



FAQ's

H-1B Professional Workers

The following questions and answers are very general in nature. You are strongly cautioned not to rely on any of these answers as legal advice. All situations involve different facts which may lead to a different legal conclusion. The following information is submitted solely for discussion purposes and is not intended as legal advice and should not be relied on for that purpose.

H-1B

1. Does any college degree qualify for H-1B?

Generally, the H-1B category requires at least a bachelor's degree in a technical field such as engineering, computer science, the applied sciences or business areas such as accounting, economics or finance. Note that general business degrees, including MBA's, may not qualify unless there is a concentration in a specific technical field.

2. If I have a degree in a technical field, can I accept any type of employment H-1B?

No. The job which forms the basis to obtain an H-1B status must require at least a bachelor's degree in a technical field. If the job only requires a bachelor's degree in any area, it will not qualify for H-1B status.

3. Does the employer have to be a certain size to apply for H-1B?

No. The only requirement is that the company must have sufficient funds to pay the required salary to the H-1B employee, and there must be work available for the employee at all times.

4. Once I obtain H-1B status, can I travel outside the U.S.?

Obtaining a change of status to H-1B does not provide you with a visa. Remember, you must have a valid visa to re-enter the U.S. unless you are a citizen of Canada. A visa can only be obtained at an American Consulate outside the U.S. Another exception to this rule is that you may travel to Canada or Mexico and return without a visa if you left the U.S. in valid H-1B status. This special rule for Canada and Mexico also applies to other nonimmigrant classifications such as F-1 students. However, this category is not available to all nationalities and you must check with your international office or employer before traveling. It also is not available if you apply for a U.S. visa while in Canada or Mexico and the visa is denied.

5. All my friends say it is very difficult to get an H-1B visa from the American Consulate in my country. Is this true?

No. It is very difficult for an American Consulate to deny an H-1B visa if the applicant has all the required documentation at the time of application. The individuals who are denied H-1B visas generally do not have the required documentation or did not qualify for the H-1B category in the first place. In most cases, it is not necessary to travel to Canada or Mexico in order to get an H-1B visa prior to traveling to your home country and we strongly recommend against doing this.

6. Can I change jobs once I obtain H-1B status?

If you change jobs even within the same company, a new H-1B petition is normally required. This is a particularly important point which must be considered during the preparation of the labor certification application for permanent residence. In other words, your H-1 petitions/H-1 positions will have an impact on green card processing later.