

## TRAVEL FOR INTERNATIONAL FACULTY

When planning travel outside the U.S., it is essential to make sure you have the proper documents prior to leaving the country. The U.S. government has imposed strict visa issuance and admission policies and has granted immigration and consular officers broad authority to initiate lengthy background and security checks, conduct personal interviews with visa applicants, and closely scrutinize documents at the port of entry. Heightened security checks are possible at each stage of travel. The following information should assist you in making the necessary arrangements.

Keep in mind that if you are traveling to a country other than your home country, you may need a visa to enter that country. Information on foreign embassies in the US is available at: <http://www.embassy.org/>.

### Travel Documents and Passport Validity

Well in advance of traveling internationally, you should verify that your passport and visa are valid for reentry into the U.S. Details follow regarding the documents necessary for each visa type. Your passport should be valid for at least six months beyond the expiration of your period of admission to the U.S., although some countries have a treaty with the U.S. whereby a passport is considered to be valid for an additional six months past its expiration date.

In addition to the following documentary requirements for each visa category, all non-immigrants should carry the following documents when traveling internationally:

- original U. S. Citizenship and Immigration Services (USCIS) Form I-797, Approval Notice of H-1B, or the endorsed DS-2019 for J-1s and J-2s;
- a recent letter from UW-L Human Resources verifying employment;
- two most recent paycheck stubs;
- employer identification (UW-La Crosse employee ID card);
- passport that is valid for **at least six months** beyond the date of anticipated stay in the US;
- valid un-expired visa (unless visa exempt, such as Canadians).

### Visa Issuance at U.S. Consulates

If a new visa stamp will be needed for re-entry, it is essential to contact the US consulate ahead of time to verify the specific documents they require, as different consulates have different requirements. Also, all consulates now must conduct personal interviews with all visa applicants. Interview waivers are granted only in very limited cases, such as for

applicants who are under age 16 or over age 60, and applicants for revalidation of a visa in the same classification which expired less than 12 months prior to the application. This is causing extensive delays at many consulates. An appointment for an interview should be scheduled as far in advance as possible. Contact information for US consulates can be found at: <http://usembassy.state.gov/>. Information on the wait time to schedule an interview appointment at a specific consulate can be found at: [http://www.travel.state.gov/visa/tempvisitors\\_wait.php](http://www.travel.state.gov/visa/tempvisitors_wait.php).

Security clearances are also exacerbating delays. Every application is run through a name check. People with common names such as Smith, Yang or Gonzalez may find their applications take longer, as their name may trigger an alert that the authorities need to pursue further. Background information also may delay the application, including: foreign travel history, education, military service, weapons and combat training, membership and contributions to charitable organizations, and other details.

Since October 2004, all consulates have implemented a biometrics requirement on visa applications. All applicants undergo digital photography and fingerprinting. At the US port of entry, the biometrics will be read by a scanner. See US-VISIT information on the IFSS web: <http://www.ohr.wisc.edu/ifss/imminfo/US-VISIT.doc>.

### **Entry into the U.S.**

Non-immigrants and even permanent residents are likely to face substantial delays when entering the US, as government officials are subjecting documents to much greater scrutiny. Your identity and the validity of your visa will be checked against law enforcement databases. Non-citizens should schedule ample time between their arrival time in the US and any connecting flights.

It is more important than ever to have all necessary documents when applying for entry to the US. Customs and Border Protection (CBP) is being much less lenient when a document is missing or expired. They will no longer parole a person into the US to get it straightened out. Inspectors at the port of entry no longer have parole discretion and they do have full authority to deny entry to those who do not possess all necessary documentation. Even minor technical deficiencies can result in the traveler being denied entry and having to return home.

**You should also check the expiration date of your I-94 (and information on new visa, if applicable) every time you re-enter the U.S. before leaving the Immigration inspection area to be sure it is correct. Also check the I-94s of any dependents traveling with you as well as those who travel separately to be sure they were admitted for the duration of the principal's stay.**

## **Travel While in H-1B Status**

### **Documents needed for entry into the U.S. in H-1B (when have current visa)**

- valid passport
- valid visa
- valid I-797 Notice of Approval
- recent letter from UW-L Human Resources confirming on-going employment which includes position title, job responsibilities, salary and dates of employment

**Individuals who do not yet have an H-1B visa issued at a U.S. Consulate abroad in their passport must obtain a visa to re-enter the U.S.**, unless they are re-entering from either Canada or Mexico after a stay there of less than 30 days (see Automatic Revalidation below). Procedures and documentary requirements vary from one consulate to another, so it is wise to contact the consulate or check the Department of State's web site (<http://usembassy.state.gov/>) prior to making an application so as to ensure that you have all necessary documentation and to see if any special security checks would be needed (see "Security Checks" below). In general, you will need:

