Employment for H-1B Scholars

H-1B status is like a contract, it is specific to one employer (appointment) and to the specific dates and activities as listed on the petition.

The Appointment/Position

In order to remain in legal H-1B status the employee must fulfill each appointment/position element listed within the original application including, but not limited to:

- Salary/Compensation
- Work location(s)
- Full-time status (Yale visa sponsorship is only for full-time positions)
- Appointment title
- Job duties/responsibilities
- Hiring department/unit
- Other work conditions

H-1B Status is Employer-Specific

H-1B status is employer-specific, and is valid ONLY for the position and employment conditions stated within the H-1B petition and for the period approved. See the above “The Appointment/Position” section for examples of elements that require attention. While the petition is submitted under Yale University, your hiring department/unit listed within the petition is your H-1B “employer.”

If the hiring department/unit wants to change any of these conditions (including any addition of teaching), they must consult with their OISS adviser [1] first. In some cases an entire new H-1B application and fees are required to make changes to the employment.

An employee may work for more than one employer, but each employer must file a separate H-1B application. Your Yale appointment must be full-time with one hiring department/unit.

Additional Compensation

H-1B employees may not accept compensation, including honoraria, from any other employer or entity other than those named in the original H-1B petition or for an activity outside of the approved H-1B, even if this additional activity is with Yale. Yale scholars/employees in H-1B status who are invited to give a lecture off-campus, collaborate or conduct research with other schools can receive reimbursement for reasonable travel costs only.

H-1B Employer Inspections [2]

Be aware of the possibility of USCIS inspections. See H-1B Employer Inspections [2] for more information.

Change of Employment

Any possible change of employment conditions must be reviewed by an OISS adviser PRIOR TO any change. This includes if the H-1B employee is removed from Yale payroll for any reason and is continuing their duties on Yale premises by being employed by a non-Yale organization.

- Your legal H-1B status ends the day after your employee status with Yale ends.
The H-1B is “employer specific,” which means that if a scholar/employee changes employers, the new employer must prepare an entirely new H-1B petition, which takes advanced planning and a process that could take several months. The new employer's H-1B petition must be filed with USCIS before your previous H-1B employment ends.

The H-1B regulation known as “portability” allows individuals already holding H-1B status to begin employment with a new employer once the new petition is filed with USCIS and its filing can be confirmed. Nevertheless, it is important to understand that filing a new petition under the portability provision may sometimes take several months to be approved by USCIS.

Please let your OISS adviser [3] know if you plan on leaving Yale before the end of your H-1B approval notice (Form I-797). Federal law requires Yale to conduct record keeping on the H-1B petition. Upon your departure, OISS is required to notify the U.S. Department of Labor and US Citizenship and Immigration Services of the termination of H-1B employment if the termination date is “prior to” the end date noted on the H-1B approval notice (Form I-797).

If there will be a gap between ending work with Yale and starting work with the new employer, the scholar/employee may have to leave the U.S. and then return once the new H-1B is approved.

Please review the Leaving Yale [4] section for additional information.

Source URL: https://oiss.yale.edu/employment-taxes/employment-for-international-scholars/employment-for-h-1b-scholars

Links
[1] https://oiss.yale.edu/about/connect-with-oiss
[3] https://oiss.yale.edu/about/contact-oiss