

H-1B PETITIONS FOR FACULTY APPOINTMENTS: INTRODUCTION TO THE FORMS AND UNIVERSITY PROCEDURES

What is an H-1B Petition?

H-1B is a nonimmigrant status that permits professional employment. The employer must file an H-1B petition with the U. S. Citizenship and Immigration Services (USCIS) and obtain approval for it; the “alien beneficiary” must obtain H-1B status either by applying for an H-1B visa abroad and entering the U.S. in H-1B status, or by changing to H-1B status from another nonimmigrant status in the U.S. **H-1B employment may not begin until the office of International Student and Scholar Services (ISSS) informs the hiring department that all necessary approvals have been received.**

Rutgers policy restricts H-1B sponsorship to full time faculty appointments only. For teaching faculty, “Assistant Professor” is the lowest range title for which Rutgers will sponsor an H-1B. For research faculty, the lowest range H-1B title is generally “Research Associate” unless very specific exceptional criteria are met; these must be documented to, and verified and approved by the Office of the Vice President for Academic Affairs. Consult with ISSS if you have a question about the exceptional criteria.

Summary of Requirements and Forms

When filing an H-1B petition, there are three USCIS forms to complete for all applicants: I-129 petition, the H Classification Supplement to Form I-129, and the H1B Data Collection and Filing Fee Exemption Supplement. There is also an optional form (I-907) if the petition will be filed with a request for “Premium Processing.” (“Premium Processing” is expedited processing by the USCIS and requires an extra filing fee of \$1410.) All of the actual USCIS H1B forms will be completed by ISSS and submitted to USCIS, along with all the required supporting documentation, in a packet. ISSS obtains all the required information needed for completing the USCIS forms from the RUTGERS INTERNAL H-1B REQUEST Packet, which has already been completed and submitted to ISSS by the hiring department.

There is a required USCIS form (I-539) if the alien is already in the U.S. and has visa dependent(s) who are also already physically in the U.S. This form needs to be completed and signed by the dependent. ISSS is not responsible for reviewing the form, although we will enclose the completed form in the H1B petition packet and submit it to USCIS on behalf of the H1B beneficiary’s dependent(s).

In addition, there are supporting documents that must be attached to the application in duplicate. Please refer to Page 14 for a detailed list of required documentation.

There is also a regulatory requirement that a "Public Access File" (PAF) be set up and maintained by the employer. From July 1, 2014, ISSS took on this responsibility on behalf of the hiring department, i.e. the employer. ISSS creates, updates, and maintains a PAF for every H1B worker from the day an LCA is submitted to Department of Labor (DOL) to the day 12 months after the approved H1B end date, while making it available for public inspection upon request and for audits by various government agencies.

There are two sets of filing fees for each petition. Each USCIS fee requires a separate check made payable to “U.S. Dept. of Homeland Security.” The Address in Cornerstone is [USCIS, California Service Center, Laguna Niguel, CA 92677](#). **USCIS Filing fees vary depending on the specific types of petitions. Please read the instructions in parentheses on required fees.**

USCIS Fee Schedule

\$460	Fee for Form I-129 (<i>must be paid by hiring unit under all circumstances</i>)
\$500	“Anti-Fraud” Fee (<i>must be paid by hiring unit for all “new employment” petitions, i.e. all new H1B cases with Rutgers</i>)
\$370	Required <u>ONLY IF</u> Form I-539 is being submitted for dependents (<i>This fee maybe paid by unit or alien</i>)
\$1410	Optional “Premium Processing” fee (<i>must be paid by dept. unless needed strictly for alien’s personal reasons. If the H1B beneficiary pays this fee, a written statement must be submitted to ISSS confirming that the Premium Processing fee is paid by the H1B beneficiary because the request is strictly for his/her personal benefits.</i>)

Rutgers visa fee schedule Please click on the hyperlink for each specific fee requirement. Rutgers fees are paid via a journal entry. Please complete the [Transmittal Form for Visa Processing Fees](#).

The First Step: E-mail ISSS for an H-1B Request Packet

E-mail ISSS at gantonatos@global.rutgers.edu in the subject line write, "H-1B Packet Needed." In the body of the message provide all of the following information (clip and paste the list below into your email to us):

- contact in sponsoring unit: name, phone number and e-mail address to which the H1B packet should be sent
- the name of the alien beneficiary for whom H-1B petition will be filed
- type of appointment (position title) you are offering the alien
- geographic location where actual work will occur ("on campus" or, if off-campus, provide city and state)
- name of sponsoring unit
- please check **all** that apply to the alien beneficiary:
 - ___ current Rutgers employee
 - ___ not yet a Rutgers employee
 - ___ currently in the U.S. in H-1B status
 - ___ currently in the U.S. in a nonimmigrant status other than H-1B (What status? _____)
 - ___ currently overseas and expected to apply for H-1B visa at a U.S. consulate abroad
 - ___ currently in the U.S. with visa dependents who have or will require H-4 status
- a list of *every* period the alien beneficiary has *ever* held J-1 or J-2 status in *any* J category (Note: please be aware that the 1-129 form asks for documentation of any period(s) of time the alien spent in J-1 or J-2 status, so please ask the beneficiary for such documentation in the form of copies of DS-2019s, IAP-66s, or J-1/J-2 visa in passport.)

