

## H-1B Status – Memo

This is a summary, for your use, of some of the terms and conditions of your H-1B status in the United States. For more detail, or for information about related matters not discussed here, please contact your adviser at International Support Services.

## Applying for Your H-1B Visa – Coming from Abroad:

If you are coming to Virginia Tech from abroad, you will need to apply for an H-1B visa to enter the US. To do so, you will need to make an appointment with the nearest US embassy or consulate. The exact visa application procedures and timelines vary from country to country and even from consulate to consulate. Therefore, please review the visa application instructions that are given on the US embassy or consulate website. Generally, you will need to complete the online MRV (Machine Readable Visa) application on Form DS-160 (accessible at <https://ceac.state.gov/genniv/>), pay the application fee, provide copies of the H-1B Approval Notice (Form I-797), your H-1B packet, your valid passport as well as any other support documents the US embassy/consulate requests. Please note that you may be selected for “administrative processing,”



more commonly called a “background check,” by the consular official when you apply for your visa. Our office does not control the background check process and cannot exert any influence on it. Should you be selected for a background check, the consular official should give you a document explaining what the next steps will be. Because a background check is always an option, it is recommended you apply for your H-1B visa as soon as possible. Please note that Canadian citizens (not permanent residents)

are exempt from the visa requirement. Canadian citizens should contact ISS for instructions on applying for admission to the US in H-1B status.

### Obtaining H-1B Status within the US – a Change of Immigration Status:

If you are already in the US, it may be possible to obtain a change of your immigration status to H-1B without leaving the US, and without the need to apply for an H-1B visa at the US embassy or consulate. Generally, if possible, ISS will request that your immigration status be changed when your H-1B petition is approved by USCIS. If the change of status is approved, there is no need to leave and re-enter the US to start your H-1B status.

### Changing Employers or Extending your H-1B Status:

If you already hold H-1B status and are either changing employers or are extending your H-1B status, you generally do not need to leave the US in order to “activate” your period of H-1B status or to apply for a new H-1B visa. Instead, you may start/continue your work for a period of 240 days while your H-1B petition is pending with USCIS as long as your H-1B petition was filed before your current H-1B status expired and you maintained your immigration status. (Please note that if you traveled internationally, you would need a valid H-1B visa in your passport to re-enter the US.)

### Visa versus Status:

While people often conflate the terms “visa” and “status,” they mean different things. The term “visa” refers only to the sticker you receive in your passport (see image above). It contains several pieces of information, including your picture and your requested “status.” It also contains an expiration date and the number of times the visa may be used – often visas are issued for 1, 2 or multiple entries. However, the visa serves a limited purpose: it grants you permission to apply for admission at a US Port of Entry. While many individuals coming to the US will receive a visa that is valid for the entire period of intended stay, many others receive visas that are only valid for a few months. Once you are in the US, the visa serves no real purpose and does not necessarily reflect your status – especially if you obtained a change of immigration status. Therefore, while the visa may expire while you are in the US, as long as your underlying immigration status as indicated on your I-94 card remains valid, you may remain in the US and engage in the activity permitted by your immigration status. If you obtained a change of immigration status, your visa will be for a different status than the status you currently hold. This is very common and is not a problem. However, to re-enter the US after a stay abroad, you will need a valid visa for the appropriate status. This means that if your visa has expired while in the US, or if you have changed your immigration status, you will need to apply for a new visa. It is not possible to apply for this new visa while in the US; you can only apply for a US visa at a US embassy or consulate abroad.

