

H is for History

The history and politics that shaped
the H-1B petition

Presenters:

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Evolution of the H-1B

- **1952: Establishment of the H-1 program** Immigration and Nationality Act of 1952, a.k.a. the McCarran-Walter Act
- **1990:** Big changes to the H-1 program with The Immigration Act of 1990
- **1998:** American Competitiveness and Workforce Improvement Act
- **2000:** American Competitiveness in the Twenty-First Century Act
- **2005:** The Consolidated Appropriations Act

1952

Establishment of the H-1 program: Immigration and Nationality Act of 1952, a.k.a. the McCarran-Walter Act

- Allowed the U.S. Attorney General "after consultation with appropriate agencies of the Government" to import needed foreign workers of "distinguished merit and ability"
- Reversed the 1885 Alien Contract Law prohibition against importing laborers
- H-1 workers must keep a foreign residence

1990

The Immigration Act of 1990

- Replaced "distinguished merit and ability" with the present "specialty occupation" definition
- New labor attestation and prevailing wage requirements
- Started the "cap" - **annual** limit of 65,000 H-1B visas
- The foreign residence requirement was eliminated, and "dual intent" recognized for immigrant visa purposes

1991

The Labor Condition Application: Adding an Agency

On December 12, 1991, the INA was further amended by the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (MTINA), Public Law 102-232, 105 Stat. 1733. These amendments assign responsibility to the Department of Labor (Department or DOL) for the implementation of several provisions of the Act relating to the entry of certain categories of employment-based immigrants, and to the entry and temporary employment of certain categories of nonimmigrants. One of the major provisions of the Act governs the entry temporarily of foreign "professionals" to work in "specialty occupations" in the U.S. under H-1B nonimmigrant status.

1998

American Competitiveness and Workforce Improvement Act

- Added recruitment and layoff protections, but only required them of firms that are “H-1B dependent” (generally at least 15% of workforce are H-1Bs workers)
- All employers have to offer H-1Bs *benefits* as well as wages comparable to their U.S. workers
- Education and training for U.S. workers is funded by a \$500 fee paid by the employer for each H-1B worker that is hired

2000

American Competitiveness in the Twenty-First Century Act

- Raised the Cap by 297,500 over three years, FY2000-FY2002
- H-1B jobs at universities and nonprofit research facilities exempt from the Cap
- Added “portability” of H-1B status from one employer to another

“AC21”

The American Competitiveness for the 21st Century Act (AC21) was signed into law by President Clinton on October 17, 2000. The law resulted from the passage of Senate bill S.2045. Final regulatory guidance on this has not yet been issued, and we continue to use guidance in the form of field memos and cables.

“AC21”

Highlights of AC21 for academia and non-profits, outlined by NAFSA in October 2000

- Institutions of higher education, nonprofit research institutions, and certain other employers are completely exempt from the H-1B cap count.
- Those same institutions, plus primary and secondary schools and teaching hospitals, are exempt from the H-1B “training” fee, which will be raised from \$500 to \$1,000 starting December 16, 2000.
- H-1B status is more “portable “ when changing from one employer to another, because H-1B non-immigrants who wish to change or add employers can now begin employment as soon as the new employer files an H-1B petition; they do not have to wait until the new petition is approved.
- Measures have been taken to preserve the status of individuals whose applications for lawful permanent residence are long-delayed, including allowing certain individuals to extend their H-1B status beyond the statutory six-year limit, and making immigrant petitions and labor certifications more “portable”.
- Certain consistently underused immigration visa numbers are redistributed to help clear up the current employment-based backlogs.

{Sources: NAFSA Immigration update in Fall, 2000; US Dept. of Justice/Immigration and Naturalization Service memo dated 1/29/2001 from Michael J. Pearson(Executive Associate Commissioner, Office of Field Operations)}

2005

The Consolidated Appropriations Act

- Exempted up to 20,000 workers holding a U.S. master's or higher degree from the cap on H-1B visas
- New fees – anti-fraud fee of \$500

Department of Labor's Role

- What brought us to where we are now?
- Does it protect the US worker? What is the operating theory?
- Why is it housed in a Department focused on US workers?
- Return transportation issue: why?
- The birth of the Labor Condition Application (LCA)

Prevailing Wage

- Intention, background
- It used to be decentralized
- World was divided up into many jobs
- Centralized process brings us to current situation

The Story of the Cap

- 65,000 was a purely arbitrary number
- Mechanisms for counting, then and now
- Hitting the Cap in August 1997, June 1998, April 1999 brought on a temporary reprieve
- Cap-subject and cap-exempt fluctuations

How soon do the H-1Bs go?