- original form I-797 Notice of Approval
- copy of form I-129 (and the Labor Condition Application) – it is best to take a copy of the entire petition packet that was scanned and emailed to you from UW-L Human Resources
- documentation of prior immigration status while in the U.S.
- a letter from UW-L Human Resources confirming continuing employment, which includes position title, salary, job responsibilities and dates of employment
- passport that is valid at least six months beyond your anticipated re-entry date
- former international students may need an original set of their transcripts
- C.V. and/or diploma
- at least two months most recent pay stubs
- most recent US tax return

**Individuals who have an expired H-1B visa issued at a U.S. consulate in their passport must follow the same procedures as those who do not yet have an H-1B visa in their passport.** The State Department has eliminated visa re-issuance within the U.S. All visas must be obtained at consulates outside the country. Applicants are encouraged to apply in their home country; Canada and Mexico have very limited capacity to accept visa applications from third country nationals. Furthermore, if the visa

is denied, the individual may not return to the U.S. under automatic revalidation (see Automatic Revalidation section below).

### **Dependent H-4 Travel**

Dependent spouses and minor children (under age 21) must obtain an H-4, E-3 or O-3 visa to enter the U.S. In order to obtain the visa, they will need:

- valid passport
- the primary beneficiary's original I-797
- proof of their relationship to the primary beneficiary (marriage or birth certificate)
- a letter from the primary beneficiary promising to provide support for the family member(s)
- and copies of a bank statement
- a letter from UW-L Human Resources indicating the primary beneficiary's position title, salary and dates of employment

As with the primary beneficiary's application, each consulate may have different requirements. It is wise to contact the consulate or check the Department of State's web site (<http://usembassy.state.gov/>) before going to ensure that all documentary requirements are met.

**Be sure to check the I-94 of all dependents after they enter the U.S.** Some port of entry officials admit the dependents for the validity of the visa rather than the principal's I-797

Approval Notice. In some instances, the visa is valid for a shorter period of time than the I-797 and if the discrepancy is not noticed in time, they could fall out of status.

**NOTE: H-4 dependents may not be employed under any circumstances in the U.S.**

Family members who have a valid immigration status independent of the primary beneficiary (F-1, J-1, H-1B etc.), do not need to obtain a dependent visa.

### **Travel While an H-1B Petition Is Pending**

The H-1B application is a three step process. The first two steps, the prevailing wage request and the Labor Condition Application, are filed with the Department of Labor and do not have any effect on your current immigration status. In most instances, you may travel during this time, but you should **consult with UW-La Crosse Human Resources before undertaking any travel.**

If you do travel during this period, be sure to give your new I-94 information to UW-L Human Resources immediately upon re-entry, so that the final step can be filed with the updated information. **Once HR has filed the third step of the H-1B application with the USCIS, travel outside the U.S. (including to Canada or Mexico) is limited.**

Change of Status Applicants If you are applying for a change of status, you may travel during the first two steps of the H-1B application provided:

- you are maintaining your current status;
- it will still be valid when you plan to re-enter the U.S.;
- you have a valid visa in your passport for that status (unless visa exempt, such as Canadians); and
- you obtain the proper documents and/or signatures (if required) prior to leaving the U.S.

If you do not have a valid visa in your passport, you may still travel, but you will need to obtain a new visa for re-entry. (See prior section on Visa Issuance at U.S. Consulates)

**Once the petition has been submitted to USCIS, you cannot travel outside the US without abandoning your request for change of status.** You would have to wait outside the U.S. until your petition is approved by USCIS, the original I-797 approval notice is sent to you and the consulate has been notified of the approval electronically by USCIS through the Petition Information Management Systems.

#### Extension of Stay and Amended Petition Applicants

If you are currently in H-1B status, you may travel during the first two steps of the H-1B application provided your I-797 will still be valid on the date you plan to re-enter the U.S. See "Travel while in H-1B Status" for details on required documents.

The effect of travel when a petition for a straight extension of stay with no changes in the terms and conditions of employment or an amended petition is pending with USCIS is less clear cut. A USCIS policy memo states that an applicant for extension of stay does not abandon the request by traveling. However, a policy memo does not hold the weight of a regulation and can be changed at any time without notice, and prior policy stated that the petition indeed would be abandoned. In addition, the more recent memo does not address amended petitions. Therefore, we advise **anyone** who has a petition pending at USCIS to refrain from traveling until the petition has been approved. If you must travel, you need to be aware that, at a later date, USCIS may consider you to have abandoned the extension request and any time in the US after your re- entry could be considered to be unauthorized.

