HOW TO TALK TO EMPLOYERS ABOUT H-1B SPONSORSHIP

JUNE 9TH, 2020

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Note:

The information contained in this presentation should not be taken as legal advise. Please speak to an adviser in OISS before taking any action based on the following content.
Agenda:

- The job search process and OCS resources
- Visa basics from F-1 to H-1B
- Details about H-1B
The Job Search Process

Breaking down a monolithic process into small, achievable steps!
Setting Appropriate Goals & Sequencing

The various career development/career services offices at Yale are here to help!

- Leverage our online resources
  - Resume/cover letter samples
  - Advice on the job search process
  - Job Search workbook/checklists
- Job listings & employer information sessions
  - Offered throughout the year!
  - A wide variety of industries and functional areas
- OCS Animated Advice series
  - Available to the entire Yale community
- Networking Resources
  - Cross Campus for mentorship and informational interviews
  - Use LinkedIn to connect with Alumni
Phases of the Job Search (in a single slide!)

- **The Philosophical**
  - Interests, values, & skills
  - Transferability of your degree
  - Reconnaissance & matching
  - Establishment of a Professional Narrative
  - Constructing the resume

- **The Practical**
  - Identifying potential employers
  - Applying to positions when/where appropriate (the passive job search)
  - Identifying connections via personal network, colleagues, & Yale alumni
  - Leveraging contacts to learn about a given industry while refining your narrative through conversations with contacts (the active job search)
The Two Questions

- Employer is limited legally in what it can ask (discrimination)
- Most employers ask everyone to answer two questions (legal)

- *Are you currently authorized to work in the U.S.?*
- *Will you now or in the future require sponsorship for employment visa status?*
When to talk to the employer about a visa need?

Brian?
Visa basics
F-1 vs Employment Based visas

- Everyone applies for F-1 post-graduation Optional Practical Training
- No job offer needed!
- Apply in February, it will take 4 months + to receive the approval
- See details on-line
- Employer promised H, but OPT is your “insurance”
- OPT is your visa - easy to change plans
- All other visas (H-1B, etc...) “employment based” - not your visa
- You need a job offer
- The employer has to want to sponsor your visa
About H-1B - Goals for Today

- Basic knowledge of H-1B sponsorship
- Limited details on new employer registration and H-1B lottery
- Overview of events in process and managing the transition
- Enable you to talk details with the employer / representative when the time comes
- Understand two problem areas:
  - Specialty Occupation, and
  - Cap-Subject (run out of H-1b visas)
H-1B Temporary Worker

- Specialty Occupation = degree in a specific field that matches job requirements
- Employer “brick & mortar”, financially responsible
- Employer relationship: Controls salary and benefits
- Employer is “visa sponsor” employee may have very limited access to process
- Prevailing Wage (required minimum salary (https://icert.doleta.gov/))
- Cap-subject employers and H-1B dependent employers
- 6 years total H-1B time, 3 year max in each application
- H-4 family members - no work permission (few exceptions)
- Application process can take months even using “Premium Processing”
Fees and who can pay them?

- I-129 application $460
- Anti-fraud fee $500
- H-1B Dependent Employer “education and training fee” $750 - $1,500
- 50/50 fee (more than 50% of work force is H-1b or L) $4,000
- Family member I-539 form $370
- Premium Processing $1,440 (one fee for all)
- Attorney fee (not always necessary) $2,000 - $4,500
- Employee cannot pay fees
YALE UNIVERSITY
P.O. BOX 208224 OISS
NEW HAVEN CT 06520-2224
Valid from 08/17/2017 to 08/16/2019

Notice Type: Approval Notice
Class: H1B
Notice Number: WAC173218

This notice informs me that my application for an H-1B visa has been approved. I am eligible to work in the United States in a non-agricultural capacity. I understand that I must report to the Department of Labor within 10 days of starting work. Failure to do so may result in penalties. I also understand that I must maintain my status and timely renew my visa if I wish to continue working in the United States. If I change my employer or job duties, I must notify the Department of Labor within 10 days. I should keep this notice with my passport and check the status of my visa online at the U.S. Department of Homeland Security website.

Signature:
Emerson Parker
Date: 06/16/2017

Affidavit of Support

Name:
Emerson Parker
Address:
123 Main St
City:
New Haven
State:
CT
Zip:
06510

I certify that I have read the above affidavit of support and agree to provide financial support for the above-named individual.

Signature:
Emerson Parker
Date: 06/16/2017

Department of Labor
Condition for Nonimmigrant Workers
ETA Form 9035-10565
U.S. Department of Labor

F. Rate of Pay

1. Wage Rate (Required)
From: $0.00
To: $0.00

2. Payroll Period:
☐ Hourly
☐ Weekly
☐ Bi-Weekly
☐ Monthly
☐ Year

G. Employment and Prevailing Wage Information

Important Notice: It is important for the employer to define the place of intended employment as much geographic specificity as possible. The place of intended employment address must be a physical location, not a place of business. The employer may use this section to identify up to three (3) physical locations and corresponding prevailing wages, which shall be used for the purpose of determining the validity of the petition and the applicability of the prevailing wage. The employer must complete each location to indicate the number of hours worked at the location.

