General Information

The H-1B nonimmigrant category may be used to employ a worker temporarily in the United States if the employee will work in a “Specialty Occupation,” defined as a professional position requiring at least a Bachelor’s degree in a specific “specialty” field, or the equivalent. If the position is one which does not generally require a college degree, then it may not be possible to obtain an H-1B for that occupation. The employee must prove that he or she is qualified for the specialty occupation, and for the specific job offered by the department at Southeastern. They also must be able to show that his or her foreign university degree is equivalent to a US degree, and that the area of academic specialization is relevant to the job to be performed. If the employee does not possess a college degree, but possesses many years of experience in the occupation, then professional experience may substitute for academic training under certain conditions.

H-1B employment may be full-time or part-time, and may be sponsored for periods as short as need be or for as long as three years. Presently workers may obtain H-1B status for an initial period of up to three years, with one extension of status for an additional three year period, for a total of six years. **Extensions beyond the normal six years may be obtained where the alien has filed for permanent residence, before the beginning of the sixth year of H status, and where the application for permanent residence has not been withdrawn, revoked, or denied.**

The H-1B Filing Process

The International Services Office works with a contracted attorney, David Ware and Associates, to process all H-1B applications. All attorney’s fees are paid for by the International Services Office. Other fees, such as filing fees, etc. will be paid for by the hiring department. See Part II below for more information.

PART I – Documents to Submit to the International Services Office (ISO)

1. The Employee will submit to the ISO the **H-1B Employee Questionnaire and Document Checklist** along with the required documents. This form can be printed from [www.selu.edu/international](http://www.selu.edu/international) under Forms and Information.
2. The hiring Department will submit to the ISO the **H-1B Department Application for H-1B Work Visa Sponsorship** found at the end of this document along with all other fees and documents listed on the form under Fees and Documents.

PART II – Fees

The Department of Homeland Security imposes significant fees on employers seeking to sponsor H-1B workers. The International Services Office only covers the cost of the attorney’s fees. The hiring department is responsible for the following fees:
**I-129 Filing Fee of $325:** Form sent to DHS to petition to hire an H-1B worker

**Fraud Fee of $500:** Fraud prevention and detection fee paid by all employers when filing an initial H-1B petition

**Premium Processing Fee of $1225:** Optional and can be paid either by the department or employee (Will be discussed further under Filing the I-129 Petition below)

**IMPORTANT:** Hiring departments are responsible for paying the Fraud Fee and Filing Fee. It is suggested that you request the checks from Accounts Payable as soon as you receive approval to hire the foreign national. Checks must be made payable to “The U.S. Department of Homeland Security.” The Fraud Fee of $500 and the I-129 Filing Fee of $325 must be made out as separate checks. Be sure to note on your Process Form for Payment, etc. that the Accounts Payable Office is to call the International Services Office at 549-2360 as soon as the payments are ready to be picked up. They are NOT to mail the checks to the Department of Homeland Security.

**PART III – The Labor Condition Application (LCA) and Notice to Workers**

**Labor Condition Application**
The purpose of the LCA is to ensure that the U.S. workers are not negatively impacted by the employment of alien workers. This office, along with the contracted attorneys, will ensure that the necessary regulatory requirements are met so that you are inconvenienced as little as possible and we will prepare and file this application on your behalf. Form ETA-9035 is the Labor Condition Application form. On this form there are several attestations which are required by the Department of Labor. These attestations are as follows: (a) that the nonimmigrant worker will be paid a salary which is at least as high as actual wage and not less than prevailing wage; (b) that the employment of this nonimmigrant will not adversely affect working conditions of U.S. workers; (c) that there is no strike, lockout or work stoppage in progress at the time the LCA is filed; and (d) that notice is being provided to other workers in the occupation, in which the alien worker will be employed (this is accomplished by posting a notice of filing at the worksite and will be discussed further under Notice to Workers). By signing the LCA form, we are attesting to the accuracy of statements listed and our intention to comply with these conditions.

With respect to (a) above, please note that you are required to pay the higher of the “prevailing wage” for the occupation or the “actual wage” you pay to all other individuals with similar experience and qualifications and employed in the same job having the same duties. This “prevailing wage” is an average wage for similar positions in the geographic area of intended employment. The contracted attorney will research and supply prevailing wage information for us, and will advise if the alien’s salary must be increased to meet the Department of Labor’s prevailing wage requirement. “Actual wage” only becomes an issue if the alien whom you are petitioning is paid less than similarity employed workers in your department. If the alien is paid less than a worker in a similar position, you must be able to differentiate between the two rates of pay, by showing that the alien’s duties and/or qualifications (education and/or experience) are not the same, thereby justifying a lower wage for the alien.

**Notice to Workers**
To provide notice to the workers in your department, as required by the Department of Labor regulations, Southeastern must post a “notice of filing” in at least two different, conspicuous locations at the place of employment for 10 consecutive working days. One notice will be given to Human Resources by the ISO to post and the other to your department.