- ▶ FY 2003: Not reached
- ▶ FY 2004: February 17, 2004
- ▶ FY 2005: October 1, 2004
- ▶ FY 2006: August 10, 2005
- ▶ FY 2007: May 26, 2006
- ▶ FY 2008: April 1, 2007
- ▶ FY 2009: April 7, 2008
- ▶ FY 2010: December 21, 2009
- ▶ FY 2011: January 26, 2011
- ▶ FY 2012: November 22, 2011
- ▶ FY 2013: June 11, 2012
- ▶ FY 2014: April 5, 2013

Introduction of the “specialty occupation” requirement

H visa from 1952-1990

- Aliens of “distinguished merit and ability”
- Coming to fill a “temporary position”

H-1B visa after the Immigration Act of 1990

Reserved for “specialty occupations” defined as:

- Theoretical and practical application of a body of highly specialized knowledge
- Requiring the attainment of a bachelor’s degree or its equivalent as a minimum.

What is a Specialty Occupation?

“Sufficiently specialized and complex”

“Requires a precise and specific course of study”

Specialty

- Engineer/BS Engineering
- Software Developer/BS Comp. Sci
- Architect/M.A. Architecture
- Marketing Manager/BS Business Administration
- Accountant/BS Accounting
- Executive chef/BS Culinary Arts

Non-specialty

- Paralegal/BA general studies
- Spanish teacher/BA Psychology
- Restaurant shift manager/BS Business Administration
- Bookkeeping/BS Accounting
- Line Cook/BS Culinary Arts

New challenges to establishing “Specialty Occupation”

- Administrative Appeals Office (AAO) now says that petitioners must prove “specialty occupation” under the regulatory terms AND “specialty occupation” under the statutory terms.
- AAO decisions have said “specialty occupation” refers to occupations requiring one specific degree in a discreet major for entry into profession.
- AAO has gone beyond the preponderance of the evidence standard when interpreting degree requirements for an occupation.

Fraud Prevention & Detection Fee

In December, 2004 – President Bush signed the Omnibus Appropriations Act for FY 2005. In this were provisions for the H-1B and L visa categories.

- Specifically relevant to academia, was the creation of a new Fraud Prevention and Detection fee of \$500. Payment of this fee became effective for H-1B petitions filed on or after 3/8/2005. The fee must be paid at the time of the filing of an H-1B petition, and is over and above the standard petition filing fee (at that time \$185). The \$500 fee is submitted with NEW petitions only, and not required for extension petitions or petitions requesting an amendment.
- The intent of the fee was to fund administrative site visits, by Immigration, to detect fraud and abuses of the H-1B visa program, such as confirming the identity of the petitioning employer and visa beneficiary, and verifying compliance with the terms and conditions of the H-1B visa petition.
- Although the fee was implemented in 2005, it was not until around 2009, that employers began to see the actual sites visits commence. These sites visits are conducted by USCIS FDNS-Fraud Detection and National Security Unit. Employers may receive a visit from an actual Immigration officer or from a contractor specifically hired by Immigration for this purpose. Although delayed in getting the program implemented and running, this will continue. In addition to the cost to employers as part of the H-1B process, this will have continuing impact on our business process.

{Sources- USCIS memo, AILA, NAFSA, Region XI/NAFSA emails on site visits}

Evolution Continues

Deemed Export Attestation on Form I-129

- This took effect February 23, 2011, but officially appeared on updated Form I-129 (Petition for Non-Immigrant Worker) December 23, 2011.
- Petitioners are required to answer questions and provide sign-off for this. The primary motive for adding this to the petition was to move employers to evaluate compliance with export control regulations.
- Signers of the H-1B petition must establish a process to vet this with the appropriate office/s on campus. It is important to have a uniform process that can move quickly and is carefully documented.
- Required for all petitions involving H, O and L nonimmigrants
- Expectation is that the employer will for apply for the requisite license, if needed.
- Light reading:
 - http://www.pmdotc.state.gov/regulations_laws/itar.html
 - <http://www.ntis.gov/products/export-regs.aspx>

{Source: David Ware and Parker Emerson presentation - NAFSA conference May, 2011}