The Next Step – Receive an H-1B Packet via Email

Assuming we have no questions about the information you provide in your request for an H-1B packet, we will e-mail you a complete set of instructions, which will include several forms for you to complete. Most forms will be in PDF format and can be completed online before printing them out.

Time Frames to Bear in Mind

After receiving a fully completed request packet from the hiring department and prior to filing the H-1 petition with USCIS, our office's pre-processing will take about 4 weeks (to submit the LCA to the DOL, obtain additional university clearance, completing actual USCIS petition forms, and thoroughly review, organize and prepare the packet for submission). ISSS will then proceed with filing the H-1B petition with the USCIS. Normally, it takes about 3+ months for USCIS to adjudicate regular processing cases but it guarantees a 15-day adjudication time for "Premium Processing" petitions. The turn-around times at USCIS will be listed at <https://egov.uscis.gov/cris/processTimesDisplayInit.do> (scroll down to Service Center; select CSC-California Service Center, then click on processing dates). While Premium Processing will decrease the turn-around time at USCIS to about 3 weeks, the turn-around time for pre-processing at our Center is determined *only* by the order in which the paperwork is received from the requesting departments. We therefore advise departments to submit complete H-1B packets to ISSS as early as 6 months prior to the intended starting date of the H-1B petition, in order to avoid both the USCIS \$1,410 Premium Processing fee and the ISSS late fee. There is also an option for expedited processing service at ISSS, which requires a fee of \$300. ISSS tries to process the request within 2-3 weeks if everything is in order. Please see our [Late Fee Schedule](#).

H-1B PETITION FOR FACULTY APPOINTMENT (INSTRUCTION PACKET FOR EMPLOYING DEPARTMENTS)

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Departments' Legal Responsibilities in Filing H-1B Petitions

Departments filing H-1B petitions assume significant liability on behalf of Rutgers, and are thus responsible for understanding and strictly adhering to certain requirements. Please read the list of "Departments' Legal Responsibilities" thoroughly before proceeding with the

application materials. For most H-1B matters, the actual responsibility for complying with these federal regulations rests with hiring departments, since it is there that H-1B employees' files are initiated and maintained. Because H-1B regulations are complex, and because an employer's failure to comply with these regulations can result in significant penalties, we advise you to read the responsibilities listed below with utmost attention, to fill out forms exactly as specified on the attached instructions, and to follow the guidelines noted throughout this packet with care.

H-1B employment may not begin until ISSS informs the department that all necessary approvals have been received. "Employment" refers not only to being on Payroll, but also to performing services for which an individual would normally be compensated.

1. Departments must submit in a timely fashion the complete H-1B request packet (approved LCA worksheet, filing fees, and the required number of photocopies of all accompanying supporting documents) to ISSS—even if the department is requesting and paying for "Premium Processing." The USCIS Premium Processing Fee expedites processing at the USCIS but not within the University itself.

Departments must allow an absolute minimum of four weeks for ISSS to process an H-1B petition packet before it is ready to submit to USCIS. Once the petition is submitted, the amount of time it will take USCIS to approve it depends upon the type of application being filed. For "Premium Processing" petitions, an approval comes in about 3-4 weeks. Departments NOT filing via "Premium Processing" should check with ISSS for appropriate timeframes, as they will vary based on a number of different factors.

2. The terms of an H-1B worker's employment may not be changed in ANY way other than routine salary increases during the period of the H-1B approval. Any changes in the terms of employment automatically cancel the validity of the H-1B approval, and the employee thereby becomes ineligible to continue working legally at Rutgers. Examples of prohibited changes are: title change, change in work-site (for more than five days), change in employing departments, and substantive change in responsibilities. If a department contemplates any of these changes for a current H-1B employee, please contact ISSS to discuss.

3. It is of utmost importance that departments inform ISSS if H-1B employment is terminated for any reason before the end-date requested on form I-129. If an H-1B employee is terminated by the university prior to the ending date requested on the I-129 petition, the employer (via ISSS) is required by federal regulation to notify the USCIS. In addition, the employing department is liable for transportation costs to the foreign country in which the employee most recently resided (unless the employee leaves by choice). In any case, the department must notify ISSS.

4. ISSS will provide the hiring department and the alien with a copy of the completed I-129 petition form, DOL-certified LCA as soon as it is available and also notify the AAUP of the LCA filing.

5. For every LCA filed before July 1, 2014, departments are required to maintain documentation which must be made available for inspection, upon request, and up until a full year after the ending date noted on the LCA. This documentation is referred to in the regulations as the "Public Access File" (PAF). Since July of 2014, ISSS has taken the responsibility of setting up and maintaining the PAFs for all H1B employees and ISSS ensures that the documentation be available for examination within the specified time.

