H-1B Temporary Worker

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. In all cases, the Yale hiring department/unit must agree to H1B sponsorship.

Please consult with your OISS adviser [1] to determine whether or not H-1B is the best visa for the scholar/employee and/or the presented appointment/position.

Eligibility

Regulations define the H-1B visa as a paid temporary worker status for individuals working in a specialty occupation (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"). H-1B sponsorship also requires that employers pay a "prevailing wage" [2] or the actual wage, whichever is higher.

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 (regardless of the number of employers). Because the application process is lengthy and complex, requesting a full-three year H-1B (provided the intention is to retain the scholar for three years) is recommended and advantageous.

Legal Representation

The decision to use the H-1B is up to the university based on the OISS assessment and recommendation and the request for sponsorship must always be initiated by the department. [3] All H-1B sponsorship is processed through OISS. Outside attorneys are not authorized to petition for H-1B status for any Yale employee without written

consent from the OISS.

Hub Page View:

Application Overview

The H-1B application process must start with the hiring department. The instructions and resources provided here should only be used by scholars after the hiring department and the OISS have confirmed that Yale will sponsor the H-1B.

[4]

Maintaining Legal Status for H-1B Employees

The H-1B is an “employer specific” status. This means that the scholar may only be employed only by the H-1 B petitioner and only according to the terms in the H-1B application., i.e. the specific dates and activities listed on the petition

[5]

Source URL:https://oiss.yale.edu/immigration/h-1b-temporary-worker

Links
[1] https://oiss.yale.edu/about/contact-oiss [2] https://oiss.yale.edu/immigration/h-1b-temporary-worker/department-resources/prevailing-wage [3] https://oiss.yale.edu/for-departments/oiss-connect [4] https://oiss.yale.edu/immigration/h-1b-temporary-worker/h-1b-application-overview [5] https://oiss.yale.edu/immigration/h-1b-temporary-worker/maintaining-legal-status