How Far We've Come



iCERT Portal

Portal Home | **LCA** | My Account & Profile | Forms & Instructions

LCA Portfolio Summary | LCA Portfolio Details

ETA Home > iCERT Portal > LCA > Portfolio Summary

LCA: Portfolio Summary

H-1B Cases | H-1B1 Cases | **E-3 Cases**

Case Status	Total Cases	Brief Description
Initiated	0	Applications started but not submitted
In Process	0	Applications submitted, under review
Certified	1	Wage determination issued
Denied	1	Applications denied
Withdrawn	0	Applications that have been withdrawn
Voided	0	Applications that have been voided
Invalidated	0	Applications that have been invalidated
Rejected	0	Applications that have been rejected
My Related Cases	0	Cases submitted by Attorneys/Agents using your EIN

Begin New ETA Form 9535

Your Current Case Status for Form I129, PETITION FOR A NONIMMIGRANT WORKER

Enter your receipt number

Check Status

Your Case Status:

Acceptance
 Initial Review
 Decision
 Post-Decision Activity

On August 9, 2011, your document I129, PETITION FOR A NONIMMIGRANT WORKER was processed and mailed to the address on record. If you have not received it within 30 days of August 9, 2011, contact customer service at 1-800-375-5283. If you move while your case is pending, please call our customer service center at 1-800-375-5283.

1991 Form I-129: Part 1

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-0168
Petition for a Nonimmigrant Worker

START HERE - Please Type or Print

Part 1. Information about the employer filing this petition.
If the employer is an individual, use the top name line. Organizations should use the second line.

Family Name	Given Name	Middle Initial
Company or Organization Name YALE UNIVERSITY		
Address - Attn: BOX 1001A YALE STATION		
Street Number and Name	Apt. #	
442 TEMPLE STREET		
City	State or Province	
NEW HAVEN	CT	
Country	ZIP/Postal Code	
USA	06520	
IRS Tax #		

Part 2. Information about this Petition.
(See instructions to determine the fee.)

- Requested Nonimmigrant Classification:
(write classification symbol at right)
- Basis for Classification (check one)
 - New employment
 - Continuation of previously approved employment without change
 - Change in previously approved employment
 - New concurrent employment
- Prior petition. If you checked other than "New Employment" in item 2. (above) give the most recent prior petition number for the worker(s):
- Requested Action: (check one)
 - Notify the office in Part 4 so the person(s) can obtain a visa or be admitted (NOTE: a petition is not required for an E-1, E-2, or R visa).
 - Change the person(s) status and extend their stay since they are all now in the U.S. in another status (see instructions for limitations). This is available only where you check "New Employment" in item 2, above.
 - Extend or amend the stay of the person(s) since they now hold this status.
- Total number of workers in petition: _____
(See instructions for where more than one worker can be included.)

Part 3. Information about the person(s) you are filing for.
Complete the blocks below. Use the continuation sheet to name each person included in this petition.

If an entertainment group, give their group name.

Family Name	Given Name	Middle Initial
Date of Birth (Month/Day/Year)	Country of Birth	
Social Security #	A #	
If in the United States, complete the following:		
Date of Arrival (Month/Day/Year)	I-94 #	
Current Nonimmigrant Status	Expires (Month/Day/Year)	

FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
Interviewed	
<input type="checkbox"/> Petitioner	
<input type="checkbox"/> Beneficiary	
Class: _____	
# of Workers: _____	
Priority Number: _____	
Validity Dates: From _____ To _____	
<input type="checkbox"/> Classification Approved	
<input type="checkbox"/> Consulate/POE/PFI Notified	
At _____	
<input type="checkbox"/> Extension Granted	
<input type="checkbox"/> COS/Extension Granted	
Partial Approval (explain)	
Action Block	
To Be Completed by Attorney or Representative, if any	
<input type="checkbox"/> Fill in box if G-28 is attached to represent the applicant	
VOLAG#	
ATTY State License #	

1991 Form I-129: Part 4 - 5

Part 4. Processing Information.

a. If the person named in Part 3 is outside the U.S. or a requested extension of stay or change of status cannot be granted, give the U.S. consulate or inspection facility you want notified if this petition is approved.