6. Departments are responsible for ensuring that H-1B employees going on university payroll for the first time attend a "check-in/orientation session" at ISSS as soon as possible after the employee has arrived at Rutgers. The workshop is offered weekly on Thursday at 2:45 p.m. and requires advance sign-up by emailing ISSS at gantonatos@global.rutgers.edu. For employees whose H-1B status is being extended, ISSS will notify the department & employee as to how to obtain a new "International Payroll Form" for the department to submit to Payroll (to extend the employees' authorization to remain on Payroll).

7. Federal regulations change regularly and ISSS routinely updates the H-1B instruction packet. Please read all of ISSS' H-1B instructions each time you file an H-1B petition. Procedures and forms may be different from those you used the last time you filed an H-1B petition.

Introduction to Each of the Required Forms in the H1B Packet

Form #1: Worksheet for Labor Condition Application (LCA)

What is it? The LCA is the form used to obtain clearance from the U.S. Department of Labor (DOL) to proceed with filing the H-1B petition. An LCA approval from DOL gives us the "go ahead" to file the actual H-1B petition with the Dept. of Homeland Security's Citizenship and Immigration Services (USCIS). Extreme care must be taken in completing the LCA Worksheet accurately per the attached instructions; incorrect information could result in serious liability for Rutgers.

What are procedures for the form?

- ◆ Dept. completes "Worksheet for Labor Condition Application";
- ◆ Dept. takes/sends the Worksheet to the Dean's office for Dean's review and signature;
- ◆ department retrieves those documents from the Dean's office, then faxes the Worksheet to Academic Labor Relations (ALR) (fax: 732-932-8326) for review and approval (*Note*: If official university appointment is annual, but department is requesting H-1B for a period of *more* than 1 year, also fax a *copy of the appointment letter* along with Worksheet);
- ◆ ALR reviews materials, signs Worksheet for approval and faxes it back to hiring department;
- ◆ Department attaches approved worksheet to the rest of the H-1B request packet and submits it to ISSS;
- ◆ ISSS files the LCA application with the DOL and obtains certification in about 7-10 days.

◆

Form #2: Deemed Export Certification for H-1B Petitions

What is it? Formal certification of employer stating employee's work is/is not "deemed" to be an "export" by Commerce Dept.

What are the procedures for the form? Must be signed by faculty sponsor and chair or director; original plus documentation must be sent to the Export Compliance Officer (Robert Phillips), who will then send the certified form directly to ISSS.

Form #3: H-1B Scholar Information Sheet

What is it? This form elicits information from the H-1B worker needed by the department in order to complete the H1B Request Form.

What are procedures for using it?

Dept. asks the H-1B worker to complete the form & then uses the information to complete the Internal H1B Request Form.

Form #4: H-1B Department Certification

What is it? *This form is related to the DOL's LCA regulations. Before ISSS can submit the LCA for certification from the DOL and the USCIS, the hiring department must certify the 9 statements specified on the Certification form.*

What are the procedures? *Department has this form signed by the direct supervisor and by Chair or Director of the hiring unit and then submit it to ISSS with the rest of the required documents.*

Form #5: Memorandum Explaining the Actual Wage

What is it? This is a document required by the DOL H1B regulations. It must be completed by the hiring unit and submitted to ISSS with the other required documents. It will be kept in the Public Access File (PAF) at ISSS.

Form # 6: Form I-539 (Required ONLY for visa dependents of the H-1B who are already physically in the U.S.)

What is it? I-539 is a generic form used for change of nonimmigrant status or extension of status. In this context, the I-539 is used ONLY for the visa dependents of employees already in the U.S. who need to change or extend dependent nonimmigrant status along with the H1B employee. (The change or extension of status for the employee him/herself is included in the I-129 petition itself.) I-539 has a filing fee of \$370. No I-539 is needed for the H-1B employee, nor is it needed if the employee's visa dependents are not in the U.S. at the time of filing the I-129 Petition, nor if the employee's dependent(s) have their own independent non-immigrant status.

What are procedures for the form?

- ◆ H-1B employee has his or her visa dependent(s) complete and sign the form;
- ◆ H1B employee returns completed I-539 to the department with appropriate fees and supporting documentation (original plus one copy), as described on the attached "Instructions for Completing Form I-539"
- ◆ Dept. submits I-539 and supporting documents to CHS along with the rest of the H-1B petition packet

Form #1: WORKSHEET FOR LABOR CONDITION APPLICATION (LCA)

(This page is instruction for completing the LCA Worksheet Sheet on next page)

Please follow these instructions carefully. The department assumes a serious liability on behalf of the University if the Worksheet for the LCA is not completed with accurate information as outlined below.

According to Department of Labor (DOL) regulations, a copy of the LCA (ETA 9035E) and the Cover Pages to the LCA form MUST be given to the H1b employee. The original LCA will be kept in a PAF that is set up and maintained by ISSS. Please pay attention to the instructions you will receive when we send you the copy of LCA. Please familiarize yourself with the contents of these pages.

