

# **ACU Guidelines**

## **Sponsoring Applications for H-1B Status**

Effective Date: May 2012  
Last Reviewed: May 2018

## **I. Introduction**

According to the United States Citizenship and Immigration Services, the H-1B is a nonimmigrant classification used by an alien who will be employed temporarily in a specialty occupation. A specialty occupation requires theoretical and practical application of a body of specialized knowledge along with at least a bachelor's degree or its equivalent. For example, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts are considered to be specialty occupations. There is an annual quota for the H-1B visa status. As an institution of higher education, Abilene Christian University (ACU) is exempt from the H-1B visa cap.

If a prospective ACU faculty/staff member wishes to obtain an H-1B visa, he/she must go through a multi-step process in conjunction with the hiring department, which will coordinate with the Office of General Counsel. ACU shall not allow the nonimmigrant worker to begin work until the U.S. Citizenship and Immigration Services (USCIS) grants the worker authorization to work in the U.S. for the University. In the case of a nonimmigrant who was granted H-1B status at another employer (and is changing employment to the University), the worker may not begin work until the University files a petition supported by a certified Labor Condition Application (LCA) and the University has obtained Form I-797, Notice of Action, Receipt Notice from the USCIS.

ACU will maintain documentation to support the statements made in its LCA and the accuracy of information provided, in the event that such statement or information is challenged. This documentation will be made available to the Department of Labor (DOL) upon request.

## **II. H-1B Visa Process and Procedures**

As indicated above, an ACU staff/faculty applicant wishing to obtain the H-1B visa must go through a multi-step process. This process is now presented in the order of actions that need to be followed.

1. H-1B status requires a sponsoring U.S. employer – ACU in this case. The University, with the University's designated immigration attorney, will file the LCA (officially designated as Form ETA 9035E) with the DOL.
  - a. The hiring department will document the exact duties of the position, the dates of employment, and information regarding the supervisors and co-workers of the applicant. This hiring department will also document the responsibilities, skills and experience needed for the job.
  - b. ACU, with the University's designated immigration attorney, will complete a form provided by the Department of Labor in order to determine the prevailing wage for the position. The actual wage is determined by comparing other workers in the same positions with the same level of experience
  - c. The Office of General Counsel, working with the University's immigration attorney, will then file the LCA and the supporting documentation with the DOL. This information will be made available for public examination at the University within one working day after the date on which the LCA is filed.
  - d. When the LCA is approved, the Department of Labor (DOL) will return a certified copy to the University.

2. The Office of General Counsel, working with the University's designated immigration attorney, will then file the petition (Form I-129) requesting H-1B classification.
  - a. The Office of General Counsel and the attorney will compile the package that includes the certified LCA, form I-129, education & experience evaluation & documents, training certificates, professional memberships, resume, employment agreement and ACU's letter of support for the petition.
  - b. The Office of General Counsel will keep the LCA in its public file and provide a copy to the applicant for whom the LCA supports their visa.
  - c. The University will be sent a receipt by the USCIS Service Center which bears a 9 digit reference number pertaining to that particular petition, H-1B processing times and general information about the applicant. This is the University's confirmation that the petition is in the adjudicating queue.
  - d. This process may take 3-4 months. If the University can demonstrate a substantial need for the prospective employee, the University can request expedited processing, which requires an additional processing fee to the USCIS.

### **III. Costs and Fees**

ACU will assist the applicant with documentation to support the application process with the assistance of the University's designated immigration attorney. The University will also bear the I-129 base filing fee as well as the Anti-Fraud Fee imposed on initial H-1B Petitions by the USCIS. Application fees are subject to change and should be reviewed at the USCIS web site. The University will also be responsible for all legal fees. The prospective staff/faculty member is responsible for expedited processing fees, and other related expenses unless approval has been granted by the appropriate administrator of the hiring department prior to the expense being incurred.

#### Disclaimer:

*The information contained in this handout is intended for the general, informational use by members of the ACU Community and may not be construed as legal advice.*