Type of Office (check one): Consulate Pre-flight inspection Port of Entry
 Office Address (City) _____ U.S. State or Foreign Country _____
 Person's Foreign Address _____

- b. Does each person in this petition have a valid passport? Not required to have passport No - explain on separate paper Yes
- c. Are you filing any other petitions with this one? No Yes - How many? _____
- d. Are applications for replacement/trial I-94's being filed with this petition? No Yes - How many? _____
- e. Are applications by dependents being filed with this petition? No Yes - How many? _____
- f. Is any person in this petition in exclusion or deportation proceedings? No Yes - explain on separate paper
- g. Have you ever filed an immigrant petition for any person in this petition? No Yes - explain on separate paper
- h. If you indicated you were filing a new petition in Part 2, within the past 7 years has any person in this petition:
- 1) ever been given the classification you are now requesting? No Yes - explain on separate paper
 - 2) ever been denied the classification you are now requesting? No Yes - explain on separate paper
- i. If you are filing for an entertainment group, has any person in this petition not been with the group for at least 1 year? No Yes - explain on separate paper

Part 5. Basic Information about the proposed employment and employer.

Attach the supplement relating to the classification you are requesting.

Job Title	Nontechnical Description of Job		
Address where the person(s) will work if different from the address in Part 1.			
Is this a full-time position?		Wages per week or per year	
<input type="checkbox"/> No - Hours per week _____ <input type="checkbox"/> Yes			
Other Compensation (Explain)	Value per week or per year	Dates of Intended employment From: _____ To: _____	
Type of Petitioner - check one: <input type="checkbox"/> U.S. citizen or permanent resident <input checked="" type="checkbox"/> Organization <input type="checkbox"/> Other - explain on separate paper	Year established: 1701		
Type of business: TEACHING & RESEARCH	Gross Annual Income	Non-Profit Organization	Net Annual Non-Profit Income Organization
Current Number of Employees: 8,000			

Part 6. Signature.

Read the information on penalties in the instructions before completing this section.

I certify, under penalty of perjury under the laws of the United States of America, that this petition, and the evidence submitted with it, is all true and correct. If filing this on behalf of an organization, I certify that I am empowered to do so by that organization. If this petition is to extend a prior petition, I certify that the proposed employment is under the same terms and conditions as in the prior approved petition. I authorize the release of any information from my records, or from the petitioning organization's records, which the Immigration and Naturalization Service needs to determine eligibility for the benefit being sought.

Signature and title	Print Name	Date

Please Note: If you do not completely fill out this form and the required supplement, or fail to submit required documents listed in the instructions, then the person(s) filed for may not be found eligible for the requested benefit, and this petition may be denied.

Part 7. Signature of person preparing form if other than above.

I declare that I prepared this petition at the request of the above person and it is based on all information of which I have any knowledge.

Signature	Print Name	Date

Firm Name and Address

1991 Form I-129: Supplement

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-0168
H Classification
Supplement to Form I-129

Name of person or organization filing petition: VALE UNIVERSITY Name of person or total number of workers or trainees you are filing for: _____

List the alien's and any dependent family members; prior periods of stay in H classification in the U.S. for the last six years. Be sure to list only those periods in which the alien and/or family members were actually in the U.S. in an H classification. If more space is needed, attach an additional sheet.

Classification sought (check one):

- | | |
|---|--|
| <input type="checkbox"/> H-1A Registered Professional nurse | <input type="checkbox"/> H-1B4 Artist or entertainer in unique or traditional art form |
| <input checked="" type="checkbox"/> H-1B1 Specialty occupation | <input type="checkbox"/> H-1B5 Athlete |
| <input type="checkbox"/> H-1B2 Exceptional services relating to a cooperative research and development project administered by the U.S. Department of Defense | <input type="checkbox"/> H-1B5 Essential Support Personnel for H-1B entertainer or athlete |
| <input type="checkbox"/> H-1B3 Artist, entertainer or fashion model of national or international acclaim | <input type="checkbox"/> H-2A Agricultural worker |
| | <input type="checkbox"/> H-2B Nonagricultural worker |
| | <input type="checkbox"/> H-3 Trainee |
| | <input type="checkbox"/> H-3 Special education exchange visitor program |

Section 1. Complete this section if filing for H-1A or H-1B classification.

Describe the proposed duties

Alien's present occupation and summary of prior work experience

SEE ATTACHED CV

Statement for H-1B specialty occupations only:

By filing this petition, I agree to the terms of the labor condition application for the duration of the alien's authorized period of stay for H-1B employment.

Petitioner's Signature

Date

Statement for H-1B specialty occupations and DOD projects:

As an authorized official of the employer, I certify that the employer will be liable for the reasonable costs of return transportation of the alien abroad if the alien is dismissed from employment by the employer before the end of the period of authorized stay.

Signature of authorized official of employer

Date

Statement for H-1B DOD projects only:

I certify that the alien will be working on a cooperative research and development project or a coproduction project under a reciprocal Government-to-Government agreement administered by the Department of Defense.