**Should you need to travel for urgent reasons while the petition is pending with USCIS, be sure to consult with UW-L Human Resources prior to your departure.**

### **Travel as a Permanent Resident**

Once you are a permanent resident, travel is generally not a problem, provided you have a valid passport from your country of citizenship and your Permanent Resident Card (form I-551 or green card. Currently, USCIS is issuing the form I-551 for a period of 10 years, and it must be renewed prior to the expiration date. Although the Permanent Resident Status does not expire with the card, failure to renew the card could result in being barred from re-entry until a new card can be obtained, a process that could take several weeks or even months. Also, an expired I-551 is not a valid document for purposes of new employment eligibility verification.

Re-entry into the U.S. after an absence of six months or more is considered by USCIS to be a new application for entry as a permanent resident and the individual may be called upon to prove that he or she has not abandoned lawful permanent resident status. If a permanent resident plans to remain outside of the U.S. for a period of more than one year, it is necessary to file for a re- entry permit prior to leaving the country. The application is filed on form I-131 and must be filed while the applicant is still within the U.S. but USCIS can send the permit to a designated U.S. consulate overseas. The re- entry permit is valid for up to two years. If you do not get a re- entry permit and remain outside the U.S. for more than a year, you will need to apply at a U.S. consulate for a “special immigrant” visa, which can take a long time to obtain.

For those who must remain outside the U.S. for extended periods of time, it is important to note that a return trip to the U.S. once a year for a few weeks will not necessarily be sufficient for maintaining permanent resident status. USCIS looks at the reasons for the extended absence, the individual’s intentions, income tax filings as a permanent resident, and other factors establishing the person’s ties to the U.S., such as bank accounts, credit cards, property ownership, etc.... Faculty who will be on extended leaves from the university should take steps to preserve their permanent residence prior to leaving the country and carry proof of maintenance of status when planning to be out of the country for six months or more. If the absence is due to employment, obtain a letter from the employing department detailing the terms and length of employment. If the absence is for family or personal reasons, these should be well documented.

Lengthy absences can also have an impact on eligibility for naturalization as a U.S. Citizen.

### **Travel While a Permanent Residence Petition is Pending**

Applicants for permanent residence at the UW-La Crosse are in H-1B status, and the above procedures will apply during the early stages of the application process. The U.S. government recognizes “dual intent” for H-1B individuals, meaning that they can be applying for permanent residence without jeopardizing their non-immigrant H-1B status. Therefore, H-1Bs may travel outside the U.S. and re-enter during the application for Labor Certification and while the immigrant petition I-140 is pending at USCIS, provided they have or will obtain a valid H-1B visa and carry with them the appropriate documents.

Once the I-140 is approved, the individual must file form I-485 for “Adjustment of Status” to permanent resident. Individuals in H-1B status may travel and re-enter the US in H-1B status and may extend their stay up to the maximum 6 year limit while the I-485 is pending. Adjustment applicants have the choice of maintaining their H-1B status, or applying for an Employment Authorization Document (EAD). This applies to both the principal H-1B and the H-4 dependents.

Those who remain in H-1B status are bound by the terms and conditions of the approved petition and may not change employment or accept additional employment. They may travel outside the US and re-enter in H-1B status, provided they:

- intend to resume employment with the same employer in the same capacity;
- have a valid H-1B visa (or are visa exempt as in the case of Canadians); and
- have the original I-797 approval notice of their H-1B status and the original I-797 receipt notice for the I-485 adjustment of status application.

### **Employment Authorization Document (EAD) and Advance Parole**

If the six-year maximum in H-1B status has been (or soon will be) reached, then it will be necessary to file form I-765 with the I-485 to obtain an EAD. (In limited instances, extensions beyond the 6 years in H-1B status can be obtained after the I-485 has been filed.) The I-765 also can be filed at a later date, along with a copy of the I-797 receipt notice for the I-485. The I-765 should be filed at least 3-4 months prior to the expiration date of the H-1B, or the desired start date with the additional employer.

Those who obtain the EAD will also need to file for Advance Parole in order to travel outside the US and re-enter without abandoning the adjustment of status petition. **The Advance Parole must be received prior to leaving the country.** This includes even brief trips to Canada, Mexico and the adjacent islands. The application is filed on form I-

131, which is available on the USCIS web site: <http://www.uscis.gov/portal/site/usics>. It is a good idea to file the I-131 along with the I-485, as USCIS is taking 3-4 months to issue the Advance Parole document. Since the Advance Parole must be obtained prior to leaving the U.S., the long processing time could preclude being able to travel should a sudden emergency or professional opportunity arise overseas. Otherwise, the I-131 can be filed at a later date with a copy of the form I-797 receipt that USCIS will send after they receive the form I-485. In order to continue working upon re- entry into the U.S. with Advance Parole, it is essential to have a valid EAD.

