



H-1B FOR STUDENTS

WHAT YOU NEED TO KNOW

What is an H-1B petition?

It provides temporary worker status to allow U.S. employers to hire foreign nationals in “specialty occupations.” These positions require highly specialized knowledge and a Bachelor’s degree or higher in that specific area of study.

How is H-1B status different from F-1 status?

The employer must apply and bear all associated costs. It is typically approved for up to three years, with the possibility of extension up to six years. The H-1B visa is employer, position, and location-specific, and holding the status is dependent on continued employment.

Do I need an H-1B visa?

Students in F-1 status may be eligible for Curricular Practical Training (CPT) during their studies and up to three years of Optional Practical Training (OPT) after their program completion, at no cost to the employer. F-1 visa holders most commonly transition to an H-1B status for continued employment in the United States, but there are many other visa types, such as TN, O-1, and E-3.

What is the timeline for getting an H-1B petition approved?

Processing times can take several months. However, U.S. Citizenship and Immigration Services (USCIS) has a premium processing service for an extra fee, which reduces the processing time significantly.

How much does it cost to file an H-1B petition?

Costs vary widely and depend mostly on attorney fees. Basic fees include:

- \$460 filing fee
- \$500 fraud prevention fee
- ACWIA fee of either \$750 or \$1,500 (private employers)
- \$1,410 premium processing fee (optional)

Additional fees apply for employers with 50+ employees and more than 50% of their workforce in H or L status.

Should I still file a STEM OPT extension even if my employer has filed an H-1B petition?

If you are eligible for the 24-month STEM OPT extension, there are some benefits to applying for it, even if your employer has filed an H-1B petition on your behalf:

- If your H-1B petition is not selected in the lottery or it is later

rejected, denied, or revoked, you can continue to maintain F-1 status on your STEM OPT extension.

- If your H-1B petition is selected but is still pending on October 1, you can keep working in F-1 status on your STEM OPT extension.

I am planning to travel after my H-1B petition has been submitted. Who do I notify?

You should discuss any travel plans you have with the individual preparing your H-1B petition prior to the petition being filed.

When should I discuss H-1B sponsorship with a potential employer?

If you are able to work for your employer in F-1 status first, you might decide to wait to discuss details of an H-1B petition with them until you have worked for them long enough to gain trust and prove your value to the organization.

If you are filling out a job application with the question, “*Do you need sponsorship now or in the future?*” consider whether your ultimate goal is to transition from F-1 status to H-1B status. If so, you may choose to answer yes.



More information on the back



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Private industry employers

There is a limit (or cap) for private industry employers of 65,000 petitions per fiscal year. Typically, USCIS receives many more petitions than they can accept for processing. A lottery is used to select petitions for consideration. The odds of having a petition selected change each year, but have recently been approximately 1 in 3.

The first 20,000 petitions with beneficiaries holding a Master's or higher degree from a U.S. institution do not count against the cap. Citizens of Chile or Singapore also have a special allocation.

Cap-subject employers must file H-1B petitions based upon the federal government's fiscal year. Typically, petitions must be filed during the first week of April for an October 1 start date.

Cap-exempt employers

The following employers are not subject to the 65,000 petitions per year limit and may file an H-1B petition at any time during the year:

- Higher education employers
- Non-profit organizations related to an institution of higher education
- Non-profit research organizations
- Governmental research organizations

OPT cap-gap extension

A student's F-1 status will automatically extend to bridge the gap between the end of the F-1 status and the start of the H-1B, if the following conditions apply:

- Their OPT ends between April 1 and September 30.
- They have an H-1B petition that was filed in a timely manner; is cap-subject; requests an employment start date of October 1; and requests a change of status.

The OPT cap-gap extension is granted at no additional cost. Students may request a new I-20 noting the extension by submitting the I-797 H-1B receipt notice to ISSS.

The cap-gap extension is terminated if the H-1B petition is rejected, denied, or revoked.

The limitations on days of unemployment continue during the cap-gap extension.

Still have questions? Our advising hours are:

Monday through Friday | 9:30-11:30am | 1:00-3:00pm
Laurel Hall

iss.colostate.edu | 970.491.5917



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