DOD project manager's signature

Date

Section 2. Complete this section if filing for H-2A or H-2B classification.

- | | | | |
|-------------------------------|--|-----------------------------------|---|
| Employment is:
(check one) | <input type="checkbox"/> Seasonal | Temporary need is:
(check one) | <input type="checkbox"/> Unpredictable |
| | <input type="checkbox"/> Peakload | | <input type="checkbox"/> Periodic |
| | <input type="checkbox"/> Intermittent | | <input type="checkbox"/> Recurrent annually |
| | <input type="checkbox"/> One-time occurrence | | |

Explain your temporary need for the alien's services (attach a separate paper if additional space is needed).

1991 Form I-129: Supplement

Section 3. Complete this section if filing for H-2A classification.

The petitioner and each employer consent to allow government access to the site where the labor is being performed for the purpose of determining compliance with H-2A requirements. The petitioner further agrees to notify the Service in the manner and within the time frame specified if an H-2A worker absconds or if the authorized employment ends more than five days before the relating certification document expires, and pay liquidated damages of ten dollars for each instance where it cannot demonstrate compliance with this notification requirement. The petitioner also agrees to pay liquidated damages of two hundred dollars for each instance where it cannot be demonstrated that the H-2A worker either departed the United States or obtained authorized status during the period of admission or within five days of early termination, whichever comes first.

The petitioner must execute Part A. If the petitioner is the employer's agent, the employer must execute Part B. If there are joint employers, they must each execute Part C.

Part A. Petitioner:

By filing this petition, I agree to the conditions of H-2A employment, and agree to the notice requirements and limited liabilities defined in 8 CFR 214.2 (h) (3) (vi).

Petitioner's signature

Date

Part B. Employer who is not petitioner:

I certify that I have authorized the party filing this petition to act as my agent in this regard. I assume full responsibility for all representations made by this agent on my behalf, and agree to the conditions of H-2A eligibility.

Employer's signature

Date

Part C. Joint Employers:

I agree to the conditions of H-2A eligibility.

Joint employer's signature(s)

Date

Joint employer's signature(s)

Date

Joint employer's signature(s)

Date

Joint employer's signature(s)

Date

Joint employer's signature(s)

Date

Section 4. Complete this section if filing for H-3 classification.

If you answer "yes" to any of the following questions, attach a full explanation.

- | | | |
|--|-----------------------------|------------------------------|
| a. Is the training you intend to provide, or similar training, available in the alien's country? | <input type="checkbox"/> No | <input type="checkbox"/> Yes |
| b. Will the training benefit the alien in pursuing a career abroad? | <input type="checkbox"/> No | <input type="checkbox"/> Yes |
| c. Does the training involve productive employment incidental to training? | <input type="checkbox"/> No | <input type="checkbox"/> Yes |
| d. Does the alien already have skills related to the training? | <input type="checkbox"/> No | <input type="checkbox"/> Yes |
| e. Is this training an effort to overcome a labor shortage? | <input type="checkbox"/> No | <input type="checkbox"/> Yes |
| f. Do you intend to employ the alien abroad at the end of this training? | <input type="checkbox"/> No | <input type="checkbox"/> Yes |

If you do not intend to employ this person abroad at the end of this training, explain why you wish to incur the cost of providing this training, and your expected return from this training.

1994 Prevailing Wage Request



STATE OF CONNECTICUT
DEPARTMENT OF LABOR

March 16, 1994

Susan E. Buydos, Adviser
Foreign Students and Scholars Office
Yale University
P.O. Box 1001A
New Haven, CT 06520-7412

Re: REQUEST FOR H-1B PREVAILING WAGE DETERMINATION

Dear Ms. Buydos:

The Alien Labor Certification Unit has received your request for a prevailing wage determination for an H-1B application. You provided the following information:

OCCUPATION: Assistant Professor, Yale Child Study Center
EDUCATION REQUIREMENTS: PhD degree in Psychology
EXPERIENCE REQUIREMENTS: 2 years clinical experience post
PhD
SPECIAL REQUIREMENTS: None
AREA OF INTENDED EMPLOYMENT: New Haven, CT

Based on the data provided, the prevailing wage in the area of intended employment for the occupation is \$38,278.73 per year.

If you have any questions, please call me at (203) 566-2425.

