OPT and Beyond: Navigating the U.S. Immigration System

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*PLEASE NOTE: Any information in this seminar does not constitute legal advice and is for informational purposes only. For legal opinions, please schedule a consultation with an immigration attorney. We also recommend you schedule an appointment with your ISPO or IFSO Advisor at UC San Diego or contact your F-1 International Student Advisor with your F-1 program sponsor.
Session Overview

- F-1 OPT
- F-1 STEM OPT
- H-1B Status (cap-subject employers)
- H-1B Status (cap-exempt employers)
- Other types of work visas
F-1 Optional Practical Training (OPT)

- F-1 Optional Practical Training (OPT)
  - Employment in Field of Study
  - Extension of F-1 Status
  - 12 months of standard OPT, usually taken after graduation
F-1 STEM OPT

F-1 STEM (Science, Technology, Engineering, Math) OPT

- 24 additional months
- STEM field (CIP code)
- E-Verify employer
- I-983 Training Plan
  - Evaluations and Reporting

stemopt.ucsd.edu
H-1B Category -
Professionals in Specialty Occupations

• Nonimmigrant visa category that permits employment for a U.S. employer

• Position is a specialty occupation

• Beneficiary is qualified to perform the specialty occupation position, including any state licensure requirement
What is a Specialty Occupation?

• An occupation that requires:
  • theoretical and practical application of a body of highly specialized knowledge, and
  • attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.
Position Requirements

• To qualify as a specialty occupation, the position must meet one of the following criteria:
  • A Bachelor’s or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
  • The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
  • The employer normally requires a degree or its equivalent for the position; or
  • The nature of the specific duties are so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.
Beneficiary Requirements

• The beneficiary **must** meet one of the following criteria:

1) The beneficiary holds a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;

2) The beneficiary holds a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;

3) The beneficiary holds an unrestricted state license, registration or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or

4) The beneficiary has education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree in the specialty occupation, and has recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.
Labor Condition Application - A Prerequisite to Filing

- Filed with the Department of Labor (DOL)

- The employer must commit to paying the H-1B worker the greater of the prevailing wage or actual wage for the position (e.g., Software Engineer) in the geographic area of intended employment (e.g., San Diego, CA)

- Many prevailing wage sources available, but employer must identify the applicable government wage survey category regardless of the wage survey source used

- The employer certifies it will comply with wage and working condition requirements and is in compliance with DOL regulations
OES/ SOC Code and Prevailing Wage

**Area Title:** San Diego-Carlsbad, CA  
**OES/SOC Code:** 15-1132  
**OES/SOC Title:** Software Developers, Applications  
**Level 1 Wage:** $38.55 hour - $80,184 year  
**Level 2 Wage:** $47.40 hour - $98,592 year  
**Level 3 Wage:** $56.26 hour - $117,021 year  
**Level 4 Wage:** $65.11 hour - $135,429 year

This wage applies to the following O*Net occupations:

**15-1132.00 Software Developers, Applications**  
Develop, create, and modify general computer applications software or specialized utility programs. Analyze user needs and develop software solutions. Design software or customize software for client use with the aim of optimizing operational efficiency. May analyze and design databases within an application area, working individually or coordinating database development as part of a team. May supervise computer programmers.

O*Net™ JobZone: 4
H-1B Annual Quota

- Annual quota for H-1Bs working for cap-subject employers
  - Cap of 65,000 H-1Bs per year (6,800 reserved for citizens of Singapore and Chile)
  - Additional 20,000 H-1Bs for individuals who have an advanced degree (i.e. Master’s, Ph.D.) from a U.S. college or university
H-1B Lottery Key Dates

- Registration process - 3/9/2021-3/25/2021
- Notice of selection- 3/31/2021
- As of 4/1/2021- 90 days to file a petition
- Employment may begin no earlier than 10/1/2021
Benefits of the H-1B Category

- 6-year limit, but extensions are possible if in the permanent residency (greencard) process
- Can transfer to a new employer on the filing of a new petition
- 60-day grace period
- Return transportation requirement
- Dual intent
- Can attend school if incidental to status
- Part-time and concurrent employment is permitted
H-1B Timeline for OPT

Assume 6/12/2020 graduation date:
- OPT: 6/13/20-6/12/21

H-1B file:
4/1/2021

H-1B start:
10/1/2021

OPT cap gap to
9/30/2021
H-1B Timeline for STEM Extension OPT

Assume 6/14/2019 graduation date:

- OPT: 6/15/19-6/14/20
- STEM OPT: 6/15/20-6/14/22
H-1B Status at UCSD

- UCSD is cap-exempt as an institution of higher education
- UCSD department sponsorship is the first step
- See PPM 200-16 for list of eligible UCSD positions
- Department HR helps prepare H-1B department request and submits to International Faculty & Scholars Office (IFSO), preferably several months in advance, recommended 7-8 months in advance.
- Must have **H-1B approval notice** to continue working once F-1 OPT or STEM OPT EAD expires.
- Important note: All H-1B fees MUST be paid by the sponsoring department. Fees are not rechargeable to the international scholar and scholars cannot reimburse the department for these fees.
Only certain appointment titles at UC San Diego are eligible for H-1B sponsorship, per institutional policy.

*Departments may have internal policies on visa sponsorship. Requires department chair approval.

