



Immigration Rights and Responsibilities of BU Employees in H-1B Status

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This information is intended for Boston University (BU) employees who have been approved for employment under the terms of the H-1B temporary worker classification. It summarizes your rights and your responsibilities as an H-1B temporary worker in the United States (U.S.) and outlines both the rules and procedures governing H-1B status that you must follow as our employee and those that we must follow as your employer. The International Students and Scholars Office (ISSO) will provide additional information, counseling and assistance to help you maintain your lawful immigration status while at BU. As regulations and procedures do change from time to time, we recommend that you contact us and refer to the ISSO website at www.bu.edu/isso any time you have questions related to your H-1B employment at BU.

H-1B TEMPORARY WORKER OVERVIEW

The H-1B temporary worker visa classification allows U.S. employers to temporarily employ foreign workers in specialty occupations. Boston University has successfully petitioned on your behalf for employment in this classification. Your H-1B visa classification will allow for employment at Boston University under the specific appointment terms requested in the petition to U.S. Citizenship and Immigration Services (USCIS). As an H-1B visa holder, it is important that you understand your responsibilities to insure that you are properly maintaining your immigration status in the U.S. and during the period of your employment at Boston University.

IMMIGRATION ACRONYMS YOU SHOULD KNOW

- ISSO** Boston University **International Students & Scholars Office**
- DHS** **U.S. Department of Homeland Security** — an agency of the U.S. government that houses, among other entities, the three immigration-related departments:
 - USCIS** **U.S. Citizenship and Immigration Services** Approves immigration benefits, including employment authorization
 - ICE** **Immigration and Customs Enforcement** Charged with enforcement of immigration-related infractions
 - CBP** **Customs and Border Protection** Operates U.S. ports of entry and departure
- DOS** **U.S. Department of State** — an agency of the U.S. government that oversees U.S. embassies and consulates abroad and adjudicates applications for visas to the U.S.
- DOL** **U.S. Department of Labor** — an agency of the U.S. government that oversees issues related to employment in the U.S.

THE INTERNATIONAL STUDENTS & SCHOLARS OFFICE

The ISSO provides professional expertise on immigration and employment and helps to ensure student, scholar and institutional compliance with federal regulations. ISSO staff members are available to guide students and scholars through the often complicated requirements for foreign nationals studying and working in the U.S. We strongly advise you to contact us any time you have a question pertaining to your H-1B immigration status, your employment at BU or if you intend to travel and reenter the U.S.

All employment-based immigration matters on behalf of BU are processed through the ISSO. Only the ISSO staff is authorized to sign the legal documents and forms required to sponsor international scholars. The ISSO processes most nonimmigrant employment-based petitions in-house and the University works with a specific, limited list of immigration attorneys on applications for lawful permanent residence. Although we have extensive expertise in H-1B temporary worker regulations and cases, we do not serve as immigration attorneys. If you are facing a complex H-1B employment matter, or a situation involving legal advising outside of your H-1B employment at BU, ISSO staff may refer you to well-respected immigration, criminal, tax or other attorneys, as appropriate, who may be able to provide more comprehensive legal advising and represent you in legal filing and case processing.

The ISSO reports directly to the Vice President and Associate Provost for Global Programs. BU Global Programs provides strategic support and operational oversight to the ISSO, as well as to BU Study Abroad, the Center for English Language and Orientation Programs (CELOP), and to other university initiatives abroad. See: <http://www.bu.edu/globalprograms/>

IMPORTANT DOCUMENTS

The following documents are very important and must be valid at all times in order for you to maintain lawful H-1B status:

- ✓ **Passport** – Should be valid for a minimum of 6 months into the future
- ✓ **Form I-797** – Approval notice for Nonimmigrant Temporary Worker (H-1B) Status (more details below).
- ✓ **U.S. Entry Stamp or Form I-94 Arrival/Departure Record** (either document can serve as proof of U.S. admission in H-1B immigration status). Download an electronic record of your I-94 from: www.cbp.gov/I94
- ✓ **H-1B visa** (must be valid for any entry or re-entry to the U.S. but can expire while you remain in the U.S.)