Sincerely,

Diane Rickenbacker
Diane Rickenbacker
Alien Labor Certification Unit

1994 Prevailing Wage Request

Yale University

Foreign Students and Scholars Office
P.O. Box 1001A
New Haven, Connecticut 06520-7412

Campus address:
442 Temple Street
Telephone: 203 432-2305
Fax: 203 432-7166

March 14, 1994

TO: Diane Rickenbacker
Department of Labor

FROM: Susan E. Buydos, Adviser 

RE: Prevailing Wage for H-1B petition

Will you please provide a prevailing wage for the following position:

Job Title: Assistant Professor, Yale Child Study Center

Description: Perform research in the area of Asperger's Syndrome and the social and emotional development of infants in the first year of life. Provide clinical services and consultations to the Child Study Center Autism Clinic. Limited supervision of psychologists in training.

Degree/Background Required: PhD Degree in Psychology; two years clinical experience post PhD.

Salary: [REDACTED]/year

2000 Labor Certification Form

2000 \wedge

Labor Condition Application for H-1B Nonimmigrants **U.S. Department of Labor**
Employment and Training Administration
U.S. Employment Service

<p>1. Full Legal Name of Employer Yale University</p> <p>2. Federal Employer I.D. Number [REDACTED]</p> <p>3. Employer's Telephone No. (203) 432-2305</p> <p>4. Employer's FAX No. (203) 432-7166</p>	<p>5. Employer's Address (No., Street, City, State, and ZIP Code) Office of International Students & Scholars, Yale University Suite 201, 246 Church Street New Haven, CT 06510 RA/jp</p> <p>6. Address Where Documentation is Kept (if different than item 5) Office of International Students & Scholars, Yale University Suite 201, 246 Church Street New Haven, CT 06510 RA/jp</p>
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7. OCCUPATIONAL INFORMATION (Use attachment if additional space is needed)

(a) Three-digit Occupational Group Code (From Appendix 2): 090 (b) Job Title (Check Box if Part-Time): Assistant Professor

(c) No. of H-1B Nonimmigrants	(d) Rate of Pay	(e) Prevailing Wage Rate and Its Source (see instructions)	(f) Period of Employment From To	(g) Location(s) Where H-1B Nonimmigrants Will Work (see instructions)
one	\$ <u>[REDACTED]</u> per year	<input checked="" type="checkbox"/> SESA <input type="checkbox"/> Other: _____	7/1/01 6/30/04	333 Cedar Street, New Haven, CT & 20 York St. New Haven, CT

8. EMPLOYER LABOR CONDITION STATEMENTS (Employers are required to develop and maintain documentation supporting labor condition statements 8(a) and 8(d). Employers are further required to make available for public examination a copy of the labor condition application and necessary supporting documentation within one (1) working day after the date on which the application is filed with DOL. Check each box to indicate that the employer will comply with each statement.)

(a) H-1B nonimmigrants will be paid at least the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question or the prevailing wage level for the occupation in the area of employment, whichever is higher.

(b) The employment of H-1B nonimmigrants will not adversely affect the working conditions of workers similarly employed in the area of intended employment.

(c) On the date this application is signed and submitted, there is not a strike, lockout or work stoppage in the course of a labor dispute in the occupation in which H-1B nonimmigrants will be employed at the place of employment. If such a strike or lockout occurs after this application is submitted, I will notify ETA within 3 days of the occurrence of such a strike or lockout and the application will not be used in support of petition filings with INS for H-1B nonimmigrants to work in the same occupation at the place of employment until ETA determines the strike or lockout has ceased.

(d) A copy of this application has been, or will be, provided to each H-1B nonimmigrant employed pursuant to this application, and, as of this date, notice of this application has been provided to workers employed in the occupation in which H-1B nonimmigrants will be employed: (check appropriate box)

(i) Notice of this filing has been provided to bargaining representative of workers in the occupation in which H-1B nonimmigrants will be employed; or

(ii) There is no such bargaining representative; therefore, a notice of this filing has been posted and was, or will remain, posted for 10 days in at least two conspicuous locations where H-1B nonimmigrants will be employed.

9. DECLARATION OF EMPLOYER: Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the information provided on this form is true and correct. In addition, I will comply with the Department of Labor regulations governing this program, and, in particular, that I will make this application, supporting documentation, and other records, files and documents available to officials of the Department of Labor, upon such officials' request, during any investigation under this application or the Immigration and Nationality Act.

Janice Pinkard/Assistant Director *Janice Pinkard* 12/19/00
Name and Title of Hiring or Other Designated Official Signature Date

Complaints alleging misrepresentation of material facts in the labor condition application and/or failure to comply with the terms of the labor condition application may be filed with any office of the Wage and Hour Division of the United States Department of Labor.