Complete the Worksheet for Labor Condition Application on the next page. Here are line-by-line instructions:

1. Enter the employee's (or prospective employee's) name; include **full middle name** (if known).
2. "Rate of Pay per Year:" enter the actual annual salary to be paid to the employee
3. "Full-Time Position?" Verify that this is a full-time position by checking "yes."
4. "Period of Employment:" **For the begin date**, enter the date you want this H-1B authorization to start (which might be different from the actual employment starting date if the individual began working in this position in a different status or is now extending H-1B status). If the person is continuing an appointment already begun under a different visa status (such as F-1 on OPT or J-1), show the date immediately following the date on which that current visa status will expire. Remember that we cannot file LCA's or H-1B petitions more than six months before the requested begin date.
5. "The Standard Occupational Classification (SOC) Code:" **for teaching positions**, use SOC codes within "25-0000 Education, Training, and Library Occupations" found at <http://www.bls.gov/soc/2010/soc250000.htm>. **For research positions**, refer to the code chart at http://www.bls.gov/soc/major_groups.htm then look up and select the code most appropriate to the academic discipline.
6. "Job Title:" enter the official Rutgers payroll title followed by the name of the department, e.g.: Assistant Professor/ Chemistry or Research Associate/Physics. **Note: any change in title, job responsibilities or department may require filing a new LCA and a new H-1B petition**—please check with ISSS before initiating any changes to determine if new forms will be required.
7. "Job Address:" provide a complete address (**including the lab or office number and County**) of the location(s) where the *actual* work will be performed. **Note: any change in the location of the work-site after filing this LCA -- even a short-term, temporary change of more than five days -- may require the filing of a completely new LCA.**
8. "Prevailing Wage per Year:" enter the dollar figure on the AAUP contract (applicable for the "begin date" shown in #4 above) which represents the minimum annual salary for this job title. (If you have ANY questions about this figure, please call your dean's office or ISSS for assistance.
9. "Prevailing Wage Source:" for all AAUP positions, check "Collective Bargaining Unit (AAUP)."
- 10-12. Complete as appropriate, and have it signed by Dean or Director.

Fax Worksheet to Office of Academic Labor Relations (ALR)

Follow instructions on bottom of the Worksheet itself for obtaining approval from Academic Labor Relations (ALR) prior to submitting it to ISSS with the rest of the H-1B packet.

The ISSS then generates (online) an actual LCA and submits it to the DOL. Upon DOL certification, ISSS then sends the certified LCA to ALR and AAUP as notification of filing. A copy of the certified LCA is enclosed in the H1B petition packet to be submitted to USCIS and the original LCA is kept in the 'Public Examination File' for potential public examination and/or audition.

Form #2: DEEMED EXPORT CERTIFICATION FOR H-1B PETITIONS

(This page: information and processing instructions. Following page: the form itself)

Deemed Export Certification for H-1B Petitions

The Form I-129 issued by the United States Citizenship and Immigration Services (USCIS) is a petition for a non-immigrant alien to come to work in the United States temporarily in a specialty occupation. This form requires a “deemed export certification.” This means that the University must certify whether or not the beneficiary of the visa petition will have access to export controlled information or technology through his or her work at Rutgers. The certification is based on knowledge as of the time of the application

The certification reads as follows:

With respect to technology or technical data the petitioner will release or otherwise provide access to the beneficiary, the petitioner certifies that it has reviewed the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations and has determined that:

1. A license is not required from either US Department of Commerce or the US Department of State to release such technology or technical data to the foreign person; **or**
2. A license is required from the US Department of Commerce or the US Department of State to release such technology or technical data to the beneficiary and the petitioner will prevent access to the controlled technology or technical data by the beneficiary until and unless the petitioner has received the required license or other authorization to release to the beneficiary.

This formal certification is made as part of the visa petition process conducted by the office of International Student and Scholar Services upon advice from the Office of General Counsel. While the department does not make the certification, the certification cannot be completed without information from the department. The visa petition cannot be processed without the certification so it is very important that department provide the necessary information as promptly as possible.

Please note that the certification is made under penalty of perjury. Therefore the information provided must be as complete and accurate as possible. Both the information we require and the certification statement appear on page 2 of this document.

PROCESSING INSTRUCTIONS:

1. The fully executed copy of the form on the next page and all necessary documentation related to this form should be emailed to:
Robert Phillips, Export Compliance Officer; export-support@rutgers.edu;
Administrative Services Building III, Cook Campus.
2. A single **photocopy of the fully executed form** (form ONLY—no documentation) ***must*** be included along with the rest of the H-1B packet submitted to:
International Student and Scholar Services, 180 College Ave., New Brunswick

(Please note: All questions about this form & relevant documentation should be directed to Robert Phillips as well. His phone number: 848-932-4522. His office is located at: Knightsbridge Road, 2nd Floor East, Piscataway, NJ 08854)

DEEMED EXPORT CERTIFICATION FOR H-1B PETITIONS

The following needed information can be provided by department/center administrators:

1. A general description of the beneficiary's duties
2. Name and contact information for faculty sponsor and Chair of Department
3. Name and contact information for beneficiary
4. A copy of any & all grants, contracts & awards to which beneficiary is assigned as of date of visa petition if any
5. A copy of the beneficiary's C.V.