- ✓ **I-129 Petition** (sent to you electronically when the ISSO confirmed filing of your H-1B petition).
- ✓ **Labor Condition Application** – Certification by the Department of Labor (more details below)

Form I-797 Approval Notice - Your Form I-797 contains your name as the beneficiary, Boston University as your employer and it indicates the period of time during which you may be employed by BU in H-1B status. If the petition was for an extension of your current H-1B status or a change from another immigration classification to H-1B, the I-797 may also include your updated I-94 information in the lower right-hand corner. The I-797 Approval Notice is an important document as you must present it to a consular officer if you apply for an H-1B visa, and to a port of entry official when you enter (or re-enter) the U.S. in H-1B status. In addition, it serves as primary proof, along with your passport and H-1B entry stamp or I-94 arrival departure record that you hold lawful status in the U.S.

I-129 H-1B Petition – The ISSO provided you with an electronic copy of the Form I-129 and supporting documents that Boston University submitted on your behalf. We recommend that you bring this with you when requesting your H-1B visa to address any possible inquiries about your employment at BU. Please contact your ISSO Advisor should you have any questions about the H-1B petition that BU submitted on your behalf.

Labor Condition Application ('LCA') Attestations - When BU processed your H-1B petition, we agreed to abide by certain conditions of your employment according to rules of the U.S. Department of Labor, by certifying a Labor Condition Application. Among other items, BU certified that it will pay you the required wage rate, that it will offer you the same working conditions as all other similarly employed workers and that you will receive the same benefits offered to all employees. A copy of the LCA was included in the full petition package sent to you via email at the time of the H-1B petition mailing. In addition, the ISSO is required to obtain confirmation that you have been provided a copy of your LCA.

Please keep your original documents in a safe place. If any of these documents are damaged, lost or stolen, you should take the necessary steps to replace them as quickly as possible. Contact your ISSO Advisor if you have any questions about your immigration documents and/or how to replace them. Please have your passport and I-797 approval notice available when you consult with the ISSO and be sure to send us copies of any replaced or renewed documents so that we can have the most up-to-date information in our records.

OVERVIEW OF YOUR H-1B RESPONSIBILITIES

To ensure that you maintain lawful immigration status, you must comply with the following:

- ✓ **Orientation & Check-In**
As an H-1B employee, you will be invited to meet with your ISSO Advisor for a one-on one orientation appointment to review the specifics of your H-1B sponsorship.

New Boston University Employees: If you are a new employee, you are expected to begin work on the date indicated on your Form I-797 Approval Notice. You are required to complete your I-9 employment verification no later than your third day of employment at BU so please consider this timeline when you are scheduling your one-on-one orientation appointment with your ISSO Advisor. We will verify your employment eligibility by completing the required Form I-9 and provide you with useful information to help you transition to your new life at BU. The ISSO will send confirmation of your I-9 completion via e-mail after the appointment. If you cannot begin your BU employment by the date indicated on your Form I-797 please contact your ISSO Advisor and your host department immediately. In addition, new BU

employees will be scheduled to attend a New Employee Orientation, which is offered by Human Resources. Your hiring department will make these arrangements for you, so please contact them for assistance.

Continuing Boston University Employees: If you are currently employed at BU in either the H-1B classification or another immigration classification (J-1, OPT, etc.) the effective dates of your new H-1B authorization will be noted on your Form I-797 Approval Notice. The ISSO will update your I-9 employment eligibility upon receipt of your Form I-797 Approval and will send confirmation via e-mail. If you have been approved for a change to H-1B from a different immigration classification, you will need to schedule an appointment with your ISSO Advisor to obtain an overview of your new H-1B status and so that we can answer any questions you may have.

✓ **Reporting Current Address**

When you arrive in the U.S., and within 10 days of any change, H-1B regulations require that you inform USCIS of your current physical address. You must inform of your change of address by the filing of Form AR-11 either electronically or by mail: <https://www.uscis.gov/ar-11> for yourself and any accompanying family members in H-4 status within 10-days of the change. In addition, you should notify the ISSO of your new address via email to: issosch@bu.edu and update your information in BUworks Central: <http://www.bu.edu/buworks/>. Please refer to our website for more information: <http://www.bu.edu/isso/immigration-status/maintaining-status/address/>.