AN APPLICATION CERTIFIED BY DOL MUST BE FILED IN SUPPORT OF AN H-1B VISA PETITION WITH THE INS.

FOR U.S. GOVERNMENT AGENCY USE ONLY: By virtue of my signature below, I acknowledge that this application is hereby certified and will be valid from _____ through _____.

Signature and Title of Authorized DOL Official _____ ETA Case No. _____ Date _____

Subsequent DOL Action: Suspended _____ (date) Invalidated _____ (date) Withdrawn _____ (date)

The Department of Labor is not the guarantor of the accuracy, truthfulness or adequacy of a certified labor condition application.

Public reporting burden for this collection of information is estimated to average 1 1/4 hour per response, including the time for reviewing instructions searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of U.S. Employment Service, Department of Labor, Room N-4470 and/or the Office of IRM Policy, DOL, Room N-1301, 200 Constitution Avenue, N.W., Washington, DC 20210. (1205-0310).

DO NOT SEND THE COMPLETED FORM TO EITHER OF THESE OFFICES ETA 9035 (Rev. Dec 1994)

2000 Labor Certification Form

12/18/00 12:40 FAX 880 263 6028 STF_D-ALIEN

002/002

DEC-15-2000 14:09

YALE UNIVERSITY OISS

203 432 7166 P.01/01

STATE OF CONNECTICUT EMPLOYMENT SECURITY DIVISION

Alien Labor Certification Unit
200 Folly Brook Blvd.
Wethersfield, CT 06109
Fax (860) 263-6028

Please check one: H-1B Permanent Resident

1. Name of Employer: YALE UNIVERSITY FED#: 06-0646973 Telephone: (203) 432-2305

2. Name of Employee: [REDACTED]

3. Address Where Alien Will Work (include city, county, zip code) Yale School of Medicine 333 Cedar Street, New Haven, CT

4. Nature of Employer's Business Activity: University (Non-profit Teaching & Research)

5. Job Title Being Filled: Assistant Professor

6. Basic Hours Per Week: 40

7. Basic Rate of Pay Offered: [REDACTED] Per Year

8. Describe FULLY the Job Duties to Be Performed (list the most important duty first): Teaching, Research and Clinical responsibilities.

9. Working Conditions That Affect Rate of Pay: None

10. State, in detail, the MINIMUM Education (specify the degree and major field of study), Training, Experience and Other Special Requirements for the Job: MD in Anesthesiology

11. Name of Requestor Jauice Pinkard

Date 12/15/2000

Address: Suite 201, 246 Church Street, OISS, Yale University, New Haven, CT 06510
Telephone: (203) 432-2305 Fax: (203) 432-7166

DO NOT WRITE BELOW THIS LINE—PREVAILING WAGE DETERMINATION BY DOL

Request No. 121505 DOT Title Assistant Professor

OES CODE 31211 DOT CODE 090-227-010 Skill Level 2

The Prevailing Wage for the Job Described Above Is \$ 81,580.00 Per Year

Source Davis Bacon Act Service Contract Other: OES Survey

Note: This prevailing wage determination is valid for filing applications and attestations for 90 days from the date of the response.

Agency Official Linda Mothersole Telephone: (860) 263-6020 Date 12/18/00

2001 Labor Certification Form

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Labor Condition Application
for H-1B Nonimmigrants

U.S. Department of Labor
Employment and Training Administration
U.S. Employment Service



ETA Form 9035
OMB Approval: 1205-0310
Expiration Date: 12-31-08

1. Full Legal Name of Employer

Y A L E U N I V E R S I T Y

2. Federal Employer I.D. Number (9 digits)

[REDACTED]

3. Employer's Telephone Number

2 0 3 4 3 2 - 2 3 0 5

4. Return FAX Number

2 0 3 4 3 2 - 7 1 6 6

Contact Telephone Number

2 0 3 4 3 2 - 2 3 0 5

5. Employer's Address (Number / Street)

2 4 6 C H U R C H S T R E E T S U I T E 2 0 1

N E W H A V E N C T 0 6 5 1 0

6. Address Where Documentation is Kept (if Different than Item 5)

[REDACTED]

[REDACTED]

[REDACTED]

7. Occupational Information

(a) Three - Digit Occupational Code

0 9 0

(b) Job Title

A S S I S T A N T P R O F E S S O R

Mark (X) if Part Time

(c) Number of H-1B Nonimmigrants

0 0 1

(d) Rate of Pay Range

\$ 0 3 0 0 0 0 . 0 0

To: (Optional)