The following information (as well as any unanswered questions above) should be provided by the beneficiary's faculty sponsor and/or department chair or center director:

To the extent known at time of visa petitions, will the beneficiary be:

- Yes No Working on any grant, contract or award containing publication restrictions
- Yes No Working on any grant, contract or award restricting participation of foreign nationals
- Yes No Working on corporate sponsored contracts with access to company proprietary information
- Yes No Having access to technology or equipment designed or developed with military or space applications
- Yes No Working on high-tech or experimental equipment (e.g. high speed computers, lasers, satellites)

If the answer to any of the above is yes, please explain.

The following certification must be signed by the beneficiary's faculty sponsor and the chair of the relevant department or director of the relevant center.

I certify under penalty of perjury that, to the best of my knowledge, the information herein provided is true and accurate as it pertains to the H-1B petition for:

_____ *Name of beneficiary*

And that, with respect to the beneficiary's expected duties at Rutgers:

A license is not required from either the US Department of Commerce or the US Department of State to allow beneficiary access to the technology or technical data he/she will use or be exposed to while working for Rutgers.

A license is required from the US Department of Commerce and/or the US Department of State in order for beneficiary to access certain export controlled technology or technical data beneficiary will use or be exposed to while working for Rutgers. Please note, if a license is required, beneficiary may have no access to said export controlled materials until and unless a proper license is in place.

Faculty Sponsor Name _____	Center Director or Dept. Chair Name _____
Signature _____ Date: _____	Signature _____ Date: _____

The I-129 form is available at: <https://www.uscis.gov/i-129>. Rutgers H-1B request packet should be submitted to the office of International Student and Scholar Services and prepared in accordance with that office's instructions. Further information on EAR and ITAR can be found at the website of the Office of Vice President for Research <http://vpr.rutgers.edu/export.php>

Form #3: H-1B Scholar Information Sheet (page 1 of 2)

(Provides employing unit information it needs from the employee in order to complete forms in the packet)

TO BE COMPLETED BY THE EMPLOYEE NAMED IN THE H-1B PETITION

CURRENT EMAIL OF THE SCHOLAR: _____

1. Family name (exactly as it appears in passport) _____

2. Given name (first name exactly as it appears in passport) _____

3. Middle name (if applicable and only if listed in passport) _____

4. Gender Male _____ Female _____

5. All other names used _____

6. Date of Birth (mm/dd/yyyy) _____

7. U.S. Social Security # (if any) _____

8. USCIS A# (if any) _____

9. Country of Birth _____

10. Province or State or City of Birth _____

11. Country of Citizenship _____

12. Do you and any dependents filing with you have a valid passport? Yes _____ No _____
If you answer "no" please provide on a separate sheet of paper an explanation and/or proof that an extension has been applied for.

13. Are applications for dependents being filed with this petition? Yes _____ No _____
If you answer "yes" please indicate how many dependents are included _____

14. Are you or your dependents currently in U.S. immigration removal proceedings? Yes _____ No _____
If you answer "yes" please provide an explanation on a separate sheet of paper.

15. Has a U.S. immigrant petition ever been filed for any person in this petition, including dependents?
Yes _____ No _____ If you answer "yes" please provide an explanation on a separate sheet of paper.

16. Have you ever been given any H status of any kind (including H-4) before? Yes _____ No _____
If you answer "yes" please indicate all the dates on a separate sheet of paper.

17. Have you ever been denied H status? Yes _____ No _____
If you answer "yes" please explain on a separate sheet of paper.

18. Please provide a list of every period during which you have ever held J-1 or J-2 status in any J category. (Note: because the H-1B petition form asks for documentation of all J status periods, we will need you to provide documentation in the form of copies of DS-2019s, IAP-66s, or J-1/J-2 visa in passport

(Continued on page 13)

Form #3: H-1B Scholar Information Sheet (page 2 of 2)

(Complete *ONLY ONE* Section Below: Section A or Section B, but not both).

SECTION A H-1B STATUS: Complete #19 - #27 ONLY IF you are currently in the U.S. and do NOT intend to leave the U.S. before beginning employment at Rutgers.

19. To help us file your H-1B petition in the most appropriate way for your situation, please list approximate dates and destinations of all your planned travel outside the U.S. in the next 12 months

20. Date of Most Recent Arrival in the U.S., if applicable. _____

21. I-94# (from the most recent arrival/departure document) _____

22. Current Nonimmigrant Status in the U.S.: _____ (Note: if currently in H-1B status, you are eligible for Rutgers H-1B sponsorship only if you can document with copies of your 3 most recent pay stubs that you are still employed in your current H-1B job at the time Rutgers files its H-1B petition for you.)

