

H-1B VISA REGULATIONS AND VIOLATIONS

This one-page document details basic H-1B visa regulations for UC Merced and the H-1B scholar to remain compliant. There are penalties for violations of H-1B visa regulations. Following the guidelines below will help avoid unnecessary issues, avoid possible financial penalties and disqualification from filing future petitions.

H-1B VISA REGULATIONS

- Pay the H-1B worker the “required wage rate” applicable to each permanent work site;
- Offer the H-1B worker the same working conditions and fringe benefits that are offered to similarly employed U.S. workers;
- Not employ an H-1B worker where there is a strike/lockout in progress in the worker’s occupation;
- Notify workers or their bargaining representative of the intent to employ an H-1B worker at any location where other workers are in the same occupational classification for which an H-1B worker is sought or placed;
- Provide a copy of the LCA to each H-1B worker;
- Not allow or require the H-1B worker to pay the Department of Homeland Security’s U.S. Citizenship and Immigration Services (USCIS) petition filing fee or other related fees;
- Not require the H-1B worker to pay any early cessation penalty;
- Not retaliate or discriminate against any worker who (a) discloses information that (the worker believes) shows a violation of this program or (b) cooperates with any proceeding concerning the employer’s compliance with this program;
- Provide the H-1B worker with payment for all work-related expenses; and
- Notify USCIS of any changes in the H-1B nonimmigrant’s work status (e.g., wherever the Department of Labor requires a new LCA or when the work is terminated, whatever the reason is).

VIOLATION PENALTIES

Disqualification from approval of petitions

Civil Money Penalties for violations pertaining to the following:

- Displacement of U.S. workers
- Payment by the employee for H-1B fees
- Notifications (posting notices) on filing labor condition application
- Misrepresentation of material facts on the labor condition application
- Strike/lockout
- Prevailing Wages/Working Conditions
- Early termination of an H-1B nonimmigrant
- Payment of back wages or fringe benefits to any H-1B nonimmigrant who has not been paid or provided fringe benefits as required by law

NOTIFY OIA BEFORE IT HAPPENS

- Any change of worksite location outside of the counties listed on the employee’s labor condition application
- Any material changes with the employee’s department, job duties, salary, title, hours
- Early termination
- H-1B extension requests 6 months before expiration

Link to employer obligations web page:

<https://iss.ucmerced.edu/ucm-departments/h-1b/employer-obligations>

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