



H A R V A R D | B U S I N E S S | S C H O O L

H-1B Visa Overview for Leadership Fellows Organizations

F-1 Optional Practical Training & J-1 Academic Training

Optional Practical Training (OPT) is a benefit available to international students who hold F-1 status. Most international students participating in the Leadership Fellows program will use OPT for the fellowship year. OPT provides individuals with up to 12 months of U.S. work authorization. A student does not need a job offer in order to apply for OPT but s/he must apply for the benefit with the U.S. Citizenship and Immigration Services (USCIS). Students in J-1 status are eligible for up to 18 months of Academic Training.

OPT will provide a Fellow with a full 12 months of U.S. work authorization, but the period of work authorization can begin no earlier than May 26, 2011 and start no later than July 25, 2011. Therefore, if your organization intends to have the Fellow begin employment after the later date, you will need to secure H-1B status so the Fellow will have U.S. work authorization for the full 12 month period of the Fellowship program.

Overview of the H-1B Visa Classification

The H-1B visa category is the most common employment-based non-immigrant visa status for HBS graduates. In most cases this is a noncompetitive visa classification so employers do not need to test the U.S. labor market before filing petitions on behalf of their employees. International students who cannot use OPT for the full fellowship period may need to secure H-1B status, or another nonimmigrant status, to participate in the Leadership Fellows program.

The Annual H-1B Cap

Each fiscal year (October 1 to September 30) there is a Congressionally-mandated cap of 85,000 new H-1B visa numbers that are granted. This includes 65,000 traditional H-1Bs and 20,000 set aside for advanced degree holders from U.S. universities. In previous years, demand for H-1B numbers has been high, resulting in the exhaustion of H-1B numbers many months before the end of the fiscal year.

April 1st Filings

The earliest date an H-1B petition may be filed is six (6) months before the intended employment start date. As a result of this timing, most employers file petitions on April 1, six months before the start of the fiscal year (October 1). Although demand for H-1B numbers over the past two years has been down, if your organization will need to file an H-1B petition on behalf of the Fellow, you should consider filing its H-1B petition on April 1, 2011 to avoid a potential gap in employment. Regardless of when you file an H-1B petition, the majority of HBS students can begin working as Leadership Fellows using a grant of OPT or AT.

Cap Exempt Petitions

Some H-1B petitions are not subject to the annual H-1B cap because:

1. the employer is exempt from the numerical quota; *or*
2. the employee has already been counted against the cap in the past.

Cap-exempt organizations

An H-1B cap exemption exists for petitions that are filed for new employment at:

1. colleges / universities, or affiliated nonprofit entities;
2. nonprofit research organizations; *and*
3. government research organizations.

Determining who has been counted against the cap in the past

If an individual held H-1B status at any time during the previous six (6) years, s/he is not subject to the cap again. For example: If a graduating student worked in H-1B status then changed to F-1 status to attend HBS in September 2009, s/he is eligible to resume H-1B status with any employer anytime after graduation.

Estimated Costs

- USCIS Filing Fees: \$820
- USCIS Data Collection Fee: \$750 (<25 FTE) or \$1,500 (>25FTE). This fee is not required for cap-exempt organizations
- Legal Fees: \$2,000 to \$3,000 (estimated)

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