### The I-94:

Prior to April 30, 2013, all foreign nationals entering on the basis of an H-1B visa, received a paper “Departure Record” card, commonly called the I-94 card (see image). Effective, April 30, 2013, new arrivals will no longer receive a paper I-94 card. Instead, you will receive a stamp in your passport with the same status information as was included on the old I-94 card. This stamp will now be formally recognized as your I-94. However, you can and should download a copy of your I-94 record from the CBP website at [www.cbp.gov/I94](http://www.cbp.gov/I94). You will need this print out to apply for many benefits in the US, such as a driver’s license, Social Security Number and for extensions to your H-1B status. You can download your I-94 record for a period of two years or until you have left and re-entered the US. *To avoid complications, you should obtain a copy from the CBP website as soon as possible upon your arrival. It is recommended you keep the digital copy for your records.*

DEPARTMENT OF HOMELAND SECURITY  
U.S. Customs and Border Protection

Departure Record

Admission Number  
481609655 21

18. Family Name  
19. First (Given) Name  
20. Birth Date (DD/MM/YY)  
21. Country of Citizenship

SEP 11 2010  
H1B  
15 MAY 13

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CBP Form I-94 (0508)

To download your electronic I-94 record, you will need to provide the following information:

- Last name
- Given name
- Date of birth
- Passport issuance country
- Passport number
- Date of entry into the US
- Class of admission (i.e. your status)

This I-94 is among your most important documents, as it will indicate your immigration status in the US as well as the maximum period you may remain in the US in that status. Whenever you receive a new I-94, please provide a copy of the digital record from the CBP website to ISS. Even if you have an H-1B visa sticker in your passport, but your I-94 record indicates that you hold a different immigration status, the I-94 record controls. As a result, you would not be in H-1B status. Also, once the I-94 expiration date is reached, your status will end, even if your other H-1B documents remain valid.

To stay beyond the “expiration date” indicated in your I-94 record, you will either have to leave and re-enter the US (so that a new I-94 record will be created) or a change/extension of your immigration status has to be requested. Each time you receive a new I-94 record, it supersedes your previous I-94 – even if the new I-94 has an earlier “expiration date.” Finally, unlike the case with several other immigration statuses, such as F-1 or J-1, there is no grace period after the end date of your H-1B status; once your H-1B status ends, you will have to leave the US.

Because the stamp in your passport is now formally considered to be your I-94, you should hold on to your old passport when you receive a new passport even if the old passport does not contain any visa stickers that are currently valid.

When you file a change of immigration status petition with USCIS, or if our office requests an extension of your H-1B status, you will receive a new paper I-797 Notice of Action (Approval Notice), which will contain an I-94 section. This new I-94 card will supersede your electronic entry record.

Note: people entering the US via a land border will continue to receive a paper I-94 card as before.

Upon entering the US, please send a copy of your I-94 electronic/paper record to ISS. You should do the same after each trip abroad while in H-status at Virginia Tech.

### **Maintaining your Immigration Documents:**

While you are in the US in a non-immigrant status, it is important that your immigration documents – your passport, H-1B Approval Notice and I-94 record, but not your visa – remain valid at all times. This means that should your passport expire, you will need to receive a timely extension or replacement of your passport. If you think there is a discrepancy between the information on your I-94 and your H-1B Approval Notice, please contact your adviser in ISS immediately. *We strongly recommend you provide ISS with a copy of your I-94 whenever you receive a new I-94.*

### **Period of Stay:**

An H-1B worker and H-4 dependents have permission to remain in the United States only until the expiration date shown on the I-94 Departure Record (as explained above). There is no formal grace period, though you may enter the US as early as ten days prior to the start date indicated on the H-1B Approval Notice.

**H-1B status is Employer Specific:**

In the eyes of the US government, employment for the petitioner, and only the petitioner, is the purpose of the H-1B worker's presence in this country. In your case, the petitioner is Virginia Tech, and you have permission to stay in the US until the expiration date shown on your I-94 Departure Record. However, you may only work during the validity dates of the H-1B and only for the employer who filed the petition. If you cease your employment with Virginia Tech before the expiration of the H-1B, you are expected to leave the country immediately, unless you have applied for a change of status or another employer has filed an H-1B petition for you. To work for any other employer simultaneously, the additional employer will have to file an H-1B petition for "concurrent employment" on your behalf.

