



H-1B Visa

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H-1B visa holders in the US are facing problems in switching jobs even if the new job is similar to the old and requires the same exact skill sets.

- The US citizenship and Immigration Services (USCIS) has denied several applications by the new employer by citing that the new position does not constitute a 'specialty occupation'.
- The US H-1B visa is a **non-immigrant visa** that allows US companies to employ graduate level workers in specialty occupations. **Speciality occupations** requires
 - **Theoretical or technical expertise** in specialized fields such as in IT, finance, accounting, architecture, engineering, mathematics, science, medicine, etc.
 - Any professional level job that usually requires you to have a bachelor's degree or higher can come under the H-1B visa for specialty occupations.
- If the H-1B holders starts working elsewhere and the transfer is denied, the person could be 'out of status' with a bar on entry into the US for three to ten years, unless the old employer is willing to take back the worker.
- The US H1-B visa is designed to be used for staff in specialty occupations. The job must meet one of the following criteria to qualify as a specialty occupation:
 - Have a minimum entry requirement of a Bachelor's or higher degree or its equivalent.
 - 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.
 - The employer normally requires a degree or its equivalent for the position.
 - 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.
- H-1B visa holders can bring their spouse and children under 21 years of age to the US under the H-4 Visa category as dependents. An H4 Visa holder is allowed to remain in the US as long as the H-1B visa holder remains in legal status.

While, an H-4 visa holder is not eligible to work in the US, they may attend school, obtain a driver's license and open a bank account while in the US.

Capping on Visa

- USCIS sets a limit on how many H1B visas are issued each year.
- These numbers can change as per regulations of the US government. Historically, the cap is placed at 65,000.
- An additional 20,000 H1B visas are issued for qualified people who have completed a Masters degree from USA. This quota is independent and additional to general 65,000 quota.
- It is done through lottery process.
- Employer prefer H1B visa because applying for a non-immigrant visa is generally quicker than applying for a US Green Card, therefore the H-1B visa is popular for companies wishing to bring in staff for long-term assignment in the US.
- However, because of the lack of available visas employers frequently have to look at applying for other visa categories such as:
 - L-1B for specialized workers
 - L-1A for managers and executives
 - E-2 Treaty Investor visa
 - E-1 Treaty Trader visa
 - E-3 for Australians etc.

Significant changes introduced to H1B visa

- US says H1B visas will be issued to only the most-skilled foreigners or highest-paid beneficiaries
- In July 2018, USCIS adjudicators granted right to reject H1B applications that do not provide the necessary required information when submitted.
- In October 2018, The US initiates deportation of H1B holders with expired visas.
- In October 2018, The US proposes revision of “specialty occupations” definition for the H1B visa.
- In Jan 2019, The USCIS announces it will require petitioners seeking to file H1B cap-subject petitions to first electronically register with USCIS.