About H-1B Visas

H-1B temporary worker status is designated for individuals coming temporarily to the U.S. to work in a specialty occupation. A specialty occupation is defined as one that requires “theoretical and practical application of a body of highly specialized knowledge, and attainment of a bachelor's or higher degree, or its equivalent, as a minimum requirement.” Further, the U.S. Citizenship and Immigration Services (USCIS), the federal H-1B petition adjudication authority, adds that “the ‘degree’ means not just any degree, but one in a specific specialty that is directly related to the offered position.”

The H-1B is an 'employer specific' status. This means that the H-1B employee may only be paid by the specific H-1B petitioner and only according to the terms in the H-1B application. Scholars in H-1B status cannot accept funds from another employer or source other than the employer listed in the H-1B application. At Yale, H-1B status is typically used for faculty appointments.

At Yale, H-1B status is most often used for faculty and academic positions such as, Assistant Professor, Instructor and Associate Research Scientist. Occasionally, postdoctoral associates will be eligible for H-1B, but they most commonly use the J-1 status.

Maximum Duration

H-1B status is initially granted for a maximum period of three years and can be extended to a total of six years [1] (regardless of the number of employers). Because the application process is lengthy and complex, requesting a full-three year H-1B status (providing the intention is to retain the scholar for that long) is recommended and advantageous.

Yale H-1B Sponsorship Eligibility Basic Criteria

- Faculty level academic appointment (see Faculty sponsorship policy [2])
- M&P Appointment (see M&P sponsorship policy [3])
- Full-time (100% FTE)
- Must be considered a Yale employee (e.g. Postdoctoral Fellow, not considered a Yale employee. Also, postgraduate trainees are not eligible for H-1B or any other employment-based Yale visa sponsorship and use a J-1 visa instead.)
- At least one year sponsorship commitment, up to three years with appointment renewal intention and foreseen secured funding
- Work location(s) MUST be on Yale campus(es)


The H-1B process is more complicated than other immigration statuses and the processing time is long and sometimes unpredictable. The hiring department at Yale must initiate the H-1B application process on behalf of the scholar they wish to sponsor, and then provide (in coordination with the scholar) the required documentation to OISS. There are two separate government agencies involved in H-1B visa sponsorship: the U.S. Department of Labor (DOL) and the United States Citizenship and Immigration Services (USCIS).

The H-1B filing fees, which must be paid by the hiring unit, include a petition a $460 petition filing fee, a $500 anti-fraud fee and and optional but highly recommended $2500 premium processing fee.
The total processing time for an H-1B application, involves three stages: Yale preparation (OISS adviser, host department and international scholar), the DOL step, and USCIS review. The entire process can take up to four months using premium processing (an additional $2500 fee) or as long as four to six months without premium processing. While the Department of Labor will not allow H-1B processing to begin earlier than six months prior to the start date, OISS recommends submitting all materials to OISS at least seven months in advance to be officially part of the OISS processing queue. OISS advisers prioritize all H-1B requests in order of the beneficiaries' current status end dates and the dates of their request submission to meet timely petition submission deadlines.

Other Considerations

Prevailing Wage [7]

The department is required to pay a salary to the H-1B beneficiary that meets the “prevailing wage” as determined by the DOL. Because of these strict DOL requirements (as well as Yale compensation policies for specific appointment type), part-time positions are not eligible for Yale H-1B sponsorship.

Use of Outside Counsel [8]

All H-1B requests must be processed through OISS. Yale policy [8] does not allow outside attorneys to represent Yale in the preparation of the H-1B petition for any Yale employee without written consent from the OISS.

Inviting an H-1B Scholar

Starting the application process for a new H-1B employee.

Source

URL: https://oiss.yale.edu/for-departments/visa-options-for-international-faculty-and-researchers/about-h-1b-visas

Links

[1] https://oiss.yale.edu/immigration/h-1b-temporary-worker/department-overview/extensions
[2] https://oiss.yale.edu/for-departments#studfacres
[3] https://oiss.yale.edu/for-departments#mandp
[4] https://oiss.yale.edu/for-departments/inviting-a-scholar/next-steps-for-h-1b
[5] https://oiss.yale.edu/for-departments/inviting-a-scholar/next-steps-for-h-1b/fee-requirements
[6] https://oiss.yale.edu/for-departments/inviting-a-scholar/next-steps-for-h-1b/h-1b-processing-time
[8] https://oiss.yale.edu/outside-counsel