Instructions for completing the relevant sections of the I-129

The I-129 is used for many non-immigrant petitions. The University uses the I-129 for all H-1B and all O-1 petitions, for TN and E-3 extensions and for TN and E-3 change of status petitions. The instructions for Parts 1-8 apply to all the petitions the University files. The E-1/E-2 Classification Supplement must be completed in addition to Parts 1-7 when filing an E-3 application with the appropriate changes being made to Parts 1-7. The Trade Agreement Supplement must be completed in addition to Parts 1-7 when filing a TN application with the appropriate changes being made to Parts 1-7. The O and P Classification supplement to Form I-129 must be completed in addition to Parts 1-7 if you are filing an O-1 petition with the appropriate changes being made to Parts 1-7. If you have any questions about the form, please call IFSS at 265-2257.

Part 1: Petitioner Information.
1. Leave blank. Do not put your employee’s name here.
2. Leave as is. Do not add or subtract any information.
3. Sections a-1. Leave as is. Do not add or subtract any information.
   Do not enter the beneficiary’s social security number or tax identification number.

Part 2: Information about this petition.
1. Leave H-1B in the box. (Change to TN, O-1 or E-3 as applicable).

2. Basis for Classification
   Check (a) “new employment” if the individual is outside the US or if he is inside the US but in a different non immigrant status (such as F1, J1, TN, etc).
   Check (b) “continuation of previously approved employment without change with the same employer” if the individual will continue working for the same department in H-1B status with the same title, the same duties, the same salary (except for annual merit increases) and the same percentage of employment. If the title change is based on a standard progression in the same title series (Assistant Scientist to Associate Scientist), you can still check this box.
   Check (c) “change in previously approved employment” if there is a non-material change in the terms and conditions of his employment. According to USCIS, an example of a non material change would be that the individual is changing job titles but not changing their job duties.
   Check (d) “new concurrent employment” if individual is already working on an H-1B for another employer AND he will continue working on that H-1B while working at UW-Madison on an H-1B.
   Check (e) “change of employer” if already working on an H-1B for another employer and will NOT work for that employer once they begin working for UW-Madison (aka Portability).
Check (f) “amended petition” if there is a material change in the terms and conditions of the employment. Some examples of material changes are changing from one UW department to another, working for the University at another location, changing job duties or other such changes to the terms and conditions of a previously approved petition. This is not an all inclusive list; if any terms and conditions of their employment changes, please contact IFSS immediately.

3. Provide the most recent petition/application receipt number for the beneficiary. Put receipt number of current H-1B approval notice. If not currently in H-1B status, type N/A in the blank. (The receipt number looks like this WAC-11-123-12345.)

4. **Requested Action:**
   Check (a) “notify the office in Part 4…” if the individual is currently outside the US and will be going to a US Consulate or Embassy to obtain an H-1B visa stamp for entry into the US or if the individual will be leaving the US after we have filed the petition and will apply for a new visa before returning to the US.

   Check (b) “change the person’s status…” if the individual is currently in the US in another non-immigrant status such as J1, F1, TN.

   Check (c) “extend the stay” if the individual is already in H-1B status and you want to extend his stay beyond the current expiration date of his H-1B approval notice. You can extend the stay and change something about the terms and conditions of the H-1B status in the same petition.

   Check (d) “amend the stay” if the individual is already an H-1B but you are changing something about their employment but NOT extending their stay beyond the end date of his current H-1B approval notice. (For example, if the individual is currently a research associate in your department with an H-1B valid until 06/30/2011 but you want to change his title to an assistant researcher now but you do not want his assistant researcher appointment or H-1B to be valid beyond 06/30/2011.)

   Check (e) Never check (e) for any status except TN.

   Check (f) Never check (f) for any status except TN.

