

H-1B EMPLOYEES: MAINTAINING YOUR STATUS

Your responsibilities. As a non-immigrant visa holder, you are responsible for understanding and complying with the terms of your status during your stay in the U.S. Violating immigration regulations could have serious consequences. Please review this information carefully, and contact the International Faculty Advisor if you have questions.

Know your immigration documents. I-797 approval notice: This document allows you to apply for a visa, enter or re-enter the U.S., and (along with other documents) establishes your legal eligibility to remain in the U.S. Make sure you are aware of your petition's validity dates on the I-797 form. Your I-94 card ("Arrival-Departure Record") is the small piece of paper stapled in your passport. It indicates the status in which you were admitted to the U.S. and the duration for which you were admitted at your last entry to the U.S. If you have been the beneficiary of a change of status or an H-1B extension, your most recent I-94 is on the bottom of the I-797 approval notice.

Keep your passport valid. Keep it and other important documents (e.g. I-797 Approval Notice) in a safe place. Report a lost or stolen passport to the police, as your government may require a police report before issuing a new passport. To renew or replace your passport, contact your country's consulate in the U.S. While in the United States, always carry with you a copy of your passport's identity page and a copy of your I-797 Approval Notice. When traveling, carry the original documents but guard them carefully against theft.

Work only in the position for which your H-1B was approved. Your H-1B is both employer- and job-specific. You may only work for the employer listed on your I-797 approval notice. Your PSU-sponsored H-1B does not allow you to work for any other employer. In many cases, PSU must file a new H-1B petition with USCIS before you are authorized to start a new position at the university. If you change employers, the new employer must file a new H-1B petition before you begin your new position.

Consulting work and lectures at other institutions or conferences. You may have occasion to give lectures at other institutions or conferences. You may not accept an honorarium or other compensation for such activities, although you may receive reimbursement for travel and reasonable expenses.

Extend your stay in a timely manner. A petition to extend H-1B status may be filed with USCIS as early as six months before the current petition expires. Contact your department to begin the extension process. If the petition is filed with USCIS in a timely manner, you may continue on payroll even though USCIS may not adjudicate the petition until after your current period of stay expires. Upon approval of the petition, you will receive a new I-797 Approval Notice. Note that a new H-1B visa (the stamp in the passport) can be obtained only by applying at a U.S. consulate or embassy outside of the U.S. You may remain in the U.S. even though the visa in the passport has expired—a valid visa is required only when re-entering the U.S. from abroad.

Immigration law establishes a six-year cap on the number of consecutive years a foreign national may hold H-1B status. Initial admission as an H-1B can be up to three years; extensions of stay are granted in up to three-year increments. Periods of time in H-1B status with other employers count toward the six-year limitation. Extensions beyond six years are possible in limited circumstances involving delays in the processing of applications for permanent residence.

Maintain a full-time appointment. Your employment at PSU must remain full-time while you are under PSU visa sponsorship. PSU does not provide H-1B visa sponsorship for part-time positions.

Report address changes to USCIS using the AR-11. Like other non-immigrants, individuals in H-1B status must notify U.S. Citizenship and Immigration Services (USCIS) of all residential address changes using form AR-11 within 10 days of the address change. You can find the AR-11 under the link “Change Your Address with USCIS.” You can complete form AR-11 online (it is advisable to print out confirmation of this submission) or by completing and mailing the form to USCIS (advisable to send the AR-11 by certified mail, return receipt requested). If you are subject to Special Registration (SR), you must follow SR instructions and file Form AR-11SR as required.

Taxes. You are required to file a yearly tax return with the Internal Revenue Service (www.irs.gov).

H-1B portability. A "portability" provision in the H-1B regulations allows a beneficiary who is already in H-1B status to begin working for a new employer as soon as that employer receives from USCIS the I-797 Receipt Notice for the new petition. If you are moving to PSU from another institution and wish to take advantage of H-1B portability, do not leave your current paid position until we notify you that PSU's petition has been received by USCIS. Contact the International Faculty Advisor for more information.

Dependents in H-4 status. Dependents accompanying you to the U.S. may enter as H-4 dependents. Only the spouse or unmarried children (under age 21) are eligible to be classified as H-4 dependents according to immigration law. As a dependent family member, an H-4 may stay in the U.S. as long as the H-1B maintains legal status. To maintain legal status, H-4s must maintain a valid passport and I-94 at all times and comply with the U.S. address reporting requirement. Dependents in H-4 status are **not** eligible for employment in the U.S. but they may study part-time or full-time.

Once a dependent child reaches his or her 21st birthday, he/she is no longer considered a dependent and thus is no longer eligible for H-4 status. Therefore, prior to a child's 21st birthday child, U.S. Citizenship and Integration Services must receive the application to change the child's status from H-4 to another category (e.g. F-1) or the child must leave the U.S.

Depart the U.S. in a timely manner. Because the H-1B is an “employment visa,” your lawful status in the U.S. ends when your paid employment ends. If your paid employment ends before your I-797 Approval Notice expires, you must depart the U.S. immediately upon termination of employment. If your paid employment and the I-797 end at the same time, check the expiration date on your I-94 card as it may indicate an additional 10-day “grace period” for departure.

PLEASE CONSULT WITH THE INTERNATIONAL FACULTY ADVISOR:

- If you notice any errors on your immigration documents.
- Before you or your dependents travel outside the U.S.
- Before changes (promotion, change in responsibilities) in your position at PSU occur.
- Before accepting a new position at PSU or at another institution.
- If you plan to leave PSU before the end date on your I-797 approval notice.

(Adapted with permission from the Office of International Students and Scholars, University of Washington)