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 (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>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 is needed, the extension petition must be filed with USCIS before the I-94 end date.</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 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 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.

Note: For all international travel, individuals must retrieve their electronic I-94 record 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 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 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 [12] 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

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