23. Date Status Expires, if applicable (F-1 and J-1 visa holders: put "D/S") _____

24. Passport Number _____

25. Date passport issued (mm/dd/yyyy) _____ 26. Date passport expires: _____

27. Current U.S. address _____

SECTION B H-1B VISA: Complete #28 and #29 ONLY IF you will be visiting a U.S. consulate abroad and applying for an H-1B visa prior to beginning employment at Rutgers. (Note for Canadian Citizens only: unless you are changing to H-1B status within the U.S., please complete #28 and #29 even though you will NOT need to visit a U.S. embassy)

28. The U.S. consulate or U.S. immigration inspection facility you will visit to obtain your U.S. H-1B visa.

Office Address (City): _____ Country of Citizenship or Nationality: _____

29. Your foreign address (your permanent address outside the U.S.) Please provide complete address.

Street # & Name: _____ Apt. Ste. Flr. City or Town: _____

State or Province: _____ Postal Code: _____ Country: _____

By signing below, I certify that all of the above information is correct to the best of my knowledge AND that neither I nor any dependents are currently subject to regulation 212(e) which subjects certain J visa holders to a 2-year home residence requirement. (NOTE: If you ARE currently subject to this requirement, do not sign this form, but contact your department at Rutgers immediately.)

Signature

Date

PLEASE RETURN THE COMPLETED FORM TO YOUR DEPARTMENT ADMINISTRATOR AT RUTGERS

(If you have questions concerning this form please email Ruimin Zhang at rzhang@global.rutgers.edu. Questions regarding your appointment or visa eligibility should be directed to the hiring department, however.)

Form #4: H-1B Department Certification From

Before ISSS can submit the LCA for certification from the U.S. Department of Labor and USCIS adjudication, The hiring department must certify the following statements and complete the required information.

I certify that:

- The salary being paid to the above named employee is at least the actual wage being paid to all other individuals with similar experience and qualifications for the specific employment in question or the prevailing wage level for the occupation in the area of employment (regional average), whichever is higher.
- Fringe benefits offered to this employee are equivalent to that offered to other U.S. workers in the same classification.
- Employing this person will not adversely affect the working conditions of U.S. workers similarly employed.
- There is no strike, lockout, or work stoppage due to labor dispute in this occupation.
- We agree to comply fully with the terms of the Labor Condition Application stated above for the duration of the alien's employment in H-1B status at Rutgers
- We fully understand that any willful violation connected with providing inaccurate information in the LCA may incur severe penalties that have a long-range impact at Rutgers to include fines and legal prosecution.
- As required by the US Citizenship and Immigration Services, we agree to pay the reasonable cost of return transportation to the alien's home country if s/he is dismissed before the end of the authorized period of H-1B employment.
- We have contacted the Rutgers Export Compliance Manager and have the Deemed Export Certification Form signed and we will comply with all Licensure Requirements for research activities.

Certified by:

- **Direct Supervisor of Hiring Unit:**

(Name printed) (Signature) (Date)

- **Chair or Director of Hiring Unit:**

(Name printed) (Signature) (Date)

- **Contact Person of Hiring Unit:**

Name: _____ Phone #: _____

Email: _____

Form #5: Memorandum Explaining the Actual Wage

(Required For THE PUBLIC ACCESS FILE to be set up and maintained at ISSS)

Department of Labor (DOL) regulations are designed to protect U.S. workers. As such, the DOL wants to ensure that U.S. workers are not being displaced by H-1B employees. The requirements to provide an “explanation of the actual wage” are to document that employers are not using the H-1B program to hire foreign workers at salaries lower than those a U.S. worker would expect for a similar position with similar requirements and responsibilities. Please note that the DOL reserves the right to conduct employer audits of Public Access Files.

Name of the H-1B employee _____

Name of Hiring Department or Center _____

Actual wage being paid to the H-1B employee _____
(Exactly as actual wage is noted on the LCA Worksheet after signed by the VPAA's office)

The following explanations must be included below or on additional pages:

_____ An explanation of how the “prevailing wage” was determined. At Rutgers, “prevailing wage” is the minimum annual salary for the job title as it appears in AAUP contract, so this documentation should consist of a copy of the applicable page of the AAUP contract with the “prevailing wage” (minimum salary) highlighted for this specific job title and term of appointment (CY or AY)

_____ An explanation of how the “actual wage” (actual salary) for the H-1B employee was determined. Regulations provide guidance on this requirement as follows:) *A full, clear explanation of the system that the employer used to set the "actual wage" the employer has paid or will pay workers in the occupation [job title] for which the H-1B nonimmigrant is sought, including any periodic increases which the system may provide -- e.g., memorandum summarizing the system or a copy of the employer's pay system or scale (payroll records are not required, although they shall be made available to the Department in an enforcement action).*

Please note:

- If U.S. employees are paid more than the H-1B employee, you must provide a detailed explanation and justification as to why this is the case, bearing in mind the DOL's reason for seeking this information (see top of page).
- Any records documenting wages/salary should not violate the privacy of any employees. As such, if you use actual copies of other employees' pay records, you should black out the employees' names and SSN.

