

Immigration Update from OGC

1. **Extensions:** Departments should submit extension applications to our office 6-7 months in advance of the employee's current expiration date.

Amendments: If the terms of the H-1B employment will be changing (job title, location, duties, wage, department, FTE, etc) please reach out to our office before any changes are implemented. We will need to consider whether the changes require the filing of an amendment to the H-1B application.

As a reminder, for last-minute H-1B applications, we still need to receive the completed request materials at least 30 days in advance for H-1B Extensions, Amendments, or Change of Employer requests, and at least 60 days in advance for Change of Status or Consular requests (for individuals outside the U.S.).

2. **New Fall hires:** Departments should be applying now and up until the end of the Spring semester. Any requests received over the summer are more likely to face difficulties in arranging proper employment authorization by the start of the Fall semester.

For Fall "9/1" hires, please use a Monday 8/12 start date on your H-1B application, in order to allow the employee to: attend faculty orientation and begin work teaching during the first week of class before September.

3. **Education requirement**

The H-1B specialty occupation category can be used to hire an individual to fill a position which requires a minimum of a bachelor's degree in a specific field of study.

In order to submit an H-1B application to USCIS, the prospective employee must already hold the degree required. If the position requires a different degree than one the employee holds, this may not be suitable for an H-1B request.

If prospective employees will be finishing their degree in Spring or Summer 2019 (or later), be advised that this will complicate the H-1B application process. We can get started on the internal steps early, but we CANNOT SUBMIT an H-1B application to USCIS for a position which requires a degree that the prospective employee does not yet hold at the time of filing. "ABD" does not count as a degree level for USCIS purposes.

You may wish to consider putting the employee into a different role, which carries a lower education requirement that the employee already meets. Alternatively, you may wish to contact ISSSO about other visa options (like J-1) in the interim.

One other alternative may be F-1 OPT status, for students at U.S. institutions. These prospective employees can apply for F-1 OPT employment authorization up to 90 days before the completion of their degree program.

4. **Premium Processing** is now recommended in all H-1B cases due to current USCIS “regular” processing times of 10.5 – 13.5 months:

Estimated time range	Form type	Receipt date for a case inquiry
7 Months to 9 Months	Blanket L	June 29, 2018
2 Months to 4 Months	E - Treaty traders and investors	November 13, 2018
10.5 Months to 13.5 Months	H-1B - Specialty occupation - Visa to be issued abroad	February 02, 2018
10.5 Months to 13.5 Months	H-1B - Specialty occupation - Change of status in the U.S.	February 02, 2018
10.5 Months to 13.5 Months	H-1B - Specialty occupation - Extension of stay in the U.S.	February 02, 2018
1 Month to 3 Months	H-2A - Temporary workers	February 26, 2019
1 Month to 3 Months	H-2B - Other temporary workers	December 13, 2018
3 Weeks to 4 Months	H-3 - Temporary trainees	November 13, 2018
7 Months to 9 Months	L - Intracompany transfers	June 21, 2018
3 Weeks to 2.5 Months	O - Extraordinary ability	December 28, 2018
3 Weeks to 2.5 Months	P - Athletes, artists, and entertainers	December 28, 2018
3 Weeks to 4 Months	Q - Cultural exchange visitors and exchange visitors participating in the Irish Peace process	November 13, 2018
4 Months to 7 Months	R - Religious occupation	August 15, 2018

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For any previously filed cases which remain pending, OGC recommends upgrading to Premium Processing as quickly as you are able.

For H-1B extensions, we have employees whose H-1B extension applications remain processing for 240 days beyond their previous expiration date. In these cases, at a certain point, employees will have to stop working and wait for their application to be approved.

Employees often cannot renew their driver’s licenses after their current expiration date, and should not travel abroad while an extension application is pending.

Note: **The Premium Processing fee has increased** from \$1,225 to \$1,410 as of October 1, 2018. Please see the updated Filing Fees Memo handout. We are still working to get the request form on our website updated to reflect the change in this amount.

5. Major changes to the **Dependent application** process for employees with a spouse or children in H-4 status:

A separate I-539 form is now required for each dependent, with their own application fees (\$370 filing fee + \$85 biometric service fee) for each individual. Parents or guardians may sign on behalf of children under 14 or any co-applicant who is not mentally competent to sign.

Employees with dependent family members should be sure they are using the March 2019 version of the form, as previous versions will be rejected by USCIS.