✓ **Changes to the terms of your appointment at Boston University**

The terms of your H-1B approval are specific to your department, position title, duties, funding amount and source, location of work and percentage effort worked (full time v. part-time), as submitted in the petition to USCIS. If you expect any aspect of your BU appointment to change please notify the ISSO in advance so that we can determine if any additional immigration processing will be necessary to allow for the change to your employment at BU. In some cases, it may be necessary for us to submit a petition to USCIS requesting an amendment to the terms of your already approved H-1B petition. If an amendment is required, the changes to your BU employment cannot take effect until the amended petition is submitted to USCIS so advanced planning is important.

✓ **Failure to Comply with Responsibilities**

If you fail to comply with your responsibilities under DOS and DHS regulations, you may face severe penalties based on U.S. immigration regulations. You should work closely with ISSO staff to make certain that you comply with all H-1B regulations.

DEPENDENT FAMILY MEMBERS

If you are married and/or have children you may be eligible to have your legal spouse and/or children (under 21) visit you temporarily or join you for the duration of your BU appointment. Dependent spouses and children who accompany or follow-to-join you may obtain H-4 visas and enter the U.S. with you or at a later date. If your dependents are already in the U.S. with you in H-4 or another immigration classification, they may be eligible to apply for either an extension of their H-4 status or a change of status to H-4.

H-4 dependents are allowed to remain in the U.S. only as long as you continue to maintain your legal H-1B status in the U.S. Dependents in H-4 status may study full- or part-time, and, in limited circumstances, an H-4 spouse may be employed in the U.S. Children holding H-4 status must apply to change to another lawful immigration status or depart the U.S. upon reaching their 21st birthday. Please speak with your ISSO Advisor for questions about your dependent family members.

EMPLOYMENT OR PAYMENT OUTSIDE OF THE TERMS OF YOUR APPROVED H-1B PETITION

Since your H-1B status permits employment only at BU and only for the job specified in the original petition, you may not accept employment for any other employer unless that employer submits a "concurrent" H-1B petition. In addition, you cannot accept employment in another BU department, lab or center or add additional duties to your currently authorized BU appointment, without prior review and approval by the ISSO (see Changes to the Terms of your BU Appointment above). In some cases, we may be able to submit a new H-1B petition to 'amend' the terms of your already approved employment and, in other cases, you will not be able to perform the additional duties at BU.

If you are invited to give lectures or seminars at other institutions, you can certainly accept these invitations. However, it is important that you do not accept compensation (pay) for them, since this payment is not allowed under your H-1B classification. The host may pay your direct travel expenses (i.e., transportation to the lecture, hotel, food, etc.), but may not pay you, for example, an honorarium. It is important to note that if you do accept this type of compensation it is a violation of your immigration status.

TRAVEL

We encourage you to contact the ISSO anytime you plan to travel outside of the U.S. This is particularly important as regulations and practices concerning entry and re-entry into the U.S. continue to change. You may experience delays and/or difficulties when applying for visas as politics, your field of study/research, your country of citizenship and where and when you are applying can all effect visa processing.

- ✓ **Initial entry to the U.S. for new BU employees:** If you are a new employee who is currently outside the U.S., you will need to apply for your initial H-1B visa at a U.S. consulate. Please our website for information about the immigration requirements for entry to the U.S. or contact your ISSO Advisor for more specific details about the H-1B visa application: <http://www.bu.edu/isso/travel-visas/apply-for-a-visa/>. Once you have successfully obtained your H-1B visa, you may enter the United States up to ten (10) days prior to the start date indicated on your Form I-797 Approval Notice.
- ✓ **Travel within the U.S.:** You may travel within the U.S. provided you maintain your lawful H-1B status and have a valid passport and Form I-797 in your possession.
- ✓ **Travel outside the U.S. during the dates indicated on your Form I-797 Approval Notice:** You may leave the U.S. at any time. You are permitted to return in H-1B status if you have a valid passport, valid H-1B visa stamp (except Canadian citizens) and a current Form I-797 Approval Notice confirming your employment at Boston University.

If you have changed to H-1B from a different immigration classification and plan to travel to Canada or Mexico, you may be eligible to return to the U.S. even if you do not yet have a valid H -1B visa, provided your visit does not exceed 30 days and your meet other eligibility for “automatic visa revalidation.” We recommend that you consult with your ISSO Advisor about this provision prior to travel.