Form #6: I-539, Application to Extend/Change Nonimmigrant Status

(Number of pages depends on # of dependents in U.S. This form is required **ONLY** if visa dependent(s) is (are) physically in the U.S. at the time of filing the H1B petition. If the alien has a spouse and/or children already in the U.S. in dependent nonimmigrant status, the following should be submitted to ISSS by the hiring unit along with the rest of the H 1B petition packet. (Please submit one original and one photocopy of each item only.)

IMPORTANT NOTE: our office **is not responsible** for reviewing this form for the dependent(s), although we will enclose the form in the H1B petition packet to be submitted to USCIS, so the H1B beneficiary's dependent(s) must read and follow the filing instructions closely and make sure the form is fully completed and signed by the dependent in blue ink. The dependent(s) must complete the I-539 in his/her/their name(s). The H-1B principal alien is not the applicant on form I-539; the applicant(s) is (are) the dependent(s).

FORM I-539 and Instructions CAN BE OBTAINED ON THE USCIS WEB SITE AT: www.uscis.gov

- Click on "Forms" tab at the top of the page
- Scroll down to Form I-539

The following items constitute a completed I-539 packet for dependents:

- Form I-539, filled out by -- and in the name of -- the spouse, or, if there is no spouse, in the name of the first visa dependent (original plus one copy);
- a completed "I-539 Supplement" if there is more than one visa dependent (original plus one copy);
- two copies of all Forms I-94 of all visa dependents (the most recent I-94 admission number/record, which is proof of legal visitor status, can be downloaded from: <https://i94.cbp.dhs.gov/I94/#/home>).
- two copies* of marriage license (for spouse only) and birth certificates (for children only); and
- a check to "Dept. of Homeland Security" for \$370. 00.

If the marriage license and/or birth certificate(s) are in a foreign language, a certified translation must be attached.

A certified translation is one on which the translator has written, "I certify that I am competent in both the English and _____ languages and that this is a true and accurate translation of the attached document." The translator then signs and dates this statement in the presence of a notary public, who then notarizes the signature.

REQUIRED SUPPORTING DOCUMENTS FOR H-1B PETITIONS

(The listed documents must be submitted by the department to ISSS with the completed Internal H1B Request Form as a package.)

1. Strong letter of support from department chair (See sample letter on next Page). Address letter to:

U.S. Citizenship and Immigration Services, California Service Center, Laguna Niguel, CA 92677

Letter should include at least the following:

- (a) Title of position, exact salary as specified on AAUP contract, and inclusive appointment dates for the current H-1B petition (letter must state that the appointment is temporary);
- (b) Position description in general terms, e.g., *responsibilities include biomedical research and writing papers*, the specific academic credentials required for it, and an explanation as to why these specific credentials are required;
- (c) Explanation of how the individual is considered to have a "specialty occupation." (This is the language of the regulations.) The explanation should be more than a perfunctory statement, and can address the way in which the unique talents of the individual will help the department to meet its specific needs;
- (d) Original signature of department chair (on at least one copy of the letter).

2. Individual's C.V./Resume.

3. Photocopies of the highest degree diploma:

If the diploma is from a foreign university, you must obtain a "credential evaluation" which certifies it is equivalent to a U.S. Ph.D. (USCIS frequently returns H-1B petitions submitted with a foreign degree but without a credential evaluation, and this can delay the petition approval process by several weeks or more. Following are links for 3 Credit Evaluation Services:

- <http://www.evaluation-service.net/>
- <http://naces.org/>
- <https://www.wes.org/>

Note: if the Ph.D. diploma has not yet been awarded, you may submit a certified copy of the Master's diploma PLUS a letter with original signature from the registrar at the Ph.D.-granting institution stating that all degree requirements have been completed and indicating the expected date of conferral of the Ph.D. degree.

4. Photocopy of Dean's letter offering the position to the H1B worker.

5. Official job description from the Dean's office, Director, or HR

6. If the individual is already in the U.S., attach 2 photocopies of the forms in the individual's possession--this should be at least a little white card in the passport or a computer-generated I-94 printout which can be downloaded at www.cbp.gov/I94); (b) the individual's passport picture and expiration page (these are usually on the same page but may be separate) **plus 2 copies of items listed under the one applicable bullet below:**