*Please note that the negative consequences of working for an employer without the proper authorization, i.e. an H-1B petition on file with USCIS, are significant: if you worked without the proper authorization, you are considered "out of status" and may not work for Virginia Tech. You may also be required to leave the US to obtain a new H-1B visa sticker and to re-enter the US before you could resume your activities at the university. Employment without the proper authorization may also make you ineligible for certain future immigration benefits. It is acceptable to participate in outside lectures, but you may not be paid for such activities (unless the employer filed a formal H-1B petition on your behalf.) You may, however, be reimbursed for your travel expenses.*

**H-1B Time Limits:**

Initially, H-1B status may be valid for as long as three years, but is renewable to a cumulative total of six, including time spent in L-1 status. Once you have exhausted the total of six years of H-1B status, you will need to leave the US for a period of 12 months to restart the H-1B clock. If you are in the green card process based on your employment it may be possible to extend your H-1B status past the standard maximum of six years.

**Extending Your H-1B Status:**

Only your employer, i.e. Virginia Tech, can request an extension of your H-1B status. At Virginia Tech, only ISS can file H-1B petitions. To do so, our office will need to receive a formal request. The H-1B process is quite lengthy and involved. Therefore, it is important that we receive any H-1B extension request in a timely fashion. For an overview of the H-1B request process, please refer to the ISS website: <http://www.oired.vt.edu/iss/>. As long as ISS files the H-1B petition with USCIS before your current H-1B status expires, you may continue your employment with Virginia Tech for a period of 240 days while your H-1B petition is pending or until a final decision is made. During this 240 day period, USCIS will adjudicate your new H-1B petition.

**Changes to Your Employment:**

As stated above, your H-1B status is employer specific. It is also position specific. Should there be any changes to your position, ISS may need to file a petition with USCIS to amend your H-1B record. Before you change your position, accept a different pay or change the number of work hours, please consult with ISS. We will be able to determine whether or not an amendment petition is needed.

**Dependents:**

Your spouse and unmarried children under the age of 21 may join you in the US as your dependents in H-4 status. Individuals in H-4 status may study, but they are not eligible for employment authorization. If your dependents are currently abroad, they can apply for an H-4 visa on the basis of your H-1B Approval Notice and proof of their relationship to you. If they are currently in the US in a different immigration status, a change of immigration status will need to be filed on their behalf. This is done by filing a Form I-539 with USCIS. This form is available at [www.uscis.gov/i-539](http://www.uscis.gov/i-539). Your dependents will have to complete this form,

though ISS can send it to USCIS together with your H-1B petition. Your dependent can also file this form independently once your H-1B petition has been filed with USCIS. The filing fee for Form I-539 is \$290.

**International Travel:**

While you hold H-1B status, you are free to travel internationally. To re-enter the US after a stay abroad, you will need several documents, including your valid visa, passport, and H-1B Approval Notice. In addition, you will need to bring a letter from your department confirming your employment and it is strongly recommended that you bring copies of your three latest paystubs, which are available at <https://my.vt.edu>, to document your ongoing employment. For a complete overview of the required documents when traveling and template for the travel letter, please refer to our website:

<http://www.oired.vt.edu/iss/h1bvisa/travel.html>. Upon re-entry to the US, please send a copy of your I-94 record to ISS.

If you are only traveling to Canada or Mexico for a period of less than 30 days, you may be eligible to re-enter the US on the basis of an expired visa in your passport under a process called “automatic visa revalidation.” To do so, you must hold on to your I-94 card if you have one when you leave the US; without it, you cannot re-enter the US on the basis of the automatic visa revalidation program. If you do not have an “old” paper I-94 card, you should bring a print-out from the CBP website. Please refer to our website for more detailed information on this process as well as several important documents that you should print and bring with you when traveling under this program: <http://www.oired.vt.edu/iss/h1bvisa/auto-visa-revalidation.html>. If you will be traveling by air, you should confirm that your airline is familiar with the visa revalidation process and will issue you a boarding pass when returning to the US even though you have an expired US visa in your passport.