International travel can affect any application(s) that you or your family members have pending at USCIS. This may include petitions to extend your H-1B at Boston University, to change to another U.S. employer and/or to request status as a lawful U.S. permanent resident. You should carefully consider your circumstances prior to travel and consult with both the ISSO and/or an immigration attorney depending on the type of application(s) you have pending.

- ✓ **Application for new H-1B visa during travel** – A valid H-1B visa is required for re-entry to the U.S. (except for Canadian citizens). You are allowed to remain in the U.S. with an expired visa, provided that you continue to maintain your lawful status and your passport and Form I-797 Approval Notice are valid. However, if your visa has expired, it will be necessary to apply for a new visa during your next trip abroad.

If you need to apply for an H-1B visa during a trip abroad, you should inform the ISSO before travel. In certain cases, security checks and supplemental visa application forms may significantly delay your visa application process. Visa applications can take time, particularly during certain times of year so we recommend that you plan in advance and leave enough time to schedule the interview and complete the visa process. If you are planning to apply for a visa in Canada or a country other than your home country, you should first consult an ISSO advisor.

Please refer to the ISSO website at <http://www.bu.edu/isso/travel-visas/> or the most current **ISSO Travel Advisory** for information on recent travel and visa application changes. Upon re-entry to the U.S., we recommend that you review your I-94 arrival/departure record and entry stamp to ensure proper entry to the U.S. If you are unsure as to whether or not you were properly admitted, please contact the ISSO immediately.

TAKING CLASSES AT BOSTON UNIVERSITY

You are permitted to enroll in individual classes while engaged in your H-1B employment at BU as long as you continue your employment as authorized. Being admitted to a full-time degree program may be contradictory to your H-1B employment terms. Please consult with your ISSO advisor if considering this option. Tuition remission may be available to full-time BU employees. Please consult with Human Resources for more information (<http://www.bu.edu/hr/>).

LEAVE OF ABSENCE, SABBATICAL AND JUNIOR SCHOLAR LEAVE

While in the United States in H-1B status, you must remain continuously employed at BU under the terms of your approved H-1B authorization until you have completed your appointment or have otherwise resigned or been terminated from your position. Interruptions to your employment may have serious consequences to your H-1B status and employment at BU so it is important that you contact the ISSO in advance to determine how your H-1B status may be affected by the proposed leave and help you and your host department to determine what options/strategies may be available.

If you have been approved for a leave under the Family and Medical Leave (FMLA), will be taking an unpaid leave for other personal reasons or are a faculty member who has been authorized for a sabbatical or junior sabbatical leave, the ISSO will need detailed information about what intentions, location, remuneration, etc. will be during that time so that we can assist you and your department and provide information about what activities may be allowable and what activities may not. As most sabbaticals and junior sabbatical leaves are requested and approved well in advance of the start date, it is important that the ISSO be notified well before the anticipated start date of the leave.

USE OF PUBLIC BENEFITS [“PUBLIC CHARGE”]

The term “public charge” is broadly defined by U.S. immigration regulations as an individual who relies on the U.S. government for financial assistance. As your employer, BU has agreed to specific requirements related to your wage and working conditions as part of the H-1B petition process. In addition, if you have applied for a visa you would have been required to document your source of financial support when you applied for your visa and were granted admission to the U.S. to insure you are capable of maintaining your status and have private funding so you will not become a public charge. Individuals who do receive financial assistance from the U.S. government may be ineligible for a change or extension of status or to qualify for lawful U.S. permanent residence (green card) so we recommend caution if you are considering taking advantage of any public benefits (i.e. supplemental nutrition assistance program (food stamps), federally subsidized housing, assistance with medical bills, supplemental security income or other federal, state or cash benefits for income maintenance). Please see the ISSO website for more details: <https://www.bu.edu/isso/immigration-status/maintaining-status/public-charge/>.

SITE VISIT FROM USCIS

In an effort to verify the information submitted in H-1B petitions, USCIS does conduct site visits of H-1B employers and employees. These visits are random and may occur without any advance notice, but be assured that they are also very routine and need not raise any alarm. In most cases, the investigator will first contact the ISSO to initiate the site visit. If this is the case, an ISSO staff member will contact you to let you know that you have been selected for a site visit and will initiate your first contact with the investigator so that you can set up a time to meet at your place of employment. You will likely need to show the investigator your work space, confirm the terms of your appointment and provide them with a print out of your pay statement, which you can obtain through BUWorks: <http://www.bu.edu/tech/support/buworks/>. In some cases, your supervisor or department administrator may also need to provide required information to the investigator. Whenever you are approached by an immigration investigator, be sure to request identification to verify their authenticity. Please contact the ISSO immediately if you are contacted directly by an immigration investigator.