5. Leave “1” in the box.

**Part 3: Beneficiary Information:** Information about the beneficiary you are filing for.

1. Type N/A in the entertainment group box.
   a. Family Name (last name)
   b. Given Name (first name)
   c. Full Middle Name
      - NOTE: Type the name exactly as it appears in the individual’s passport.
   d. All other names: Include maiden name or an anglicized name if your beneficiary uses one for publications or goes by another name.
e. Date of birth (be sure it is in mm/dd/yyyy format)
f. Gender
g. Social Security Number (if he has one, if not type N/A)
h. A-Number—Type N/A. Do not use A# on EAD card.
i. Country of birth
j. Province of birth: NOTE: If there is no province of birth, type N/A
k. Country of citizenship: NOTE: The country of citizenship must match the passport.

2. If in the United States, complete the following:
a. Date of Last Arrival (can be found on the I-94 card)
   • NOTE: Make sure the date is in mm/dd/yyyy format.
b. I-94 number
c. Current Nonimmigrant Status
   • NOTE: OPT is not a status, F1 is the status.
d. Date Status Expires
   • NOTE: This has changed. The date the status expires is on the individual’s I-94 card. It will either be a date certain (for H-1Bs, TNs, E-3s, O-1s) or D/S which means duration of status (for F1s and J1s). It is now acceptable to list D/S for J1s and F1s since that is what is on their I-94 cards.
e. SEVIS number
   • Found on the I-20 or DS-2019 in the upper right hand corner.
   • This number will be filled in for individuals currently in F1, F2, J1 and J2 statuses.
   • If your individual is in H-1B status, type N/A in this box.
   • The number is the card #, it starts with 3 letters and is followed by 10 digits.
   • The most common reason why an individual would have an EAD card and an EAD number is if he is an F1 on OPT. There are other circumstances where he may have an EAD card; check with IFSS if you have a different situation.
   • If he does not have an EAD card, type N/A in this box.
g. Passport number
h. Date Passport issued
   • NOTE: Make sure the date is in mm/dd/yyyy format.
i. Date Passport expires
   • NOTE: Make sure the date is in mm/dd/yyyy format.
j. Current US address

Part 4: Processing information.
1. If the individual is currently outside the US, enter the city and country of the US Embassy or Consulate where he will be applying for his H-1B visa stamp. Also enter a complete foreign address. The address can be a friend or relative’s address if he does not have an address in the country where he will be applying for his visa stamp. Do not list an embassy, consulate or a foreign address if the individual is currently in the US, unless the individual will be traveling and will need a new visa to re-enter the US.
2. Answer accordingly.
3. This question is asking about petitions other than I-539 petitions for dependents. Most of the time this box is marked NO.

4. Answer accordingly. Most of the time this box is marked NO.

5. Check YES if filing the I-539 application for the H-1B’s spouse and/or children who are currently inside the United States with the I-129. The dependent(s) complete and sign the I-539. The number in the box does not include the H-1B himself. If the family is outside the US, we do NOT need to complete an I-539. They will get their H4 visas and status when they go to the US Embassy/Consulate.

6. Answer accordingly.

7. This question is asking if the department has filed a permanent residency petition for this individual. Having filed the Labor Certification does not mean the University has filed a permanent residency petition. The University must have filed the I-140 to be able to check YES to this question. If you answer YES, then on page 7, part 9, please type that the University filed the I-140 petition and list the receipt number for the I-140.

8. Answer accordingly.

9. This question is asking if the department has filed an H-1B petition for this person in the past. If you answer YES, then on page 7, part 9, please type that the University filed previous I-129s and list the receipt number(s) of the previous H-1B petitions.

10. Leave blank since we are not filing a petition for an entertainment group.

11. a. Answer accordingly. The individual does not need to currently be in J1 or J2 status to answer this question YES. At any point, if he was a J1, we need to check YES.

   b. Answer accordingly. The dates of the J1 or J2 status are listed on the IAP-66 or DS-2019 forms. Additionally, we must provide USCIS copies of their previous J1 or J2 IAP-66 forms or DS-2019 forms.

Part 5: Basic information about the proposed employment and the employer.

1. Job Title: Use the official University title and not a working title.

2. LCA or ETA case number: Found on the bottom of each page of the Labor Condition Application. It begins with I-200-XXXXX-XXXXXX. IFSS will generate the LCA after receiving the prevailing wage determination. If you know the LCA number, please enter it here. If not, IFSS will enter the LCA case number.

