Maintaining Legal Status

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.

Change of Employment [2]

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. See **Changing Employers** [2] for more information.

H-1B Employer Inspections [3]

Be aware of the possibility of USCIS inspections. See **H-1B Employer Inspections** [3] for more information.

I-94 Validity and Petition End Date
Those in H-1B status must pay close attention to their most recent I-94 record [4] (the one attached to the I-797 approval notice or electronic version issued upon entry to the U.S. from a trip abroad after the H-1B is approved). The I-94 end date may be different than the approved H-1B period end date. If the dates do not match, an H-1B employee may work under the approved H-1B conditions until the petition end date or I-94 end date, whichever comes first. See the table below for more details:

<table>
<thead>
<tr>
<th>I-94 and H-1B End Date Comparison</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-94 end date is earlier</td>
<td>H-1B status AND work authorization in the U.S. will end on the I-94 end date, and you are required to leave the U.S. by the I-94 end date. If H-1B extension [5] is needed, the extension petition must be filed with USCIS before your I-94 end date.</td>
</tr>
<tr>
<td>H-1B petition period end date is earlier</td>
<td>Work authorization will end on the petition end date, and the H-1B employee is required to leave the U.S. by the I-94 end date. If H-1B extension [5] is needed, the extension petition must be filed with USCIS before the petition end date in this case.</td>
</tr>
</tbody>
</table>

**Traveling in H-B Status** [6]

The Form I-797 Notice of Action is NOT an alternative document to the U.S. entry visa stamp. If you travel abroad during the approved H-1B period, you must have a valid H-1B visa stamp in your passport to reenter the U.S. (see Traveling in H-1B Status [6]). If there is no valid H-1B visa in your passport for reentry to the U.S., the visa must be applied for and obtained through a U.S. consular office while abroad. A visa stamp cannot be obtained within the U.S.

If your passport expiration date is before the approved H-1B petition end date, it is strongly advised to renew your passport before reentry to the U.S. on the H-1B visa.

**Extending or Ending H-1B Status**

**Extending H-1B Status**

Please pay careful attention to the expiration date noted on the Notice of Action and your most recent I-94 record [4] if you traveled abroad since the last H-1B approval. See Extensions [7] for guidance on extension of status. Should your employment at Yale be extended, OISS must be notified of an H-1B extension request from your hiring department well in advance, ideally 6-7 months prior to the current petition end date. See H-1B Processing Time [8] for details.

**Ending H-1B Status** [9]

H-1B status is an employment-based status. As such, it immediately ends as of the date of termination of employment. Although Form I-797 (USCIS Approval Notice) may indicate a date well into the future, it will become invalid upon termination of employment. See Leaving Yale [10] for more information, and consult with your OISS adviser [1] when you must leave the U.S. in this situation.

**After H-1B** [11]

The maximum period of stay under H-1B status is 6 years from initial date of approval of the status. For those who might need to stay longer than the 6 year period, it is important to communicate with your OISS adviser [1] at latest 6-7 months in advance in order to examine potential options, if any. See After H-1B [11] for more details.
Additional Considerations

Report any Address Changes

By law, you are required to report your new U.S. residential address within 10 days of the address change. You will also need to update your address in your Workday [13] account.

Safeguard Your H-1B Approval Notice

As with all Immigration documents, it is important to safeguard your H-1B approval notice. Replacement of a lost Form I-797 requires the filing of an application with the USCIS, including payment of a significant replacement fee. The process can take more than 6 months.

H-4 Dependents [14]

H-4 derivative visa status is for children under the age of 21 and legally married spouses. H-4 dependents’ status is valid only when the H-1B employee maintains their legal status and are physically in the U.S. If the H-1B employee is absent from the U.S. for a long period time (e.g. longer than an approved vacation period) H-4 dependents should not remain in the U.S. They would not be considered in legal status without the H-1B employee’s presence in the U.S.

Source URL: https://oiss.yale.edu/immigration/h-1b-temporary-worker/scholar-overview/maintaining-legal-status

Links:
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[10] https://oiss.yale.edu/immigration/o-1-extraordinary-ability/o-1-application-preparation
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