

Immigration Information for H-1B Employees

INTERNATIONAL TRAVEL: APPLYING FOR AN H-1B VISA

A U.S. visa stamp in your passport allows you to travel to the United States and request admission from the Department of Homeland Security's Customs and Border Protection inspector at the U.S. port of entry. A visa does not guarantee entry to the United States. CBP has power to cancel a visa at the POE and determine that an alien is ineligible to enter the U.S. Almost everyone who wants to enter the United States needs a visa. There are some exceptions. For example, Canadians in H-1B, J-1 or TN status do not need a visa to enter the United States.

General information

This is general information. Individual experiences may differ and Consular Offices' procedures may vary. The information is subject to change any time. This information is provided to LSU international employees as a service. It does not constitute legal advice.

The best way to learn about visa application procedures at a particular U.S. consulate is to visit the State Department website: "Websites of U.S. Embassies, Consulates, and Diplomatic Missions" and select the appropriate host country from the alphabetical list.

See http://travel.state.gov/travel/tips/embassies/embassies_1214.html.

The first step in obtaining a U.S. visa is to schedule an appointment for a visa interview at a U.S. consulate. Only persons under age 14 and over age 80 are exempt from the interview requirement. Interviews are waived in a few other exceptional cases. Advance planning is very important. It is best to apply for the visa at the earliest possible time before the planned travel date. It is very important to compile all the required visa application documents and complete all the forms fully. The interview itself is normally brief, usually lasting no longer than five minutes. To learn about availability of interview dates and estimated visa processing time at a particular consulate, check appointment wait times at: http://travel.state.gov/visa/temp/wait/wait_4638.html

The visa is usually issued the same day that the visa application is approved. However, most US consulates no longer allow an applicant to pick up the passport once the visa has been issued. They send the passport to the applicant's address by mail. The visa processing time (usually 10 days) normally includes the time it takes for you to receive the visa / passport in the mail. Check the information on your visa stamp and that of your dependent (as applicable) for accuracy when the visa is issued, not later. If there is an error, ask for it to be fixed.

Reciprocity rules determine how much time is granted on the visa. For most applicants the visa will have the same validity period as their H-1B status as indicated on form I-797. Remember that a visa is needed for entry into the US, not to stay in the US. Therefore if the visa expires while you are in the United States, you do not need to have it re-issued.

Basic documents needed to apply for an H- visa

1. **Valid passport.** Generally, your passport needs to be valid for at least 6 months beyond the visa application date.
2. **Photo** taken according to Department of State Specifications.

3. **Form DS-160**
4. Original **Form I-797** (H-1B approval notice, also known as Notice of Action).
5. **Visa fee**
6. **Reciprocity fee** (if applicable). When your visa application is approved, you may be required to pay reciprocity fees. Whether you are required to pay reciprocity fees and how much depends on which country you are from and what your visa classification is. For more information, see the Department of State Reciprocity Table at: http://travel.state.gov/visa/frvi/fees/fees_1341.html.
7. **Marriage certificate for dependent spouse and birth certificates for dependent children**, if applicable.
8. Although consulates normally have access to electronic copies of H-1B petitions, most consulates also require to a paper copy of the **Labor Condition Application (LCA)** and form **I-129**. These forms, and a copy of your **diploma, resume, employment and immigration history**, are included in the copy of the entire H-1B petition, which we give you when your H-1B has been approved. You may submit this copy with your application. The officer will return it to you.
9. **Employment verification letter**. Inform me in advance of your travel plans, and I will write this letter, supporting your visa application and requesting admission at the port of entry.

Note: If you have a valid H-1B visa which was issued based on an H-1B status sponsored by your previous employer, you do not need a new visa to be re-admitted in the country.

Applying for an H-1B visa in Canada or Mexico

In general, the best place to apply for a visa is your home country. However, sometimes it is necessary to apply for a visa at a U.S. consular post in Canada or Mexico, so that you can use it for re-entry to the U.S. after a trip to another third country or your home country. This may happen if you plan to travel to your home country or have a business trip overseas, but will not be there long enough to apply for a visa. As a foreign national residing in the United States, when you apply for a visa at a U.S. border post in Canada or Mexico you will be referred to as a Third Country National (TCN).

