

## H-1B Overview

The H-1B visa status is a temporary, non-immigrant, employer-specific category for professionals in specialty occupations at Winthrop University. The H-1B employment authorization category applies to foreign workers of “distinguished merit and ability” who are brought to the United States temporarily to perform services in a “specialty occupation” which requires theoretical and practical application of a body of highly specialized knowledge.

### **Eligibility Requirements for the H-1B:**

The H-1B “temporary worker” classification is designated by USCIS for non-U.S. workers in “specialty occupations.” Specialty occupations are defined as positions requiring:

1. A theoretical and practical application of a body of highly specialized knowledge to fully perform the occupation in such fields of human endeavor as architecture, engineering, mathematics, physical sciences, social sciences, medicine, health, education, business specialties, accounting, law, theology, and the arts; AND
2. A bachelor’s degree or higher degree in a specific specialty as a minimum entry into the occupation in the U.S.

More specifically, the individual must possess a minimum of a bachelor’s degree in the required field for the position. Also, the position itself must require a bachelor’s degree in a specific field(s) of study relevant to the duties to be performed, and the required degree must be one which is a standard requirement for the position being offered.

If one of the above requirements cannot be met, then the department should not pursue the H-1B visa for the prospective employee. In this case, it is recommended that the hiring department seek advice from the International Center (IC) about possible other options.

### **To qualify to accept a job offer in a “specialty occupation” the prospective employee must meet one of the following criteria:**

- Have completed a U.S. bachelor’s or higher degree required by the specific specialty occupation from an accredited college or university.
- Hold a foreign degree that is the equivalent to a U.S. bachelor’s or higher degree in the specialty occupation.
- Have education, training, or progressively responsible experience in the specialty that is equivalent to the completion of such a degree, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

### **University Policy on H-1B Visa Sponsorship:**

Winthrop University will sponsor tenure track faculty and non-tenure track faculty (including staff and

administration) for the H-1B non-immigrant visa classification provided they meet the eligibility requirements for the H-1B visa.

**Time Limit on H-1B:**

The maximum initial period of employment on an H-1B visa is 3 full years. The H-1B may be renewed once for an aggregate total of 6 full years. In requesting an H-1B for a prospective employee, the department must only request to sponsor an employee for the period of time for which the department currently has funding.

**H-1B Regulations:**

Hiring a foreign national to work in your department can be a complex process. It requires Winthrop University to file a petition with the United States Citizenship and Immigration Services (USCIS) to legally employ the foreign national. The IC will work with HR, the hiring department, and the prospective employee to gather the information required to prepare the H-1B petition for submission to USCIS. No outside attorneys are to be used. However, as you prepare the supporting documentation to hire a foreign national, your department must ensure compliance with the regulations set forth by USCIS for the H-1B non-immigration visa.

A Winthrop University Department who wishes to hire a prospective employee in H-1B status submits materials to the IC to prepare an H-1B petition. It can take six months to get an H-1B approval notice after the IC receives the required materials. The amount of time varies primarily because **government agencies' processing times fluctuate and change without notice**. Other factors also impact the time such as whether a department chooses to pay an additional fee to USCIS for quicker processing or if there are issues with the offered salary or materials submitted.

**Submission of H-1B Materials to the IC:**

Department Chairs/hiring departments must submit a completed and signed *Notice of Intent to Sponsor Employee for Employment-based Visa* to the IC. The hiring department and the prospective employee are required to submit all required documentation to support the H-1B petition to the IC in a timely manner. All handwriting and photocopies must be clear and legible to ensure accurate information is reported to USCIS.

**H-1B Visa Processing Times (Estimates):**

Due to the complexity of H-1B petitions the request for an H-1B should be submitted to the IC six to seven months in advance of the intended start date of the prospective H-1B employee. The IC can require up to two months to complete the H-1B petition. As well, USCIS typically takes 3-4 months to process an H-1B petition, unless Premium Processing is requested.

Premium Processing is a service offered by USCIS for H-1B petitions. Specifically, USCIS guarantees a 15 calendar day processing to those petitioners who chose to use this service. Premium Processing costs an additional \$1,225 and can be paid by either the employer or beneficiary. If requesting Premium Processing, the IC can still take up to two months to complete the H-1B petition, however USCIS should take 15 days to process the petition or request for evidence instead of the normal 3-4 months.

The IC cannot complete the H-1B petition unless we have the required documentation to file the petition. We will not be able to adhere to the two month timeline if we have incomplete information from the department or

encounter difficulties in obtaining the beneficiary's documents in a timely manner. Any such delay may jeopardize the processing time required to submit the petition.

**H-1B Required Fees:**

The hiring department must request separate checks for both the Form I-129 and the Anti-Fraud Fee below. If the employer is going to pay the Form I-907 fee, a separate check will also need to be requested for that payment as well. Each of these three checks should be addressed to:

U.S. Citizenship & Immigrant Services  
California Service Center  
ATTN: CAP EXEMPT H-1B Processing Unit  
24000 Avila Road, Room 2312  
Laguna Niguel, CA 92677

All three check must be requested from Accounts Payable. **The checks must be held for pick up or delivered to Lindsey Hill in Dinkins 218. The checks cannot be mailed separately to USCIS. They must accompany the petition when it is mailed to USCIS.**

Form	Fee
Form I-129, Petition for a Nonimmigrant Worker (required for all H-1B petitions)*	\$460
Anti-Fraud and Detection Tee (required for all initial H-1B petitions filed by Winthrop)*	\$500
Form I-907, Request for Premium Processing (optional, guarantees adjudication or request for additional evidence in 15 days).**	\$1,225

*\*The USCIS processing fees become non-refundable once the H-1B petition and fees (checks) are mailed by the International Center to USCIS.*

*\*\*Premium Processing guarantees adjudication or a request for additional evidence by USCIS within 15 calendar days of receipting the H-1B petition. It does not accelerate processing by the International Center, the Prevailing Wage National Processing Center, or the U.S. Department of Labor. It also does not speed up the issuance of the H-1B visa stamp by the U.S. Department of State if the individual is abroad and waiting for approval of the H-1B petition by USCIS.*