UCSD’s visa sponsorship policy
PPM 200-16
Most international researchers come to UC San Diego in J-1 Exchange Visitor status, which affords them additional time to build up a strong case for permanent residence, if this is an ultimate intention; in addition, H-1B petitions are very labor-intensive and expensive. To bypass the J-1 classification, please have the scholar read J-1 or H-1B: A Comparison (PDF), and sign the bottom of page 2, and submit with the H-1B initial request. This form is not needed if the scholar is currently in J status or is ineligible for J status.
**Costs**

Your department is responsible for paying all of fees for your petition.

**IFSO Processing Fees**

<table>
<thead>
<tr>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>$2,625</td>
<td>IFSO Service Fee (Recharge Form)</td>
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<tr>
<td>$735</td>
<td>IFSO Rush Processing (Recharge Form)</td>
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**USCIS Filing Fees**

<table>
<thead>
<tr>
<th>Amount</th>
<th>Description</th>
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<tbody>
<tr>
<td>$460</td>
<td>I-129 Petition Processing Fee (Check)</td>
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<tr>
<td>$500</td>
<td>Fraud Detection &amp; Protection Fee (Check)</td>
</tr>
<tr>
<td>$2,500</td>
<td>Premium Processing Fee (Check)</td>
</tr>
</tbody>
</table>

*Highly recommended, but optional*

**In certain situations the scholar may pay for premium processing**

Estimated costs $3,585 to 6,820 + incidental FedEx mailing costs

[USCIS has proposed Filing Fees increases](#)
Processing Times

Departments are encouraged to submit requests to IFSO 7 months prior to the anticipated start date. (IFSO cannot submit petition the LCA until 6 months prior to start date).

2 months
**Complete H-1B requests**

**IFSO Processing**
- Review immigration history
- File Labor Conditions Application (LCA) with Department of Labor (DOL)
- Coordinate with department to post DOL notice at worksite(s)
- Complete USCIS Form I-129 and supplemental forms

5-6 Months or 15 days

**USCIS Processing**
- Review immigration history
- USCIS can issue a request for evidence (RFE)

2-3 weeks

**Mailing Approval Notice**
- USCIS mails approval notice to IFSO via USPS (regular mail)
- USPS delivers to main campus mail office, who then delivers to IFSO

15 calendar days
with premium processing

7-9 Months Total
with regular processing

2 – 3 Months Total
with premium processing
1. DEPARTMENT & SCHOLAR GATHER DOCUMENTS

2. H1B REQUEST SENT TO IFSO VIA INTERNATIONAL SCHOLAR DOSSIER (ISD)

3. APPLICATION REVIEW

4. IFSO PREVAILING WAGE DETERMINATION

5. LABOR CONDITION APPLICATION & NOTICE OF INTENT

6. IMMIGRATION APPROVAL FROM USCIS

7. IF IN U.S. – IFSO NOTIFIES AND SENDS APPROVAL NOTICE

OR

7. IF OUTSIDE U.S. – H-1B APPLIES FOR VISA & ENTERS

8. REGISTRATION & ORIENTATION ONLINE BY IFSO
Documents Required

- Online forms in International Scholar Dossier (ISD) database
- Degree/diploma, *highest degree earned*
  - U.S. degree: Degree needs to state the field of study.
  - Foreign degree: Submit a Foreign Educational Credentials Evaluation.
- Curriculum Vitae (CV)
- Passport biographical page
- Immigration Documents
  - I-94
  - Visas
  - Entry Stamp
  - Current Status Documents
    - ex. J-1 DS-2019s or F-1=I-20 and EAD cards
- Earnings statements
### Biographical Information

#### Passport Name
- **Use ALL CAPITAL LETTERS for your family name; only capitalize the initial letter of your given name(s).** Example: John SMITH
- **Passport Last Name:** OLSON
- **Passport First Name:** LUCAS

#### Preferred Name
- **Preferred Last Name:** 
- **Preferred First Name:** 

#### Birth Information
- **Date of Birth:**  
- **City and province/State of Birth:**  
- **Country of Birth:**  
- **Country of Citizenship:**  
- **Country of Legal Permanent Residence:**  

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**Refresh the page logs you out from the Visitor application.**

**Visitor:** Lucas OLSON  
**Campus ID:**  
**Academic Department:** AH: Literature  
**Processing Stage:** Pending Visitor Data Entry
Dependents

• Legal Spouse and Children
  • F-1 status
    • F-2 status
      • May NOT be employed
      • May attend school part time
  • H-1B status
    • H-4 status; Spouses and unmarried minor children (under 21 years of age)
    • May NOT be employed except under some minor exceptions
    • May attend school full time
Other Types of Work Status

- J-1 Exchange visitor
- E-1/E-2 treaty trader/treaty investor
- E-3 Australian professionals
- L-1 Intracompany Transferees
- O-1 person of extraordinary ability
- TN Canadian and Mexican professionals
- Legal permanent resident (green card)
Contact Information

• International Students and Programs Office
  • UCSD students and grads
    Website: lstudents.ucsd.edu
    e-mail: iemployment@ucsd.edu

• International Faculty and Scholars Office
  • UCSD scholars
  • Website: ifso.ucsd.edu
  • e-mail: ischolars@ucsd.edu

• Larrabee Albi Coker LLP
  • Website: https://www.larrabee.com/
  • e-mail: Claudia@larrabee.com