Make sure that you have a Mexican permit or Canadian visitor's visa to enter Mexico or Canada. The following web site lists countries that are exempt from the Canadian visa requirement: <http://www.cic.gc.ca/>. If you require a visa to enter Canada, you must apply at the Canadian embassy; normally this would be in Washington DC. You will need proof of valid status in the US (Form I-797), and a letter confirming continued employment in the US. In Mexico, lack of an entry permit may lead to heavy fines and even detention.

For U.S. consulates in Canada, you may schedule a visa interview by telephone or online. The web site to visit for information about visas in Canada including phone numbers to call to schedule a visa appointment is: www.amcits.com. This site leads to www.nvars.com, which is where you make the appointment online.

For U.S. consulates in Mexico, the following web site gives up-to-date information on US consulates in Mexico, and general information about applying for visas in Mexico: <http://mexico.usembassy.gov/index.html>. An interview appointment on-line is made at <http://>

www.usvisa-mexico.com

Following the booking of an appointment by web or telephone in Canada or Mexico, the consulate will mail you the applicable information and forms for your appointment, including a list of what documents to bring with you.

Please Note: If you apply for a visa in a third country, including Canada and Mexico, you may not be allowed to re-enter the U.S. if the visa is denied. You may need to go directly to your home country to apply for a new visa to re-enter the U.S.

If you are subject to security clearance upon application for a visa in a third country, you may have to remain in that country until the security check is completed and the visa is approved before you are allowed to re-enter the U.S. This could take a number of weeks.

Security clearances and visa processing delays

It is not possible to know with certainty who will require long clearance, but some people are likely than others to be required to undergo security clearance. They include:

1. Males between the age of 16 and 45 from countries designated as state sponsors of terrorism.
2. Persons whose research or educational background is in an area considered by the U.S. government to be in the sensitive technology area.
3. Persons who have ever been arrested or if their name is similar to someone who has been arrested.

If you are likely to undergo security clearance, it is best to apply for the visa in your home country.

Documents needed to re-enter the US in H-1B status

1. **Valid passport.** Your passport needs to be valid for at least 6 months beyond the intended period of stay. If you need to renew your passport, contact your embassy or consulate in the United States (<http://embassy.org/embassies/>) or the appropriate authority in your home country.
2. **Valid visa.** The annotation "M" on your visa, indicates multiple or unlimited entries (you can use the visa for admission to the US for as long as it is valid, or has not expired); Alternatively, a visa may have a "1", "2", or "3" "entries", indicating that you may use the visa once, twice, or three times, respectively. A visa contained in an expired passport remains valid until it expires, is canceled or otherwise revoked. You should travel with both the valid and expired passport if your visa is in an expired passport.
3. **Valid Form I-797** (H-1B approval notice). A photocopy may be acceptable for some ports of entry. We recommend you carry an original. The original top portion of your form I-797 is kept in the ISO office. You should request to "borrow" it at least a week before your departure. Remember to return it to ISO along with a copy of your new I-94 upon your return to LSU.
4. **Employment verification letter.** You may obtain this letter from me or from your departmental chair. While such letter is not absolutely necessary at the port of entry, it may facilitate re-admission, as inspectors may ask for proof of continued employment to return.

Automatic Visa Revalidation

The rule found in the Code of Federal Regulations at 22 CFR 41.112(d) allows non-immigrants to *reenter* the U.S. without a valid U.S. nonimmigrant visa stamp – that is, if the H visa has expired or if you have changed status and do not even have an H-1B visa.

To be eligible for this provision, the following conditions must apply. Nationals of Cuba, Iran, North Korea, Syria, and Sudan are not eligible.

1. Your period abroad should not exceed 30 days
2. Your visit should include ONLY Canada or Mexico (contiguous territory)
3. You must be otherwise admissible to the U.S.
4. You must not have applied for a new visa while abroad
5. You must have maintained valid non-immigrant status prior to departure from the U.S. and plan to return to the U.S. to resume that status.
6. You must be in possession of appropriate documents to demonstrate status: valid passport; valid Form I-797 H-1B approval notice; most recently issued I-94.

If you plan to use automatic revalidation, we encourage you to e-mail us and request a copy of the automatic visa revalidation regulation and a letter to facilitate your re-entry.