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H-1B VISA (Speciality Occupation)

Overview

The H-1B visa, or person in specialty occupation visa, is available to foreign nationals working in a specialty occupation. Specialty occupations include fashion models of distinguished merit and ability, people working in government-to-government research and development, and people working in coproduction projects that the Department of Defense administers. The H-1B visa requires a higher education degree. An H-1B visa allows you, a foreign national, to stay in the U.S. for a period of up to three years, and this period of stay may be extended to a total of six years. Spouses and unmarried children who are under 21 years of age may seek admission to the U.S. in the H-4 nonimmigrant classification, under which they may not engage in employment in the United States. The cap on the number of H-1B visas per fiscal year is 65,000, with 6,800 reserved for Chile and Singapore, for certain programs.

Requirements

The H-1B visa requires a higher-education degree.

A) A specialty occupation must meet the following criteria:

- 1) It typically requires a bachelor's or higher degree or its equivalent as the minimum entry requirement;
- 2) The degree requirement for the job is common to the industry or the job is so complex or unique that it can be performed only by an individual with a degree;
- 3) The employer normally requires a degree or its equivalent for the position; and
- 4) The nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree.

B) The individual who qualifies to accept a job offer in a specialty occupation must meet one of the

following criteria:

- 1) Have completed a U.S. bachelor's or higher degree required by the specific specialty occupation from an accredited college or university;
- 2) Hold a foreign degree that is the equivalent to a U.S. bachelor's or higher degree in the specialty occupation;
- 3) Hold an unrestricted state license, registration, or certification, which authorizes the applicant to fully practice the specialty occupation and be engaged in that specialty in the state of intended employment; or
- 4) Have education, training, or progressively responsible experience in the specialty that is equivalent to the completion of such a degree, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

Limitations

A) An H-1B visa allows a foreign national to stay in the United States for a period of up to three years. This period of stay may be extended to a total of six years, which may only be increased for some exceptions.

B) Spouses and unmarried children who are under 21 years of age may seek admission to the United States in the H-4 nonimmigrant classification, under which they may not engage in employment in the United States.

C) The cap on the number of H-1B visas per fiscal year is 65,000, with 6,800 reserved for Chile and Singapore, for certain programs.

1) The first 20,000 petitions filed on behalf of beneficiaries with a U.S. master's degree or higher are exempt from the cap. So are H-1B workers who are petitioned for or employed at an institution of higher-education or its affiliated or related nonprofit entities, a nonprofit research organization, or a government research organization.

Procedure

A) Step 1 (only required for specialty occupation and fashion model petitions): Employer submits labor condition application to the Department of Labor (DOL) for certification.

B) Step 2: Employer submits completed United States and Immigration Services (USCIS) form and includes certified labor condition application.

C) Step 3: Prospective workers outside the United States apply for an H-1B visa and/or admission with the U.S. Department of State (DOS) at a U.S. embassy or consulate abroad.