A law passed in 1996 makes maintaining status, either by extending the H-1B or obtaining an EAD, especially important. It is possible that failure to maintain status pending the adjudication of an I-485 could be considered an “overstay” under the provisions of the 1996 Immigration Act. This could result in a person being barred from the U.S. for three years for an overstay of 6 months to one year, or ten years for an overstay of over one year. USCIS is interpreting the adjustment of status provisions to mean that unauthorized employment that occurs even after the I-485 is filed would also be a bar to adjustment of status in the US.

### **Special Issues Related to Travel Possession of appropriate registration documents**

Immigration law requires all non-U.S. citizens to carry “at all times” the appropriate alien registration documents. All permanent residents should carry their I-551 Permanent Resident card, and non-immigrants (such as a J-1 Exchange Visitor or an H-1B employee) should carry their valid passport and valid I-94, Arrival-Departure Record. While it may not be essential while walking on campus, it is particularly important when traveling in the U.S., even by train or bus.

### **Change of address notification**

All non-U.S. citizens, including permanent residents, are under a legal obligation to notify the USCIS of a change of their U.S. address within 10 days of any such change. Failure to comply with this requirement may result in misdemeanor charges, fines, imprisonment for up to 30 days, or even deportation. It also can delay re-entry into the U.S. at a port of entry.

The change of address must be reported on the USCIS form AR-11. The form is available on the USCIS web site at: <http://www.uscis.gov/portal/site/uscis> under Immigration Forms. It should be completed and mailed to the address indicated on the form, or now it can be submitted electronically.

Those who have a petition pending with USCIS also must notify that office of their



change of address by calling the Help Line, 1-800-375-5283. The caller must provide the case number, such as the I-797 Receipt Notice number. Mailing the AR-11 to the address on the form does not notify the USCIS Service Center or District Office of the address change. However, electronic submission of the AR-11 does notify the office where an application is pending. Since USCIS communications cannot be forwarded by the U.S. Postal Service, failure to notify the specific USCIS office of an address change could cause important documents to be returned to USCIS and benefits to be denied.

### **Domestic Travel**

Travel, especially airline travel, has changed dramatically in the aftermath of the September 2001 terrorist attacks. Check-in times are longer and documents are being scrutinized more closely and more frequently. Under tighter security measures taken after the terrorist attacks, some airlines have questioned individuals seeking to board a domestic flight and Immigration officials have been called in to examine their documents.

Since everyone who is not a U.S. citizen must carry with them their passport and proof of their valid immigration status here in the United States at all times (see “Possession of appropriate registration documents” above), it is especially important whenever they plan to travel anywhere, even within the continental United States, to take these documents with them. This also includes Permanent Residents. They should carry their “green card” with them.

### **Security Checks on Entry and Exit**

In September 2002, USCIS implemented the National Security Entry-Exit Registration System (NSEERS). Under the NSEERS program, individuals from certain countries, and others whom the Department of State or USCIS inspectors at ports of entry determine to present an elevated national security risk based on current intelligence, will be fingerprinted and photographed, and their fingerprints will be checked against a database of known criminals and terrorists. These individuals also will be required to periodically confirm where they are living and what they are doing in the US, as well as confirm their departure from the US. Affected individuals will be provided full information on their reporting requirements upon being admitted. It is very important to read and follow the instructions. Affected individuals must register each departure from the US with Immigration or risk being denied re-entry, despite having a valid visa and all documents.

### **Automatic Visa Revalidation**

Department of State (DOS) regulations permit certain non-immigrants to re-enter the United States after a 30-day or less visit to Canada or Mexico without having to obtain a new visa prior to re-entry. This is called automatic visa revalidation. F and J non-

immigrants also benefit from automatic revalidation when re-entering from the adjacent islands, except Cuba. Individuals seeking to benefit from this provision must retain their I-94 when leaving the U.S. as it is essential for re-entry. In addition, all other travel documents relevant to the particular status (passport, I-797 for H-1Bs etc.) must be carried. Effective April 2002, there were two changes to this provision. First, citizens of “state sponsors of terrorism” as designated by the Department of State are no longer eligible for automatic revalidation. They need to have a valid visa in their passport in order to re-enter. Currently, the countries on the DOS list are: Iran, Syria, Sudan, and Cuba.

In addition, anyone who is visiting Canada or Mexico in order to apply for a new visa may no longer benefit from automatic revalidation. Many individuals schedule an appointment with a U.S. consulate in Canada or Mexico in order to obtain a new visa so as to facilitate future travel overseas. In the past, they could re-enter the U.S. with a valid I-94 even if the visa were denied. Now, those who choose to apply for a new visa in Canada or Mexico and are denied the visa may not return to the U.S. They would have to travel to their home country and apply for a visa there. The risk of denial is higher for those who must prove their ties to their home country in order to get a visa (such as those in J status) than it is for those who do not have to prove ties (such as those in H status), but there is always a risk of denial for any visa applicant. Those considering applying for a visa in Canada or Mexico should take this into account when making their plans.