

# FGI

FAKHOURY GLOBAL  
— IMMIGRATION —

A LEADER IN BUSINESS-BASED GLOBAL IMMIGRATION



# Agenda

- H-1B Status from an Employer's Perspective
- Changes in employment
  - Changes in Work
  - Changing Employers
- Transitioning out of H-1B Status
  - Obtaining Permanent Residency in the U.S.
  - Ending employment in the U.S.

# H-1B Status – An Employer’s Perspective

- **What it is:** The H-1B category, is a temporary, employment-based visa that allows foreign nationals to work in the U.S. in positions that are “Specialty Occupations.”
- **Who is Eligible:** Any foreign national with a U.S. Bachelor’s degree, or the equivalent, in a field required by the specialty.
- **How to Qualify:** The employer must demonstrate that the position offered is that of a Specialty Occupation, that the work is available for the duration of the requested validity period, and that the foreign worker is qualified for the position.
- **How Long is it Good For?** The maximum is six (6) years and is given in increments of up to three (3) years, unless an exception applies.

# H-1B Status – An Employer’s Perspective Process Overview

1. Case Initiation/Document Collection
2. Filing of the Labor Condition Application (LCA)
3. Preparation of the Petition for a Nonimmigrant Worker (Form I-129)
4. USCIS Review
5. Request for Evidence (RFE)
6. Adjudication

# H-1B Status – An Employer's Perspective

## How to Maintain Status

- Work with the sponsoring employer in the position outlined in the Petition for Nonimmigrant Worker (Form I-129).
- Notify your employer of any changes to your employment **prior** to them occurring.

# Changes in Employment –Types

- **Changes with Current Employer:**
  - **Material** changes with your current employer;
  - **Non-material** changes with your current employer;
- **Adding an Employer:**
  - **Concurrent** employment;
- **Changing Employers**

# Changes in Employment – Material Changes

- **Types:** Changes in work location, major changes in role, multiple minor changes.
- **Required Action by Employer:** Notify the USCIS of the change. If it is a change in work location it *must be done prior to moving to the new location*.
- **Required Action by Employee:** Notify your employer of any major change *before* it takes place.

# Changes in Employment – Non-Material Changes

- **Types:** A minor salary increase to account for higher cost of living, a change of title due to company realignment or minor promotion, etc.
- **Required Action by Employer:** Notify the USCIS of the change at the time of the next H-1B filing.
- **Required Action by Employee:** In the event there are multiple changes at one time, or are unclear if the change is material, notify your employer's immigration team.

# Changes in Employment –Concurrent Employment

- **What it Is:** Concurrent employment, is working for an entity, other than your sponsoring employer. This is allowed as long as (1) the position is in a specialty occupation that you are qualified for and (2) the new employer *prior* to starting work.
- **Required Action by Employer:** No action is required by your current employer.
- **Required Action by Employee:** The new employer **must** file a H-1B petition on your behalf **before** you join.

# Changes in Employment – Changing Employers

- **Required Action by Employer:** The new employer will need to file its own Petition for Nonimmigrant Worker (Form I-129) with the necessary documentation with the USCIS.
- **Required Action by Employee:** Once the petition is filed with the USCIS the employee may begin employment with the new sponsoring employer.

## Ending H-1B Employment

- Changing Employers
- Changing to a Different Nonimmigrant Status
- Obtaining Permanent Residency
- Termination by H-1B Employer

# Ending H-1B Employment – Changing Nonimmigrant Status

- **Eligibility:** Sometimes you can be eligible for multiple statuses.
- **Timing:** Unlike changing H-1B employers, a change of status does not go into effect until approved by USCIS or re-entry in the U.S. in the new status.
- **What to Consider:** What your intent, or purpose is, what the different classifications offer by way of the duration you can remain in the U.S., and what your long-term goals are among others.

# Ending H-1B Employment – Obtaining Permanent Residency

- **How:** There are multiple avenues. Examples: An employer may sponsor you; a family member may sponsor you; you may sponsor yourself; or you make an investment in the U.S.
- If you are in the U.S. and have maintained your status, you can file an Application to Register Permanent Residence or Adjust Status (Form I-485). If you are outside the U.S., or do not wish to file an adjustment of status, you can apply for an immigrant visa via consular processing.

## Ending H-1B Employment - Termination

- **Employer's Obligations:** The H-1B employer is "liable for the reasonable costs of return transportation abroad" if the H-1B worker's ended prior to the end-date on the Petition for Nonimmigrant Worker (Form I-129).
- **Employee's Rights:** If the H-1B worker wishes to remain in the U.S., the regulations provide a sixty (60) day grace period to secure a new H-1B employer or to file an Application to Extend/Change Nonimmigrant Status (Form I-539) an change to a different nonimmigrant classification.

**Questions  
&  
Answer**

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