

Planning and timing requirements for hiring foreign-born teachers or professors

Increasingly in the US, school districts are having difficulty finding and hiring qualified and dedicated teachers or professors, especially those with skills in mathematics, science and foreign languages. Often school districts look to foreign sources for the teachers or professors they need. While there are many qualified foreign teachers or professors who desire to come to the US to live and work, the rigorous requirements imposed by the US Citizenship & Immigration Service (CIS) create significant administrative burdens for the district. In addition the duration of the immigration process requires advanced planning. Given other priorities, Human Resource managers may forgo this valuable resource because it is impractical to manage, direct or complete the complex immigration process required by law.

It is our intent to “simplify”, through the information provided herein, the complex immigration process and to provide a workable schedule for most school districts to follow. While this information is intentionally general, we strongly encourage you to call us (1-800-437-7313) to discuss the specifics of your situation. Additionally, you can visit <http://www.immigrationsupport.com> to initiate a visa or simply to obtain more information.

Where do I begin?

The process to hire a foreign-born teacher consists of four steps.

1. Identify, qualify and recruit the candidates that meet your specific requirements,
2. Obtain a License, if required by your State, for the Candidate,
3. Obtain the required visa approvals from the CIS and have the candidate obtain a visa from the US Consulate in their home country,
4. After their arrival in the US, conduct orientation of the new teachers and place them in the classroom.

Given your other responsibilities and duties, completing all of these steps, without professional assistance, may prove very difficult. That's where **Immigration Support Services (ISS)** comes into the picture.

ISS provides all visa petition preparation documents, including but not limited to:

- Direct communication with the alien, whether in the U.S. or in a foreign country. This reduces the HR department's need to collect, assemble and forward paperwork and data.
- Preparation and submission of Department of Labor (DOL) Labor Certification Applications. This service can include selecting salary surveys or determining SESA prevailing wages.
- Preparation of company support letters. The final copies of all company support letters must be printed on company letterhead and signed by an official of the firm.
- Translation and certification of foreign degrees to determine the equivalency to American technology degrees.
- Preparation of experience histories to compensate for any lack of formal education. Typically the CIS requires at least three years of experience for each year of formal education that is lacking.
- Preparation of all aspects of CIS form I-129 including Supplement H.
- Preparation of all aspects of CIS form I-129 W
- Submittal and tracking of a complete H-1B petition.

An Overview of the Requirements for an H-1B.

The "Specialty Occupation Visa " or H-1B visa is available to individuals with a four-year bachelor's degree from the U.S. or abroad, seeking a position with a United States school district and defined as a "Specialty Occupation". Since the position of teacher or professor requires a 4-year bachelor's degree and the application of theoretical knowledge, they are eligible for this visa. Additionally the CIS requires all teachers to have all necessary licenses required by the State in which they plan to teach. The visa is available for a maximum of six years and also can lead to permanent residency (Green Card).

Basic Requirements Summary

The H-1B visa allows a teacher/professor from abroad to be employed by a U.S. educational institution (the Petitioner). The fundamental requirements for these positions are:

1. The **position** must qualify as a "specialty occupation". The CIS defines a "specialty occupation" as one that requires the teacher or professor to have and use theoretical knowledge about the discipline involved and one that requires all holders of the position to have at least a 4-year college degree. Teachers or professors qualify.
2. The **candidate** must possess the equivalent of at least a U.S. Bachelors Degree in a field required by and closely allied to the specific occupation. Relevant, progressive and pertinent experience may, in some cases, substitute for formal years of education.
3. **State Certification or Licensing**
4. If your State requires teachers to have a license to teach or to have their educational credentials validated by an authorizing agency, this process should be completed **prior** to our submitting the H-1B petition to the CIS. It is a mandatory requirement to complete this process and receive all required certification **before** the CIS can approve a petition.

An H-1B teacher or professor may remain in the United States up to 6 years (two 3-year terms).

The spouse and dependant children of an H-1B holder are provided with an H-4 visa. H-4 visa holders may not work in the US but may attend school. The dependants must show proof of the qualifying relationship (e.g. Marriage or Birth Certificate) to obtain the H-4 visa. The H-4 Visa is valid for the term of the primary H-1B visa holder.

School district requirements:

1. Qualifications

The school district must be a US elementary, high school, post secondary institution, or seminary with a Federal ID number (e.g. 12-1234567).

2. Labor Condition Application

The school district must pay the foreign-born teacher or professor the necessary prevailing wage for the position in the area of the country where the alien will work. (ISS will perform the required analysis to determine the prevailing wage for you.)

3. Other School district Obligations

The school district must maintain wage and hour records, as well as information concerning working conditions for all similarly situated teachers or professors. Upon request, these records must be provided to Department of Labor (DOL) Wage and Hour Division. (ISS will provide the School District with the required forms and instructions to meet this requirement.)

Special Candidate requirements:

The teacher or professor must prove that he or she is qualified (may require State Certification) for the specialty occupation and the specific job offered by the school. If your State requires teachers to have a license to teach or to have their educational credentials validated by an authorizing agency, this process should be completed **prior** to our submitting the H-1B petition to the CIS. It is a mandatory requirement to complete this process and receive all required certification **before** the CIS can approve a petition. Additionally, the teacher or professor must be able to show that his or her foreign university degree is the equivalent to a U.S. degree by obtaining an evaluation of his or her education. (ISS will provide the required evaluation if State credential evaluation is not required. Many State certifications are often more rigorous than that required by the CIS and therefore, if obtained, eliminates the need for any additional credential evaluation.)

If the worker is in the U.S. and currently holds a valid nonimmigrant visa status, he or she may be authorized to change status to an H1-B visa. For example, if the candidate is in lawful student status (F-1) the worker may seek a change from F-1 to H-1B. This change only gives the person the ability to work in the U.S. for the sponsoring school district. If the worker needs to travel abroad, he or she will need to apply for an H1-B visa at a U.S. Consulate. Workers not in lawful status in the U.S. or those residing abroad, apply for an H1-B visa at a U.S. Consulate.

Validity Term

The H-1B is a temporary visa with specific limitations on periods of stay in the United States. The initial petition may be approved for up to three years. After the initial period, three additional years are available. Under very strict conditions, if the candidate has successfully completed certain parts of a Permanent Resident petition (Green Card) it is possible to extend the H-1B status, in yearly increments, beyond the 6 year limit, until the Green Card is approved.

The school district must update or re-file the LCA and must file H1-B petition extensions. After six years, the worker must spend one year outside the United States before he or she is entitled to have another H1-B visa.