**Finding a Place to Live:**

Many faculty and staff members at Virginia Tech choose to live in Blacksburg, but many others live in the surrounding towns, such as Christiansburg and Radford. There are many avenues for finding suitable living space. The Virginia Tech Off Campus Housing Resource Center maintains a very helpful website with housing listings at [www.studentcenters.vt.edu/vtoch/](http://www.studentcenters.vt.edu/vtoch/). You may also find Craigslist ([www.craigslist.com](http://www.craigslist.com)) a helpful resource.

**Cranwell International Center:**

The Cranwell International Center provides many non-immigration services that are open to foreign faculty and staff. Please refer to the Cranwell website at [www.international.vt.edu](http://www.international.vt.edu) for an overview of the offered services, such as programs for spouses and families, English conversation groups, information on local schools and even a list of available housing options. To get access to the list of housing options, please visit the Cranwell Center or e-mail the center at [international@vt.edu](mailto:international@vt.edu).

**Change of Address:**

Within ten (10) days of moving to a new address, you must file a Form AR-11 “Change of Address” with USCIS. You can find and file this form at [www.uscis.gov/ar-11](http://www.uscis.gov/ar-11). Please be sure to print a copy of the AR-11, especially when you file the form online. If you or your family members have any paperwork pending with USCIS, you must also call the USCIS to update your address by phone as the AR-11 information does not update your address on any pending petitions or requests. During the call, you should provide USCIS with the case number(s) of your pending request(s).

**Taxes:**

As an employee in H-1B status, you must pay US income taxes unless you are specifically exempt from the requirement. ISS cannot advise on taxes. For more information on taxes, please contact Ms. Janet Kunz, the International Tax Specialist in the Controller's Office, at [jakunz@vt.edu](mailto:jakunz@vt.edu).

**Social Security Number:**

All foreign nationals in H-1B status are eligible for a Social Security Number (SSN). If you already have a SSN, you do not need to obtain a new one. If you do not have a SSN, you will have to apply for one in person at the nearest Social Security Administration (SSA) office. When applying for your SSN, you will need to bring your passport, I-94, H-1B Approval Notice and offer letter from VT. The SSA office closest to Blacksburg is in Roanoke, VA (612 S. Jefferson Str., St. 100, Roanoke, VA 24011). To locate any other SSA offices or to find more information on the SSN, please visit <http://ssa.gov>.

**Driver's License:**

Individuals in H-1B status are eligible for a Virginia driver's license. Individuals in H-1B status who live in Virginia are generally required to obtain a Virginia driver's license in order to drive. To apply for your license, please visit the local Department of Motor Vehicles (DMV) office. When applying for your license, you will need to bring your passport, I-94, H-1B Approval Notice and proof of residence in Virginia. Many people bring their lease/rental agreement to document their residence.

Please refer to <https://www.dmv.virginia.gov/webdoc/pdf/dmv141.pdf> for a complete overview of acceptable documents. The DMV serving the Blacksburg area is located in Christiansburg (385 Arbor Drive, Christiansburg, VA 24073). For an overview of all DMV offices in Virginia, please refer to the DMV website at [www.dmvnow.com](http://www.dmvnow.com). Note: although USCIS grants an additional 240 days of work authorization during a pending extension or port to another employer, the DMV often requires an H-1B approval notice to renew a driver's license. Please consider this in the timing of your H-1B extension request or change to other employer. (Many employees in H-1B status have reported that they were able to obtain a one-year extension of their driver's license based on their original H-1B Receipt Notice.)

**Speaking with an adviser at ISS:**

Should you ever have any questions or concerns about your immigration status or stay in the US, contact ISS. We are generally available from 8:00am to 5:00pm. We can best be reached via phone or e-mail or in-person during walk-in hours (no appointment needed). Our walk-in hours are Tuesday 10:00 – 11:30am, Wednesday 1:30 – 3:30pm and Thursday 10:00 – 11:30am. To meet in-person with an ISS adviser outside of the regular walk-in hours, an appointment is required.