\$ [REDACTED]

Annual Monthly Bi-Weekly Weekly Hourly

X [] [] [] [] []

Mark (x) in the OVE Appropriate Box BOTH Above AND Below

(e) Prevailing Wage Rate

Prevailing Wage Source
SESA Other
\$ 0 0 8 1 5 8 0 . 0 0

Annual Monthly Bi-Weekly Weekly Hourly

X [] [] [] [] []

Source of Other:

[REDACTED]

(f) Period of Employment

Date From: 0 7 / 0 1 / 2 0 0 1

Date To: 0 6 / 3 0 / 2 0 0 4

(g) Location Where H-1B Nonimmigrants Will Work

City: N E W H A V E N State: C T

2001 Labor Certification Form

Labor Condition Application
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Employment and Training Administration
U.S. Employment Service



ETA Form 9035
OMB Approval: 1205-0310
Expiration Date: 12-31-99

8. EMPLOYER LABOR CONDITION STATEMENTS (Employers are required to develop and maintain documentation supporting labor condition statements 8(a) and 8(d). Employers are further required to make available for public examination on a copy of the labor condition application and necessary supporting documentation within one (1) working day after the date on which the application is filed with DOL. Mark (X) each box to indicate that the employer will comply with each statement.)

- (a) H-1B nonimmigrants will be paid at least the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question or the prevailing wage level for the occupation in the area of employment, whichever is higher.
- (b) The employment of H-1B nonimmigrants will not adversely affect the working conditions of workers similarly employed in the area of intended employment.
- (c) On the date this application is signed and submitted, there is not a strike, lockout or work stoppage in the course of a labor dispute in the occupation in which H-1B nonimmigrants will be employed at the place of employment. If such a strike or lockout occurs after this application is submitted, I will notify ETA within 3 days of the occurrence of such a strike or lockout and the application will not be used in support of petition filings with INS for H-1B nonimmigrants to work in the same occupation at the place of employment until ETA determines the strike or lockout has ceased.
- (d) A copy of this application has been, or will be, provided to each H-1B nonimmigrant employed pursuant to this application, and, as of this date, notice of this application has been provided to workers employed in the occupation in which H-1B nonimmigrants will be employed.
Mark (X) only the ONE appropriate box below.
- (i) Notice of this filing has been provided to the bargaining representative of workers in the occupation in which H-1B nonimmigrants will be employed; or
- (ii) There is no such bargaining representative; therefore, a notice of this filing has been posted and was, or will remain, posted for 10 days in at least two conspicuous locations where H-1B nonimmigrant workers will be employed.

9. DECLARATION OF EMPLOYER: Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the information provided on this form is true and correct. In addition, I declare that I will comply with the Department of Labor regulations governing this program and, in particular, that I will make this application, supporting documentation, and other records, files and documents available to officials of the Department of Labor, upon such official's request, during any investigation under this application or the Immigration and Nationality Act.

Name of Hiring or Other Designated Official

J A N I C E P I N K A R D

Title of Hiring or Other Designated Official

A D V I S E R

Janice Pinkard
Signature

01 / 03 / 2001
M M D D V Y Y Y
Date Signed

Complaints alleging misrepresentation of material facts in the labor condition application and/or failure to comply with the terms of the labor condition application may be filed with any office of the Wage and Hour Division of the United States Department of Labor.

AN APPLICATION CERTIFIED BY DOL MUST BE FILED IN SUPPORT OF AN H-1B VISA PETITION WITH INS.

FOR U.S. GOVERNMENT AGENCY USE ONLY: By virtue of my signature below, I acknowledge that this application is hereby certified and will be valid from 07/01/2001 through 06/30/2004

James H. Morris
Signature and Title of Authorized DOL Official

90282699

01/03/2001

Subsequent DOL Action:

Suspended (date)

Invalidated (date)

Withdrawn (date)

The Department of Labor is not the guarantor of the accuracy, truthfulness or adequacy of a certified labor condition application.

Public reporting burden for this collection of information is estimated to average 1 1/4 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of U.S. Employment Service, Department of Labor, Room N-4470 and/or IRM Policy, DOL, Room N-4470 and/or the Office of IRM Policy, DOL, Room N-1301, 200 Constitution Avenue, NW, Washington, DC 20210. (1205-0310) DO NOT SEND THE COMPLETED FORM TO EITHER OF THESE OFFICES.

ETA 9035 (Rev. Sept. 1995)