3. Address where the beneficiary will work: List the street address and not the campus address. An address must be listed here.

4. Is an itinerary included with the petition: Answer NO.

5. Will the beneficiary work off site? Off site means they are not working on the UW-Madison campus. If they are not working at Madison, we have to get the prevailing wage for the location where they will be working. Most of the time the answer is NO. If you think the answer is YES, please contact IFSS.

6. Will the beneficiary work exclusively in the CNMI (Commonwealth of the Northern Mariana Islands)? Answer NO.

7. Is this a full time position? Answer accordingly.

8. Wages per week or per year: Answer accordingly and specify whether the salary is per week or per year in the box.


10. Dates of intended employment.

   • These dates are the dates you want to employ the individual in H-1B status.
- The start date cannot be a date in the past.
- If he is already working for the department in another status, the start date can be any day up to the date his current status ends as the start date. For example, his OPT expires 08/31/2011 so the dates of intended employment on his H-1B could be any day from now until 09/01/2011.
- If your individual is in the US in another status but has travel plans in the next 6 months, please contact IFSS to determine the start date of the H-1B and if consular notification should be done.
- The dates of intended employment can be for any period of time up to 3 years at a time. There is no minimum length of time an individual can be on an H-1B.
- If your individual is outside the US, the start date should take into consideration the time it takes to get the visa stamp and enter the US.

11. Leave as is.
12. Leave as is.
13. Leave as is.
14. Leave as is.
15. Leave as is.

Part 6: Certification Regarding the Release of Controlled Technology or Technical Data to Foreign Persons in the United States.

Please ask the Principal Investigator (PI) to complete the Export Control Worksheet. If he/she has questions about the form, please direct the questions to Tom Demke, the University’s Export Control officer at tom.demke@ssec.wisc.edu or at 608-262-8659. Once the form is completed, send it to IFSS. We will work with Tom Demke to complete the final review of the Worksheet. We will confirm that the correct box is checked in Part 6 once we have the form signed by both the PI and Tom Demke.

Part 7. Signature.
- The Department Chair or Center Director must sign in part 7 in BLUE ink. USCIS will reject the petition if it is signed in black ink.
- Please be sure to type the telephone number, name of the signor and the date on the petition.

Part 8: Signature of person completing the form, if other than above.
- This can be left blank alternatively, the person who completed the I-129 may sign.
- If it is signed, the signature must be in BLUE ink.
- Complete the entire section, including telephone number, name of signor, date and address.

- This page should be completed if any of the questions in Part 4 were answered YES.
- The Department Chair or Center Director must sign the bottom of Part 9.

H Classification supplement (pages 11-12).
1. Name of Petitioner: Type the department name after University of Wisconsin – Madison. Abbreviate if necessary.
2. Type the name of beneficiary (the name of the person for whom you are filing this petition)
3. List the dates the individual has actually been physically in the US in H-1B status.
• Do NOT list the dates of the approval notices.
• Specific dates must be listed.
• For example, employee’s first day in H-1B status was 09/01/2009. He went home for the holidays, left the US on 12/21/2009 and returned to the US on 01/15/2010 and he hasn’t left since. Complete this section as follows:
  o 09/01/2009-12/21/2009
  o 01/15/2010 to present

• Must list the dates of the H4 dependents that are included in the petition too.

4. Leave as is.
5. Leave as is.

Section 1.
1. Described the proposed duties.
• If the letter of offer or appointment letter specifically lists the duties, then type “Please see attached letter of offer.”
• If there is a PVL for this individual, you can type “Please see attached position vacancy listing.” Be sure to send a copy of the PVL with the supporting documents to IFSS. If there is no PVL, list the duties. If the letter of offer does NOT list the duties, then list the duties here.
2. Leave as is.

Signatures on page 12.
• Signatures must be in BLUE ink. USCIS will reject petition if signed in black ink.
• Department Chair or Center Director must sign in TWO places.
  o Petitioner’s signature.
  o Signature of authorized official of employer.