

H-1B DEPARTMENT REQUEST

The H-1B Temporary Worker Visa

The H-1B visa category is designated for individuals coming temporarily to the U.S. to perform services in a *specialty occupation* which is defined as *an occupation which requires theoretical and practical application of a body of highly specialized knowledge, and attainment of a bachelor's or higher degree for the specific specialization (or its equivalent in experience)*. **Please complete the following Department Request for H-1B petition.**

The Department of Labor (DOL) is involved with the H-1B visa application and employers bear a certain liability when filing H-1B petitions. Employers must make attestations about the wages for H-1B positions and they must guarantee the return fare home if an H-1B's employment is terminated before the end of the period of authorized stay. Willful violation of the regulations can result in MCG being fined and prevented from filing H-1B and permanent residence petitions for one year.

A Labor Condition Application must be filed and approved by the Department of Labor and posted within the MCG department before an H-1B petition can be filed with the DHS Service Center in Texas. The Labor Condition Application requires that departments certify that the salary being paid by the department to the H-1B applicant is the **higher** of the **prevailing and actual wage**.

- **The prevailing wage** is the average of the rate of wages paid to workers similarly employed in the area of intended employment. Similarly employed means having substantially comparable jobs in the occupational classification in the area of intended employment. The University uses prevailing wage determinations provided by the State Employment Security Agency (SESA), since it is the one authoritative source not subject to challenge by the DOL. MCG will not file H-1B petitions for positions that do not meet the prevailing wage as determined by SESA.
- **The actual wage** level is that paid by the employer to all others in the department with similar qualifications and experience as the H-1B worker for the specific employment in question at the place of employment. **Please complete the following Actual Wage Calculation Form.**
- The initial H-1B visa may cover a period of up to three years. It may be extended thereafter for three more years. The maximum amount of time allowed an H-1B worker is a total of six years. This six-year limit includes prior time spent at another U.S. institution in H-1B status, although it is possible to start the clock again if an individual spends at least one year outside the U.S.
- Once a scholar is in H-1B visa status at MCG, the IPSO must be informed in writing of any substantial changes in the scholar's employment, such as a new location, different duties, or change in the source of funding. The University may be required to file a new Labor Condition Application and an amended visa petition.
- The H-1B visa is an employer-specific visa. Since it is possible to be employed in a part-time position as an H-1B visa holder, a scholar holding appointments at two or more institutions would need an approved H-1B petition from each employer.
- The dependents of an H-1B visa holder are classified as H-4's and are not eligible for employment under any circumstances.

DEPARTMENT REQUEST FOR H-1B PETITION

This form should be completed by the MCG department that wishes to use the services of the International and Postdoctoral Services Office (IPSO) to hire a nonimmigrant specialty worker. After completing this form, please fax it to IPSO at 1-9517.

Name of employee _____
Family First Middle

I. Biographical Information

Phone: _____ Email: _____ Fax: _____

Date of birth: _____ Male _____ Female _____ Home Country _____
Month/Day/Year

Social Security #: _____ Currently in U.S.: yes no

Has the Office of Student Diversity (1-2821) been contacted regarding the possibility of using the J-1 Exchange Visitor Scholar Status? _____ Yes _____ No

Current Visa type: _____ This application is for: _____ initial MCG H-1B petition
_____ extend previous MCG petition

Number of Dependents in the U.S.: _____ Highest Degree Received: _____

Primary Field of study: _____ School Name: _____

II. Employment Information

Department Name: _____ Job Title: _____

Has this position already been classified? Yes No

Supervisor Name: _____ email: _____ phone: _____

Administrative Contact Name: _____ phone: _____

Hours per week: _____ Annual Salary: _____ Eligible for MCG Benefits: yes no

Location where employee will be working: _____

Number of employees this position will supervise: _____

This position requires a state license or other certification: yes no

Detailed Description of Duties:

General (layman's) Description of Duties (6 words or less): _____

What are the minimum requirements for this position?

NOTE: Please attach a copy of the prospective employee's C.V.

Requested beginning date for H-1B Status: _____

(Minimum of three months from today's date)

Month/Day/Year

Requested ending date for H-1B Status: _____

(Maximum total time of three years)

Month/Day/Year

Department Manager Signature

Date

Department Chair Signature

Department Chair Name

Date

Actual Wage Calculation Form

Instructions

Before an employer may submit an H-1B petition on behalf of an employee, U.S. law requires that the employer must document that the employee will be paid the “actual wage” for the position. The employee will be considered to be receiving the “actual wage” if the salary falls within or above the range of wages currently paid to comparable employees in the same department. “Comparable” employees are defined as those with similar background and similar job responsibilities.

