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Human Resources: H-1B Temporary Workers

The H-1B visa is for temporary workers in specialty occupations, which implies the establishment of an employer-employee relationship between the Institution and the foreign national. A specialty occupation is one that requires a "theoretical and practical application of a body of highly specialized knowledge and the attainment of a bachelor's or higher degree in the field of specialization."

The Institution must provide documentation to prove that the position requires a person with special qualifications and that the foreign national meets those qualifications. The Institution must pay the foreign national the amounts as described under the Labor Condition Application. The H-1 B visa is employer specific, which means that when the Institution submits an H-1 B petition for a foreign national and The U.S. Citizenship and Immigration Services (USCIS) approves it, the foreign national can only work in that Institution position. Additionally, an H-1B worker who has an H-1B approval from another employer is not automatically eligible to work at the Institution. An H-1B worker may work for more than one employer, but each employer must file a separate H-1B visa petition. The alien may not begin employment as an H-1B until the approval notice is received from the USCIS.

An H-1B visa holder may remain in H status for a maximum of six years. An initial application is made for a period of three years or less. Previous time spent in H or L status is counted toward the six-year limit unless the alien has spent at least one year outside of the United States. H-1B visa regulations have a "dual intent" provision, which allows for the filing or the intent to file a permanent resident petition while maintaining H-1B status.

WHOI Policy

It is the policy of the Woods Hole Oceanographic Institution to generally sponsor H-1B visa petitions on behalf of its Scientific and Technical Staff. A minimum of three to four months' lead time should be allowed to complete the application process.

H-1 B Procedures

- The employer must file a Labor Condition Application (LCA) with the Department of Labor which certifies that the employer will meet certain wage and working conditions. The LCA is posted in two conspicuous locations at the place of employment for ten business days.
- Department of Labor reviews the LCA, certifies it, and returns it to the employer.
- The employer files the H-1B petition with USCIS.
- USCIS approves the employer's H-1B petition and the action being requested on behalf of the alien and notifies the U.S. Consulate overseas to approve the visa for entry into the U.S. If the foreign national is already in the United States, it may be possible to change the visa classification without leaving the United States. However, if the alien later travels abroad, they must obtain an H-1 B visa at a U.S. Consulate overseas before returning to the United States.

Dependent H-4 General Information

The dependents of an H-1B visa holder, defined as spouses and unmarried minor children under 21 years of age, enter the U.S. in H-4 visa status. The dependent of an H-1B holder cannot be granted work authorization under any circumstances. However, they may seek independent visa sponsorship to allow for employment in professional positions.

H-4 visa holders may study in the U.S., full or part-time for the duration of the H-1 B's period of stay.

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