

SCHOOL OF MEDICINE INSTRUCTIONS FOR REQUESTING THE H-1B VISA

PART I Policy Statement

H-1B PORTABILITY PROVISIONS

In October 2001, new USCIS regulations were passed to allow H-1B workers who were currently employed in H-1B status to move to another H-1B employer in a similar position and be put on payroll (with proof of USCIS fee filing receipt). Once USCIS has approved the new H-1B petition, the individual may continue employment with the new employer without interruption. These new portability provisions require that the H-1B temporary worker be employed at the current employer at the time UCLA files a petition with USCIS on their behalf (verification of employment, such as pay stubs, may also be needed.)

The School of Medicine will no longer charge for H-1B Visa processing. The Dashew Center for International Students & Scholars (DCISS) will charge an administrative processing fee.

This packet is designed to be taken apart. The hiring Department Personnel Office should keep the Policy Statement for future reference; do not return it to the Dean's Office. Also the hiring Department completes and verifies that all information in Part II that relates to the position and working conditions is correct. The Department is expected to make sure all required items and fees in Part III, which is completed by the employee, are provided before the application is sent to the Office of International Students and Scholars. Be sure to send a complete photocopied set of all documentation to the Dean's Visa and Licensing Office.

(Revised 12/06)

GENERAL INFORMATION REGARDING FEDERAL RULES AND REGULATIONS RELATING TO H-1B1 NON-IMMIGRANT STATUS

PHYSICIANS--An **ECFMG Certificate** is required for international medical graduates (IMGs) employed in positions that require clinical services. The School of Medicine does not sponsor IMGs in H-1B status for clinical residents and fellowships. IMGs in postgraduate training positions (POST MDs) must have passed USMLE, steps I and II and are sponsored through the Educational Commission for Foreign Medical Graduates (ECFMG) clinical J-1 program. The California medical license may be required in some positions.

TERMINATION/LAYOFF--Employers are required to pay the reasonable return travel expenses of the H-1B alien if he or she is laid off from their job prior to the ending date of the approved H-1B. If the alien voluntarily terminates the position, the employer is not required to pay for return travel. The alien may file complaints with the federal government, if an employer fails to provide the return travel funds. ***(Termination travel expenses would be the responsibility of the hiring departments.)***

DURATION OF H-1 STATUS-- Six (6) years is the total period of stay allowed in H-1B status. Extensions and changes to other status such as J-1 may not be granted. The employee must physically leave the USA for 1 year. ***(Exception--Canadians may change from H-1B to TN.)***

EMPLOYER SPECIFIC-- The foreign national must have an approved H-1 petition for each employer. If the employee quits before the end of the approved petition the H-1 status is to be considered canceled. The employer is required to notify the United States Citizenship and Immigration Services that the employee terminated employment. It is acceptable for a foreign national to have multiple employers and concurrent H-1 status.

PERMANENT RESIDENCE-- Unlike the J-1 visa, it is acceptable for an H-1B to intend to become an immigrant and to file a permanent resident application.

PART 1A. DAVID GEFFEN SCHOOL OF MEDICINE AT UCLA H-1B VISA POLICY

The School of Medicine will support H-1B applications for full-time temporary faculty positions or professional research positions, which are critical to the School's academic and research mission. Positions are expected to be full-time at 100%, with an initial duration of 3 years.

Examples of positions that would qualify for sponsorship are as follows: Assistant Researcher, Assistant Professor, Postgraduate Researcher III, Staff Research Associate II (with degree in research or medical field and where the SRA directly supports an academic unit), and Clinical Instructor. Staff positions (other than SRA) will not be sponsored by School of Medicine.

Departments are expected to determine the availability of US citizen or permanent resident applicants for casual and career positions prior to requesting University support for an H-1B petition. The Dean's Office, at its discretion, may request departments and organized research units advertise open staff research positions in local or national journals and newsletters.

Only designated Vice Chancellors and the Campus Counsel have signature authority for H-1B petitions. Faculty supervisors are not authorized to sign immigration forms. Outside attorneys are prohibited from assisting and filing University sponsored H-1B petitions. The University has the authority to cancel petitions that are not approved by the Vice Chancellors or Campus Counsel.

***H-1B status does not provide a pathway to U.S. permanent residency, not does it indicate the willingness of the University to sponsor permanent residency.**

****All positions are subject to State of California prevailing wage determination.**

PART 1B. H-1B VISA REQUESTS AT UCLA SCHOOL OF MEDICINE

The employing department must initiate all H-1B requests. In order to qualify positions must meet the following criteria:

- 1. In most circumstances, for research positions and visiting faculty, the J-1 is the visa of choice. The appropriate visa is to be determined by the Visa & Licensing Section of the Dean's Office in consultation with the employing department.**
- 2. H-1B status is for persons in a "specialty occupation". This requires a minimum of a bachelor's degree and theoretical and practical application of highly specialized knowledge.**
- 3. The School of Medicine will only sponsor positions in academic units for H-1B visas.**
- 4. The position must be full-time, 100% time with benefits.**
- 5. H-1B visas are "employer specific". An H-1B employee may not be transferred from one employer to another. A new petition is required for each employer.**
- 6. Employers are required to pay H-1B employees "prevailing wage". This wage is determined in consultation with the Employment Development Department (EDD) of the State of California. Due to limited funds, departments may not be able to meet this wage, making an H-1B visa application impossible. This requirement applies to all H-1B's including extensions.**
- 7. Current processing of an H-1B takes a minimum of 6 months at BCIS. Due to USCIS delays, the Visa & Licensing Office requires 6 months advance submittal of requested start date for all initial H-1B requests, and 3-4 months advance submittal for all extensions.**
- 8. Processing of H-1B petitions may not begin more than six months prior to the planned start date of new employment or to the start date of an extension of a currently employed H-1B individual.**

- 9. The maximum period of time allowed on H-1B status is six years (cumulative). This means that time spent in H-1B status with another employer will count toward the six year total. No extensions are allowed beyond the sixth year.**

- 10. All School of Medicine H-1B petitions must be processed in conjunction with the Dean's Office, Visa & Licensing Section. No one should sign any documents related to immigration matters unless directed to do so by our office.**

- 11. Dependents of H-1B visa holders receive H-4 visa status. In H-4 status, employment authorization is not permitted under any circumstances.**

- 12. A change of status from another visa type, such as J-1 to H-1B, will change the tax status of the employee.**