

Appalachian State University
Office of International Education and Development

**H-1B Petition Application Process / Checklist
(Temporary Employee in Specialty Occupation)**

STEP 1:

The Hiring Department search committee should consult with OIED from the point at which an international job candidate emerges as a finalist. When such a candidate emerges the search committee chair should contact OIED and complete [the H1-B Information Data Sheet](#) (located on the OIED Website). On completion, forward this pdf document to OIED to the attention of RA WHITE. for use in completing the I-129 H-1B Visa Petition.

The hiring department must also provide the following documentation to OIED.

- A dated copy of the [Labor Conditions PUBLIC NOTICE OF INTENT Form](#), located on the OIED website. This document must be posted in two conspicuous places with other public notices in the Department for a period of 10 business days;
- A detailed description of the faculty position including job duties and responsibilities, minimum education and professional requirements, and salary offered;
- A copy of the following:
 1. job advertisement: the language of advertisement and photo copy of the print ad as required for potential Permanent Residency application
 2. the application letter provided by the applicant;
 3. letters from current and previous employers;
 4. most recent (updated) Curriculum Vitae;
 5. Diploma for the highest degree attained and copies of official transcripts which document the awarding of the degree. All documents not in English must be accompanied by an official, certified translation;
 6. all past and current visa documents;
 7. **(front & back)** of form I-94 (arrival/departure card); and
 8. passport ID photo page
 9. **For F-1 Visa Holders:** All form I-120s issued; Copy of Employment Authorization Document (EAD, issued for F-1 Practical Training);
 10. **For J-1 Visa Holders:** Copies of all IAP-66 or DS 2019 forms, Copy of waiver if the employee was subject to 212(e), the 2 year home residency regulation;
 11. **For H-1B Visa Holders:** Copy of current I-797 and all prior approval notices, if H-1B request is for renewal / extension / new employer

STEP 2.

OIED will advise the hiring Department as to whether this is a feasible petition. If a petition is deemed feasible and the hiring Department wishes to proceed, OIED proceeds with step 3. Reasons for rejecting any petition may include the prospective employee not currently fulfilling the legal requirements of his or her current visa status.

STEP 3.

OIED will work with the Departmental Chair to complete the [Prevailing Wage Request Form](#) (available on the OIED website) which is a pdf form that has to be submitted to the North Carolina Employment Security Commission (NCESC) in Raleigh. Approval of this form normally takes about two weeks or less.

The Prevailing Wage form indicates the average salary for our geographic area for academic faculty occupations. If the salary being offered the prospective international faculty member is not 100% or more of the determined Prevailing Wage, the hiring department must either agree to pay the Prevailing Wage as determined by NCESC, or OIED will be unable to proceed with filing an H-1B petition naming the prospective employee as beneficiary.

STEP 4.

Upon receipt of the Prevailing Wage from NCESC, OIED can then file Form ETA 9035, the Labor Condition Application (LCA). This step is now done electronically with I-Cert electronic certification which takes about a week to ten days. OPn approval, this form is then signed by the Provost.

STEP 5.

With an approved and signed LCA in hand, OIED completes procurement orders with Business Affairs for three checks.

1. \$320 check which covers the I-120 H-1B filing fee.
2. \$500 check which covers the fee for Fraud Prevention and Detection (required for every new H petition but not for extensions or transfers).
3. \$1,000 which covers the fee for Premium Processing. This guarantees that upon successful notice of receipt by USCIS that the case will be adjudicated within two weeks.

NOTE WELL!

If a prospective employee has dependent family members in the US who will accompany him or her to ASU, then **the prospective employee must file** form I-539 to change or adjust the status of each of those dependents to H-4 status. **The prospective employee is also responsible for the \$200 filing fee.**

STEP 6.

Once the U.S. Department of Labor certified LCA is in hand, OIED will prepare Forms I-129, I-129-H Supplement, and I-129 H Data Collection and Filing Fee. These along with other material provided by the hiring department and the prospective employee comprise the entire application packet. The fees and the packet are sent to USCIS in a petition identifying the prospective employee as the beneficiary of the H-1B petition as a “temporary worker.”

Again note that if the prospective employee has dependent family members in the U.S., he/she **MUST file Form I-539 and pay the associated fees.** This form is prepared and signed by the spouse and sent with its accompanying \$200 fee along with the entire I-129 package prepared by OIED to USCIS in one cover. Note, the prospective faculty member is responsible for this fee.

STEP 7.

USCIS will notify OIED whether the petition is approved or denied. If the petition is approved, USCIS will send an approval notice both electronically to OIED, and as well a hard copy Form I-797 Notice of Action. Once this information is received, OIED will notify the hiring Department and the applicant of USCIS approval or denial.

- If the prospective employee is already in the US, he/she need only to travel to Boone, to ASU, to settle in and begin official employment.
- If the prospective employee is outside the US, OIED will have so indicated in the I-129 petition. The US Consulate in the prospective employee’s home country will be notified electronically by USCIS of any approval / denial. The employee must make an appointment at the US Consulate to apply for the approved H-1B visa to be stamped into his/her passport.

STEP 8.

The hiring Department must join with OIED to insure that the new employee schedule participation in a “New International Faculty” orientation. At this meeting, visa status is discussed along with a range of other valuable information about ASU services and programs in place to support new international faculty. Crucial among these services is explanation of ASU support for Permanent Residency – the so-called “Green Card.”

STEP 9.

In order for the H-1B employee to either continue employment at ASU (through Permanent Residency) or to amend / transfer employment, OIED needs to be kept informed. This is necessary to file for possibly extensions or amendments to the federal visa process. Please insure that your department and your international faculty member keep in touch with OIED to insure deadlines are not missed and procedures are not left in complete. Submission of materials in a timely fashion is a must.

NOTE WELL!

The international faculty member and the hiring Department MUST submit extension / amendment applications to OIED no less than four months before the expiration date on the I-797 Notice of Action approval notice.

STEP 10.

Completion of employment / termination: Once employment has ended, the hiring Department is responsible for making sure that all accounts for the individual are closed out. The hiring Department is required to notify OIED when the employee is leaving ASU so that records can meet federal Public Access File update requirements. If the hiring Department terminates employment for any reason before the designated end date of the H-1B approval notice, the hiring Department is responsible for the return costs of transportation for the employee to their home country.