Appropriate locations for posting notices include, but are not limited to, locations in the immediate proximity of departmental and university notices or near departmental mail boxes. We will provide you with a copy of the notice suitable for public posting. This posting will include the attestations (a) – (d) above and will also include a space for you to enter where the notice was posted, the dates it was posted, and a space for your initials. Once the 10 day notice period is complete, you may return the completed notice to the ISO at SLU 10752.
PART IV – Export Control Attestation
There is a new federal requirement that employers certify that they have reviewed the Export Administration Regulations (EAR) and the International Traffic in Arms (ITAR) and have determined whether a license is required form the U.S. Department of Commerce or the U.S. Department of State to allow an employee access to controlled technology. **This attestation is required for all H-1B petitions.** Information on export controls can be found on the Intellectual Property web page at [http://www.selu.edu/admin/ip/info/index.html](http://www.selu.edu/admin/ip/info/index.html).

Along with the Application for H-1B Work Visa Sponsorship, your department must also submit to the ISO the Export Control Attestation form found at [www.selu.edu/international](http://www.selu.edu/international) under Forms and Information.

PART V – Filing the I-129 Application, Timeline, and Approval Process
Once the Department of Labor approves and returns the LCA, we will file the I-129 with the Department of Homeland Security along with sending the fees previously mentioned. Form I-129 is a multi-purpose form used to request H-1B classification.

If premium processing was requested by payment of the $1225 premium processing fee, DHS is required to respond to the petition within 15 days of receipt of the I-129. Note that they are not required to necessarily make a decision by 15 days if they request further documentation from either the school or employee. If no further information is required, a decision is then made in the 15 day period.

If premium processing was not selected, the response time will vary from a few weeks to several months. Once the petition has been approved, our office will receive notification that we will then pass on to you and Human Resources that will then allow the employee to begin work.

**Maintenace of H-1B Status**

If your department wishes to continue to employ the alien worker beyond the expiration of the H-1B visa, an extension must be filed. Employment authorization of the alien worker automatically terminates upon expiration of the visa petition or upon the commission of any act which violates the visa status of the alien. The employment relationship may be voluntarily terminated by the department, or by the alien, at any time during the period of H-1B validity. The sponsorship of an alien worker does not in any way obligate either the department or the alien to continue the employment relationship for any specific period. Once the employment relationship is terminated, the alien has only 10 days of legal status during which to depart the U.S. or file a petition for a change of status or an H-1B petition for new employment. The employee cannot legally work for any employer except the employer who sponsored the H-1B petition. If the employee’s position changes substantially, or if the worksite changes, a new petition to amend the conditions of employment must be filed. An H-1B worker who is changing employers may begin working as soon as the new employer files an H-1B petition on his/her behalf.
Instructions

This form must be completed and submitted by the sponsoring Southeastern department representative before immigration paperwork in support of an H-1B temporary work visa can be processed by the International Services Office (ISO) on behalf of a current or prospective employee. Once you submit this department form, we will contact your employee or visitor to request additional background information and documents. Note: This form is to be submitted in support of an H-1B work visa sponsorship. H-1B work visas allow regular employment paid by Southeastern. The job description must require a minimum of a Bachelor's degree in a specialty field, and the sponsored employee must hold this required degree. Information on other available types of visa sponsorships can be found at www.selu.edu/international.

Fees and Documents

A. All necessary H-1B fees must be paid with check or money order by the employee or hiring department as follows:

1. I-539 Filing Fee – paid by employee (see most current I-539 instructions at www.uscis.gov for current amount)
2. $500 Fraud Fee – paid by hiring department
3. $1225 Optional premium processing fee – paid by department or employee

All checks must be made payable to U.S. Department of Homeland Security.

B. You will need to attach this form to the following supplemental documents and send to the ISO. We will not accept partial packets so please be sure to file a complete package.

1. Appointment Letter: Copy of appointment or continuing employment letter.
2. Job Description: For staff positions ONLY, a copy of the position or job description from Human Resources.
3. Export Control Attestation Form: This form is required in order to confirm that no export license is needed for this employee. Can be found at www.selu.edu/international under Forms and Information.

International Employee Data

Type of Position you are sponsoring (faculty/research or staff): _________________________

Employee Last Name: ___________________________ First Name: ________________________ Middle: ______________________

Date of Birth (mm/dd/yyyy): _______________________

Please enter the employee’s current mailing address below. If this is a P.O. Box, please include the street address if you have it.

Street Address: ____________________________________________________________

City: ___________________________ State/Province: ___________________________ Postal Code: ___________________________

Country: __________________ Phone: __________________ Email Address: ______________________

(Continued on page 2)
Highest degree held by this person: ________________________________

Degree Field: ________________________________

Is this person already working in the United States: □ Yes □ No

If yes, what is the name and phone number of the employer? __________________________________________

If yes, are they currently in and planning to complete, or just completed, a degree program in the U.S. prior to starting work at Southeastern?

□ Yes – Completing degree program at Southeastern □ Yes – completing degree program at another U.S. school
□ No □ Other

Hire Date (this is the date on the job offer letter not the date the person will begin work): ______________________

If this person is in a teaching position and you are planning to sponsor him or her for U.S. permanent residency (PR), please contact us as soon as possible regarding the PR application. In most cases, it must be filed within 18 months of the date of hire (job offer letter date).

