Maintaining Legal Status

Employment [1]

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. Learn more about employment here [1].

I-94 Validity and Petition End Date

Those in H-1B status must pay close attention to their most recent I-94 record [2] (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></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 [3] 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 [3] 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 [4]

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 [4]). 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.

Note: For all international travel, individuals must retrieve their electronic I-94 record [2] from the CBP online system upon entry or re-entry into the U.S. Please email your new I-94 record to your OISS adviser [5] upon any entry to the U.S.

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 [2] if you traveled abroad since the last H-1B approval. See Extensions [6] 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 [7] for details.

Ending H-1B Status [8]
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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 [9] for more information, and consult with your OISS adviser [5] when you must leave the U.S. in this situation.

After H-1B [10]

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 [5] at latest 6-7 months in advance in order to examine potential options, if any. See After H-1B [10] for more details.

Additional Considerations

Report any Address Changes

By law, you are required to report your new U.S. residential address [11] within 10 days of the address change. You will also need to update your address in your Workday [12] 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 [13]

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

[1] https://oiss.yale.edu/employment-taxes/employment-for-international-scholars/employment-for-h-1b-scholars
[5] https://oiss.yale.edu/about/connect-with-oiss
[6] https://oiss.yale.edu/node/749
[9] https://oiss.yale.edu/immigration/o-1-extraordinary-ability/o-1-application-preparation
[10] https://oiss.yale.edu/immigration/h-1b-temporary-worker/scholar-overview/maintaining-legal-status/after-h-1b
[12] https://workday.yale.edu/