To document the actual wage, the sponsoring Department is requested to list on the attached form all other persons currently employed in the department with the same job classification as the potential H-1B employee. Indicate which of these are to be considered comparable. If not comparable, specify the reason. An example is given to demonstrate the format.

(Departments may choose to develop a computerized list of similarly employed individuals to attach to the form, containing the information requested on the form.)

If the prospective H-1B employee's salary does not fall within or above the range of salaries of the comparable employees, MCG will not be able to submit an H-1B petition for the prospective employee.

The U.S. Department of Labor states that only certain criteria may be used to eliminate other employees from comparison.

Valid criteria for stating that another employee is not comparable:

- ❖ A current employee has more relevant work experience than the prospective H-1B employee
- ❖ A current employee has more responsibility with regard to tasks or supervisory responsibilities.
- ❖ A current employee has better educational credentials
- ❖ A current employee does not work the same number of hours per week

Non-Valid Criteria are as follows:

- ❖ A current employee is funded by a different grant
- ❖ There are not enough funds in grant
- ❖ Current employee demanded more salary
- ❖ Different area of research
- ❖ Salary freeze

If there are currently no employees within the department that have the same job title nor have job responsibilities that are comparable with the prospective H-1B Employee, the Actual Wage will be the wage that is offered by the hiring unit to the prospective H-1B employee.

Please complete the attached Memorandum, which will be stored with the Labor Condition Application and made available for public inspection in accordance with federal regulations.

If there are any questions, please contact Adriana Miranda in the International and Postdoctoral Services Office at 1-0670, amiranda@mail.mcg.edu

Actual Wage Calculation Form

Name of H-1B applicant: _____

Job Title: _____ Salary: _____

Brief Description of job duties:

List **all** employees in the department who hold the same title and perform essentially the same tasks as the H-1B applicant

NAME	SALARY	COMPARABLE?		IF NOT COMPARABLE, WHY?
		YES	NO	
		YES	NO	
		YES	NO	
		YES	NO	
		YES	NO	
		YES	NO	
		YES	NO	
		YES	NO	
		YES	NO	

Currently, no employees within this department have the same job title nor have job responsibilities that are comparable with the prospective H-1B Employee.

I certify that the above information is true and correct.

Department Manager Signature

Department Manager Name

Date

Actual Wage Calculation Form

Name of H-1B applicant: Ming Chen

Job Title: Postdoctoral Fellow Salary: \$31,000

Brief Description of job duties:

Conduct research on basal cell structures in brain development using mouse model; responsible for mouse colony; publish findings.

List **all** employees in the department who hold the same title and perform essentially the same tasks as the H-1B applicant

NAME	SALARY	COMPARABLE?		IF NOT COMPARABLE, WHY?
		YES	NO	
Anne Q. Researcher	\$35,120	YES	NO	More experience
John R. Employee	\$32,010	YES	NO	
Ahmed E. Compare	\$34,000	YES	NO	
Robert S. Parttime	\$16,217	YES	NO	Does not work full-time
Antonio M. Solo	\$29,166	YES	NO	
Alejandra T. Genius	\$45,932	YES	NO	More experience (4 yrs postdoc, 20 published articles)
Yin P. Expert	\$37,345	YES	NO	More experience
		YES	NO	

Currently, no employees within this department have the same job title nor have job responsibilities that are comparable with the prospective H-1B Employee.

I certify that the above information is true and correct.

Department Manager Signature

Department Manager Name

Date

MEMORANDUM

Memorandum to the Labor Condition Application File

RE: _____
(Job Title)

in the Department/Institution/Center of _____

In this department there are _____ (#) other employees with the title and job duties of the position listed above.
The wage range for these employees is:

\$ _____ to \$ _____

An individual salary is determined by taking into account the factors listed below (check all that apply):

- _____ Education, degree(s) earned
- _____ Experience
- _____ Job responsibilities
- _____ Specialized knowledge relevant to the field
- _____ Other legitimate business-related factors (please list):

I hereby certify that the wage information listed above reflects the wages paid to all other individuals with similar qualifications and responsibilities working in this department. I am able to explain any wage difference based on the criteria listed above.

Signature of Department Manager

Date

PLEASE COMPLETE AND RETURN TO IPSO