Requested H-1B visa status start and end dates – important notes:

1. If the person is currently employed at Southeastern please use either the day after the current immigration status end date, or a date at least four months into the future, as the H-1B requested status start date.

2. Even for regular or permanent appointments that do not have an actual end date, please enter an end date of at least one academic year. For H-1B petitions, a maximum of three years is allowed if this position is annually renewable.

3. Once our paperwork is in process, it is difficult to change these dates. Please contact the ISO immediately if there will need to be a change to these dates.

H-1B Status Start Date: ______________________  H-1B Status End Date: ______________________

Is the duration of this employment ‘permanent,’ meaning an annually renewable or indefinite appointment, with no anticipated end date? □ Yes □ No □ Other: ________________________________

Hiring Department Data

Hiring Department Name: ________________________________

Name of Department Contact: ___________________________ Department Contact Email: ___________________________

Department Contact Phone: ___________________________ Department Contact Fax: ___________________________

Name of Person Supervising This Position: ________________________________

Job Title of Person Supervising This Position: ________________________________

Name of Dean, Department Head, or Director of Department: ________________________________

Campus Address of Department: ________________________________

Job/Position Information

Job/Position Title: ________________________________

Physical Street Address of Work Location (this must be the exact address where the employee will work):
Department Name ________________________________

(Continued on page 3)
Site of Work Street Address: ______________________________

City: ___________________________ County: ______________ State: _______ Postal Code: ________________

Is there only one work site?  ☐ Yes  ☐ No

If no, please list all additional work site addresses below:

1. ______________________________________________________

2. ______________________________________________________

3. ______________________________________________________

Please give a brief description, including primary responsibilities of the position. Specify any equipment to be used, and pertinent working conditions, if any.

________________________________________________________________________________________________________________________________________________________________________________________________________

________________________________________________________________________________________________________________________________________________________________________________________________________

________________________________________________________________________________________________________________________________________________________________________________________________________

Are there any working conditions that would affect the rate of pay?  ☐ Yes  ☐ No

If yes, please explain: ______________________________________________________

Does this job require any travel?  ☐ Yes  ☐ No

If yes, explain and detail how often: ______________________________________________________

Minimum educational requirement for the position: ______________________________

Required degree field, or area of specialization for this position: ______________________________

Is a second diploma or degree required for this position?  ☐ Yes  ☐ No

If yes, please list here: ______________________________

Is there any special training or licensing for this position?  ☐ Yes  ☐ No

If yes, please enter the number of months of training required and field/name of training required: ______________________________

The following questions pertain to any previous work experience required by this position. Please do not include required post-doctoral training as required work experience, as post-doctoral training is not considered actual work experience for the purposes of this visa sponsorship. Please only include previous work experience that is actually required by the job description and or the job posting. Do NOT include the actual previous work experience held by the employee.

Does this position require previous employment experience?  ☐ Yes  ☐ No

If yes, please enter the number of months and the occupation of previous work experience required: ______________________________

Number of employees supervised by this position: ___________ Is the position full time?  ☐ Yes  ☐ No

Is the position tenure-track, tenured, or otherwise permanent in nature?  ☐ Yes  ☐ No

Number of hours to be worked per week: _______ Hourly work schedule (general): Start (AM) _______ End (PM) _______

(continued on page 4)
The following questions relate to the funding source and amount for this position. For H-1B sponsorships, the international being sponsored must be hired or otherwise paid directly by Southeastern. For staff and scholar positions, this salary evidence is normally in the form of a hiring or appointment letter stating salary amount. If you have an appointment or hiring letter that indicates salary level, you may choose to attach this letter instead of filling out the following information.

Please answer only one of the following two salary questions, depending on whether your position is full-time or part-time.

H-1B Full-time Total Annual Salary: $______________

OR

H-1B Part-time Total Annual Salary: $______________

Is this position hourly paid?  □ Yes  □ No

Will this position be eligible for Southeastern employee benefits?  □ Yes  □ No

Please check all benefits for which the individual will be eligible:  □ Health Insurance  □ Retirement  □ Other (see below)

List any other bonuses, remuneration, or benefits:  ____________________________________________________________

Attestation

Please read the following attestation:

“To the best of my knowledge, I attest to the accuracy and truthfulness of all the information being submitted on this form. I have the authority from my department to request this H-1B visa sponsorship for an international employee. The job position for which sponsorship is being requested requires a minimum of a Bachelor’s degree in a specialty field. I also understand that there is no guarantee of approval for an H-1B sponsorship, and that the fees charged to the employee and/or department are fees for services pertaining to filing the case, not for an approved case. If there are any material changes regarding this employee’s employment status with Southeastern, I understand that: 1) any such changes may have an impact on our ability to continue with a sponsorship for H-1B status; and 2) failure to notify the ISO of any changes in employment may result in regulatory violations on the part of Southeastern and/or the international employee.”

Name (please print): ______________________________  Department: ______________________________

Signature: ________________________________________  Date: ________________