obtained? <input type="radio"/> Yes <input type="radio"/> No		
<b>6. List family members who will accompany you to the U.S. or , if already in the U.S., H-4 dependent status is being requested:</b> <ul style="list-style-type: none"> <li><input type="radio"/> name as it appears in passport</li> <li><input type="radio"/> current nonimmigration status if in U.S.</li> </ul>		

## PROCESSING TIME

USCIS will mail a **receipt of filing** to IP within 1-2 weeks. Processing times for approval of H-1B petitions vary depending on time of the year, from 3 to 4 months.

*With premium processing service, USCIS guarantees a 15 calendar day processing time or the fee is refunded. If an intent to deny or request for evidence is issued by USCIS within 15 calendar days of receipt or if the case is referred for investigation of suspected fraud or misrepresentation, the processing time has been met. Once a response is received, USCIS will guarantee 15 calendar day processing from the date the response was received.*

If you would like to check the Processing Dates for Form I-129 petitions, go to USCIS website: <https://egov.uscis.gov/cris/processTimesDisplay.do>, select 'California Service Center,' then click "Processing Dates."

To check the status of the H-1B petition, go to this USCIS website: <https://egov.uscis.gov/cris/Dashboard.do>. You will need to enter the application receipt number. This number is located on the receipt of filing notice which shall be forwarded to you by IP once it is received.

When the petition is approved, a **Form I-797 Notice of Action** (approval notice) will be mailed to IP. The International Employee & Scholar Advisor shall notify the department and the employee. If the employee is on campus the employee should pickup the original approval notice and take a copy to Payroll or Human Resources administrator in the employing department to complete or update his/her Form I-9. Otherwise the approval notice shall be given to the department.

**NOTE:** Under the legislation passed in October 2000, a transferring H-1B employee may begin employment once the University receives the receipt of filing from USCIS. It is not necessary to wait for the petition to be approved. The employee should fill out the Form I-9 using the receipt along with passport, I-94 card, and original H-1B Notice of Approval from the previous employer.

**NOTE:** If the I-129 is for extension of H-1B status, it must be received by USCIS prior to the expiration date of the current H-1B status. Once USCIS has received a timely-filed extension petition, the H-1B employee may continue employment with the same H-1B sponsoring employer for up to 240 days after expiration of the current H-1B status.

If the employee is out of the U.S., the documents shall be sent to him/her for the visa application at the consulate or embassy. The employee may enter the U.S. up to 10 days prior to the start date on the approval notice. Upon arrival, the employee will need to present his/her immigration documents to the IP for review, and to the department for completion of the Form I-9.

**IMPORTANT:** Neither the University of Kansas nor International Programs can guarantee that H-1B petitions will be approved. Nor can the University or IP guarantee the issuance of a visa or admittance to the U.S. for employees who leave, or prospective employees outside the U.S. applying for the H-1B visa stamp.

# H-1B PETITION

## Ongoing Employer Obligations

- The employer shall maintain a public inspection file as well as other supporting documentation. Public inspection files shall be housed in International Programs. For more information regarding the contents of the public access record, please contact [keelinelson@ku.edu](mailto:keelinelson@ku.edu).
- The employer must continue to pay the H-1B employee the required wage rate throughout the period of validity of the LCA. The employee shall receive commensurate pay increases of similarly employed workers, if not the employer will need to explain why the H-1B worker did not merit such increases.
- If there is a strike or lockout involving employees in the occupation at the same employment as the H-1B worker notify the International Employee & Scholar Advisor. The Department of Labor must be notified within three days of the commencement of a strike or lockout.
- If there should be additional work sites outside Lawrence, KS, please contact the International Employee and Scholar Advisor. The general rule is that a new LCA to cover the additional site(s) must be filed. The exceptions are: (1) travel for development activities; (2) travel to “non-worksites” locations; and (3) travel involving short term work assignments.

The Wage and Hour Division (WHD) of Employment Standards Administration (ESA) of the Department of Labor enforces the LCA requirement. Should there be a complaint by any aggrieved person triggering an investigation, WHD will conduct an investigation. If WHD determines that a violation has occurred, penalties may be assessed. Penalties may include (1) back wages for failure to pay the required wage rate; (2) civil fines of up to \$35,000 per violation; (3) debarment from receiving approval of USCIS nonimmigrant petitions and employment-based immigrant petitions for up to a three-year period and from filing any permanent labor certification application or LCA for the same period; and other remedies.

# H-1B PETITION

## Miscellaneous Information

- H-1B petitions may be filed **up to six months before the intended employment start date** or the date of expiration of current authorized period of stay. You should allow at least **four months** for the entire H-1B process. Premium processing is a fast alternative.
- Academic H-1B petitions are not subject to the annual visa caps (quotas), and can be submitted at any time of the year. The cover letter included with each petition shall remind USICS that the petition is not subject to the quota.
- Copies of original documents being submitted in place of originals are acceptable if certified as “true and correct” copies by an attorney, notary or other official entity.
- Acceptable translations of documents can be done by anyone who is proficient in both languages. If a “Certification of Translation” is needed, please contact IP.
- Foreign degree equivalence. If the degree required by the position was earned outside the U.S., a credential evaluation service must verify U.S. degree equivalence. Please contact IP for degree evaluator services such as Educational Credentials Evaluators, Inc. (ECE).
- When an H-1B employee travels abroad, a valid H-1B visa stamp is needed for re-entry into the U.S. Travel to Canada and Mexico are sometimes an exception to this requirement. The employee must also have a valid passport, the I-797 Notice of Approval, and other supporting documentation. Please direct all travel questions and concerns to IP.
- Canadian workers do not obtain a visa from a U.S. consulate, but rather present themselves with their H-1B documents to an immigration officer for review.
- As non-U.S. citizens, H-1B workers are required by law to report a change of address within 10 days of moving. Permanent residents will submit different forms; most non U.S. citizens will file a Form AR-11 *Change of Address* to notify USCIS that they have moved to a new location. Form AR-11 is available at: <http://www.uscis.gov/files/form/ar-11.pdf> or can be filed directly online at: <https://egov.uscis.gov/crisgwi/go?action=coa>.