1. Address 1

2. Address 2

3. City

4. County

5. State/Local/Taxonomy

6. Postal code

Prevailing Wage Information (corresponding to the place of employment location listed above)

Agency which issued prevailing wage

Prevailing wage tracking number (if applicable)

Wage level

Prevailing wage

Hourly

Bi-Weekly

Month

Year

Prevailing wage source (Choose one only)

OES
CBA
OSA
SCA
Other

Year source published

H. Employer Labor Condition Statements

Important Notice: In order for your application to be processed, you must meet Section H of the Labor Condition Application - General Instructions Form ETA 9035CP under the heading "Employer Labor Condition Statements" and agree to all four (4) labor condition statements.

1. Wages: Pay nonimmigrants at the local prevailing wage or the employer's actual wage, whichever is higher, and pay them on a uniform and non-discriminatory basis.

2. Working Conditions: Provide working conditions for nonimmigrants which will not adversely affect the working conditions of workers similarly employed.

3. Strike, Lockout, or Work Stoppage: There is no strike, lockout, or work stoppage in the normal occupation at the place of employment.

4. Notice: Notify the worker to the workers has been or will be provided in the normal occupation at the place of employment. A copy of this form will be provided to the nonimmigrant worker employed pursuant to the application.

I. Notice and groin to Labor Condition Statements 1, 2, 3, and 4 is above and is fully explained in Section H of the Labor Condition Application - General Instructions - Form ETA 9035CP.

Submit documents and payment to:
Labor Condition Application - Standard Form ETA 9035 CP

Form 1-797A (Rev. 06/01/16)

EIA Form 9035-10565
FOR DEPARTMENT OF LABOR USE ONLY

Case Number: 1262-17107-15498
Case Status: CERTIFIED
Period of Employment: 08/17/2017 to 08/16/2019

Case Number: 1262-17107-15498
Case Status: CERTIFIED
Period of Employment: 08/17/2017 to 08/16/2019
USCIS can question the application: Request for Further Evidence (RFE)
Cap Subject Lottery
How many H-1B Visas Are There?

- Higher Education (some non-profit and government research) - exempt from cap
- If you had Cap Subject H-1B before - you may now be exempt

Cap Subject:
- 85,000 available per year
- Of that - 20,000 H-1B Visas are available per year in the U.S. Master’s
- U.S. Masters get two chances: Regular pool, then again Master’s pool
- Only about 30% - 40% of applicants get H-1B
March 2021
Employers Enter Lottery

You have successfully submitted your H-1B Registration.

We will notify you when the selection process has ended. You can track the status of your registration through your USCIS account.

Each beneficiary has been assigned a registration number. This number is only associated with the submitted registration and cannot be used to track case status using Case Status Online.

Go to my cases
Employer H-1B Schedule

- March 1 - March 20 “register” with USCIS to be selected for an H-1B in the lottery
- March 20 - 30, USCIS runs lottery if over subscribed
- USCIS notifies employer if selected
- Employer notifies employee
- Employer has 90 days to submit a completed H-1B application (deadline 6/30)
- A new allotment of H-1B visas becomes available on the new fiscal year - October 1st
- There can be a gap between the end of OPT, and when the H-1B starts in October - called Cap-Gap
# H-1B REGISTRATION STATUS

**456 Company**
Submitted on January 17, 2020

We are processing your case. It can take up to 48 hours to process your case information.

<table>
<thead>
<tr>
<th>Form</th>
<th>Status</th>
<th>Action</th>
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<tr>
<td>H-1B Registration</td>
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[View CSV of beneficiary table]

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<tr>
<td>Person, Third 01/12/1994</td>
<td><strong>Denied (duplicated)</strong> 152630577706364353360</td>
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</table>
Which employers sponsor H-1B visas?

- Search [www.myvisajobs.com](http://www.myvisajobs.com)

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**Trend of H1B Petitions Filed FY 2007 Through 2017: Beneficiary Industry (Top 30)**

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<tr>
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<td>81,325</td>
<td>51,793</td>
<td>58,288</td>
<td>64,046</td>
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<td>13,803</td>
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<td>26,397</td>
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<td>7,685</td>
<td>8,101</td>
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<td>7,463</td>
<td>5,708</td>
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<td>5,266</td>
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<td>4,342</td>
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<td>4,534</td>
<td>7,974</td>
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<td>6,335</td>
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<td>5,464</td>
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<td>1,859</td>
<td>1,912</td>
<td>2,089</td>
<td>2,886</td>
<td>4,010</td>
<td>4,500</td>
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<td>2,746</td>
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<td>2,592</td>
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</tbody>
</table>
Student - to OPT - to H-1B

Post-Completion OPT Sample Application Timeline

- Apply up to 90 days before program end date
- Program end date/Commencement
- Latest OPT start date
- 12 months
- Latest OPT end date
- 60 days
- Requested OPT start date

- May 2021
- July 17th, 2021
- July 16th, 2022
Cap-Gap - H-1B can only start on October 1st

Example: Standard 12-months of Post-Completion OPT

2020 - 2021

OPT Work Authorization

Gap in Employment Authorization

October 1, 2021

H-1B Work Authorization

Jan    Feb    Mar    Apr    May    June    July    Aug    Sep    Oct    Nov    Dec

The Cap Gap Extension of OPT through September 30th of the current year is granted if an H-1B petition has been filed by a Cap-Subject employer before the current period of OPT expires.
What if my employer can not get an H-1B for me in the lottery?

- Try again next year
- Are you in a STEM field? STEM OPT?
- Work outside the U.S. for a year (Canada?)
- Other visas - TN, J-1, etc...