- ♦ *If individual is currently in F-1 student status,* attach photocopy of front and back of his/her Form I-20 **and**, if on authorized Practical Training, a photocopy of the Employment Authorization Document (EAD, small ID-sized card)
- ♦ *If individual is currently in J-1 status,* attach photocopies of all DS-2019 forms in his/her possession and a copy of the J-1 visa stamp from the passport. Also, if the J-1 is subject to the 2-year home country residence, provide a copy of the waiver of this requirement from the USCIS. (If waiver is required but not yet obtained, contact our office immediately, as obtaining a waiver of the 2-year requirement can be a lengthy process, and approval is by no means automatic.)
- ♦ *If the individual is currently in H-1B status with another employer,* attach a copy of his/her current & ***all previous*** H1B Approval Notices (Form I-797) **AND** copies of his/her most recent 3 pay stubs (as proof that s/he is still employed.)
- ♦ *If the individual is currently in H-4 status,* attach a copy of the ***H-1B principal's documents as listed immediately above*** (under "If the individual is currently in H-1B status with another employer") plus a copy of the marriage license documenting the alien and his/her H-1B spouse are legal spouses, copies of all H-4 Notices of Approval issued by USCIS to the H-4 individual and dependent(s) passport bio data page showing the expiration date

6. If H1B status is being requested for a period beyond the employment end date stated in the appointment letter, a statement from the Chair confirming that funding is guaranteed to be available for this position for the entire period requested, and confirming that the department is aware it must notify the office of International Student and Scholar Services if the H1B employee leaves the position before the end date requested on the petition.

SAMPLE LETTER IN SUPPORT OF H1B PETITION

(Please Print out on Department letterhead and Sign in Blue Ink)

USCIS, California Service Center
Attn: Cap Exempt H-1B Processing Unit
24000 Avila Road, Room 2312
Laguna Niguel, CA 92677

Re: Dr. Doe' s H-1B Petition

To Whom It May Concern:

This letter is submitted in support of the H1B petition of Rutgers University for Dr. Doe, who has been hired as a (official RU job title) in (name of hiring dept.) on a temporary basis. The intended period of H1B employment is from (intended H1B start date) to (intended H1B end date), with an annual salary of \$ annual salary.

Rutgers, an innovative and rapidly growing public university, is the largest institution in New Jersey and one of the oldest schools in the nation. Rutgers' hundreds of undergraduate and graduate programs of study provide something for everyone, including the natural, physical and social sciences, the liberal, fine and performing arts, business, engineering and everything in between. Rutgers is also known for its highly varied graduate and undergraduate research activities, which encompass everything from cancer prevention to evolutionary studies to studies in preschool education.

Dr. Doe' s responsibilities will include teaching of both undergraduate and graduate courses, as well as conducting research in xx. Because of Dr. Doe' s broad background in research and teaching in the area of xx, we believe he will make outstanding contributions to the Department of Y, enhancing Rutgers reputation as a leader in this area.

Dr. Doe is most highly qualified for a (teaching or research position) at Rutgers. He/She received his/her Ph.D. from the Institute of Technology in 1995. He/She was employed as a post-doctoral fellow at XX University for the past three years, where he/she worked closely with leading scientists in the field of XX and YY. Dr. Doe also taught undergraduate students YY courses and received outstanding evaluations. He/She has written numerous articles in professional journals and has been cited by other scholars in the field. Dr. Doe has presented his/he research work at two major conferences in the United Sates and has been invited to speak at several Canadian and European universities.

In conclusion, Dr. Joe will be an asset to the Department of Y. Rutgers will benefit significantly by having Dr. Joe continue her/his research at Rutgers on an H-1B1 visa. Please contact me if you require further information.

We intend to employ Dr. Joe for an initial period of number of years in the position offered. Our department will bear responsibilities for reasonable costs of return transportation abroad of Dr. Joe should he/she be dismissed from employment before the expiration of the H1B petition. Thank you for your assistance and cooperation in processing this request.

Sincerely,

Signature of Hiring official (Department Chair or Dean)

H1B Visa Process

Hiring Department

Int'l Student & Scholar Services

- Request H-1B Packet from ISSS
- Gather supporting documents
- Submit supporting documents & **1-pg worksheet for LCA and filing fees to ISSS**

- Maintain forms and instructions on ISSS website
- Revise process and forms periodically and as required by USCIS and other government agencies

- Review dept. request for eligibility, create H1B file and enter data in ISSS data base
- File LCA with Dept. of Labor (needs 7-10 days processing time)
- Review supporting documents submitted by hiring department
- Review and sign DOL certified LCA & **send notification with copy of LCA to the Union**
- **Complete all 13-19-pg USCIS forms**
- Assemble and submit petition packet to USCIS on behalf of dept.
- Send copies of processed USCIS forms and LCA to dept./FN with handling instructions
- **Set up Public Access File (PAF) for each H1B FN**
- Follow up/monitor case status with USCIS and respond to Request for More Evidence when required
- Notify dept. and/or H1B FN upon receiving Receipt Notice or Approval Notice

- Schedule H1B FN check-in and orientation session with ISSS

- Conduct weekly new H1B check-in & orientation
- **Maintain and update PAF files and stay prepared for Public Inspection and/or DOL/USCIS audits**

- Dept. to notify ISSS of any changes to H-1B FN's terms of employment including extensions, promotions, and early terminations

- Report any changes to H-1B FN's terms of employment to USCIS if applicable. May require filing an amended petition
- **As per the DOL requirement, all H-1B FNs PAFs must be maintained for 1 year beyond the termination of their employment. ISSS will take over this responsibility.**