LENGTH OF TIME YOU MAY REMAIN IN THE U.S. IN H-1B STATUS

The H-1B classification can be requested in increments of up to three (3) years. Any number of extensions can be requested through additional petitions until your total time in H status reaches six (6) years. The periods of employment are dictated by your BU academic appointment. Time spent in H status previously, funding and other factors are also considered in the sponsorship process. This 6-year limit can be reset only by spending at least one year outside of the U.S.

You may be employed by BU up to, and including, the end date of the Form I-797 Approval Notice (or the end of your BU employment if earlier). If you resign from your position at BU or your employment is terminated before the end of your approved H-1B period, we are required to withdraw your H-1B petition and the underlying Labor Condition Application. If you are terminated by Boston University prior to the expiration date of your approved H-1B petition, your host department must pay the reasonable cost of transportation to your home country or country of last legal residence. In some cases, USCIS or CBP may grant you a 10-day period beyond the end of your I-797 H-1B approval notice to remain in the U.S. Please note that the 10-day grace period is applied at the discretion of either USCIS or CBP and, if it is not indicated on your I-94 arrival record, it does not apply. You are not employable during the grace period.

If you plan to leave BU and begin working for another employer it is important that you consult with your new employer, the ISSO and/or an immigration attorney to be sure that you handle the transition in a way that does not violate your immigration status. In limited circumstances, you may be eligible for a ‘grace period’ of up to 60 days if your

employment at BU ends prior to the dates indicated on your I-797 Approval Notice to allow you some flexibility in finding another position in the U.S. Please speak with the ISSO in more detail if you have questions about ending your BU employment.

In order to insure that your employment at BU can continue without interruption, we recommend that requests for extensions are submitted to the ISSO at least six months prior to the expiration of your Form I-797 Approval Notice.

WHEN TO CONTACT THE ISSO

To ensure that you maintain lawful immigration status, you must contact the ISSO if any of the following events occurs:

- If there is a change to your legal name, U.S. address, phone number, email, country of citizenship, or immigration status
- If there will be a change in ANY terms of your BU appointment/employment (appointment title, job duties, hours worked, salary, change in appointment percentage, etc.).
- If any information on your Form I-797 Approval Notice is incorrect
- If you intend to travel outside the U.S. and you will apply for a new visa before re-entering the U.S.
- Any time you or your H-4 dependents re-enter the U.S. and/or have questions about your U.S. entry stamp or the Form I-94 arrival record. Employees and dependents should both be granted H-1B or H-4 status until the end date listed on the Form I-797 Approval Notice.
- If you lose any of your immigration documents, or if they are stolen.
- If you intend to change your immigration status.
- If you intend to take a leave of absence (includes Family Medical Leave Act, sabbatical, junior scholar leave, etc.)
- If you want to have your dependent spouse and/or children join you in H-4 status.
- If you are contacted by a U.S. government representative about your H-1B or are subject to an H-1B site visit
- If you are facing charges for any felony or misdemeanor criminal act.

COMPLIANCE WITH YOUR RESPONSIBILITIES AS AN H-1B EMPLOYEE

Immigration laws in the U.S. impose severe penalties if you fail to comply with your immigration responsibilities. Any violation of your H-1B status may result in accrual of unlawful presence time which may lead to removal from the U.S. (formerly “deportation”) and/or to a long-term bar on admissibility to the U.S. in any immigration classification from three to ten years. In some cases, a permanent bar on admissibility may apply.

You should work closely with the ISSO staff to make certain that you comply with all H-1B regulations, and take immediate action to remedy any status violations as quickly as possible after they occur. In the event of a status violation, your ISSO advisor will discuss your legal options. The ISSO may also refer you to an immigration attorney for legal advice.

Boston University ISSO is always pleased to provide you with additional information, advising and assistance regarding your immigration status so that you may achieve your program goals at Boston University.

A list of International Scholar Advisors can be found at: <http://www.bu.edu/isso/contact/scholar-advising/>.

We look forward to working with you during your time at BU!

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