



MONTESSORI MAKERS GROUP

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H-1B Visa Sponsorship

Important Update on H-1B Visa Fee Rule (September 2025)

On **September 19, 2025**, a presidential proclamation was signed introducing a **\$100,000 fee** for *new* H-1B visa petitions. This change represents a steep increase in costs for employers that sponsor new H-1B applicants.

Who is affected: Employers who file new H-1B petitions for workers *outside the U.S.*; new applicants to the H-1B program.

Who is not affected: Current H-1B holders, and renewals of existing H-1B visas are *not* subject to this new fee. Also, those already holding a valid H-1B visa will not have to pay the fee to re-enter the U.S.

Fee Structure: The White House clarifies this is a **one-time payment** per new petition—not an annual fee.

Effective date: The rule goes into effect **12:01 AM ET on September 21, 2025**. Any H-1B petition filed *after* that time for new applicants may be subject to this fee.

Why there's confusion: Early statements had conflicting messages. While Commerce Secretary Lutnick had initially indicated the fee might be annual and possibly extend to renewals, White House and USCIS clarifications now clearly state that renewals and current holders are excluded.

What's next:

- There may be legal or court challenges.
- Implementation details (exemptions, process, how this interacts with lottery systems) may continue to evolve.
- Employers and visa holders should monitor USCIS, DHS, and White House guidance.

Note: We will continue updating this page as new clarifications emerge. If you are an employer, prospective applicant, or current H-1B visa holder, consider consulting with an immigration attorney for your specific situation.

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1. Overview

- What is an H-1B?
A non-immigrant visa permitting a foreign national to work in the U.S. for up to three years in a “specialty occupation” (one requiring at least a bachelor’s degree in a related field). Employers may extend an H-1B once for an additional three years, allowing up to six years of total stay.
- Specialty Occupation:
Position must demand a minimum of a U.S. bachelor’s (or foreign equivalent) in a specific discipline.

2. Basic Eligibility Requirements

1. Job Qualifications

- Role must qualify as a specialty occupation.
- Employer must offer a wage at or above the prevailing wage (average for similar roles in the same geography, per DOL).

2. Employee Credentials

- Bachelor’s degree (or higher) in the field required by the job.
- Maintenance of valid non-immigrant status if already in the U.S.
- Eligibility for the advanced-degree cap (U.S. master’s or higher).

3. Annual Cap & Lottery (Cap-Subject Petitions)

- Congressional Cap: 85,000 new visas per fiscal year
 1. 65,000 general category
 2. 20,000 advanced-degree exemption (U.S. master’s or higher)
- Registration & Lottery

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1. Registration Window: Opens in March (dates announced in January).
2. Entry: Employer drafts petition data; employee or employer approves in USCIS's online portal.
3. Fee: \$215 per registrant.
4. Lottery Drawing: Conducted end of March; selections notified by late March.

Cap-Exempt Employers: Institutions of higher education, affiliated nonprofits, and certain nonprofits/government research organizations may file anytime and do not participate in the lottery.

4. Pre-Filing Steps

1. Confirm Eligibility: Ensure both position and candidate meet criteria (see Section 2).
2. Labor Condition Application (LCA):
 - File via DOL's FLAG system.
 - Post notice at worksite (physically or electronically).
 - Processing typically \geq 1 week.
3. Compile Supporting Documents:
 - Employer support letter detailing job duties, requirements, salary.
 - Company evidence (e.g., business licenses, annual reports).
 - Employee's academic records, credentials, and status history.

5. Petition Filing Window & Process

- Cap-Subject Petitions: April 1–June 30 for selected registrants

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- Cap-Exempt Petitions: Year-round filing
- Form I-129 Package Must Include:
 - Certified LCA
 - Form I-129 and Supplement(s)
 - Employer support letter
 - Evidence of company operations
 - Employee qualifications and status documentation

6. Fees Summary

Fee Type	Amount	Notes
Base I-129 filing	\$460	
ACWIA fee	\$750/\$1500	Determined by employer size
Anti-fraud fee	\$500	First-time or new-employer petitions
Public law 113-114 fee	\$4000	Employers with > 50 employees, >50% in H/L status
Premium processing (optional)	\$2500	15-calendar day adjudication guarantee
Consular visa application	~\$190	Paid by employee at U.S. Consulate (if outside U.S.)

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7. Visa Issuance & Start Date

- Fiscal Year Start: October 1 for cap-subject approvals
- Cap-Gap Extension: F-1 students on OPT whose authorization expires before Oct 1 automatically extend to Sept 30 upon timely H-1B filing
- Cap-Exempt Approvals: Employee may begin work immediately upon approval

8. Post-Approval Compliance

- Employment Obligations:
 - Work only in the H-1B role, at locations listed in the petition
 - Maintain at least the wage listed on the LCA
- Material Changes:
 - Any significant change (title, location, salary) requires filing an H-1B amendment
- Record-Keeping:
 - Retain copies of all filings, LCA notices, and USCIS correspondence
 - Post LCA notices at new worksite locations as needed

For comprehensive guidance and up-to-date forms, see:

- USCIS H-1B Specialty Occupations & Electronic Registration Process
- DOL Office of Foreign Labor Certification (LCA instructions)
- Consult qualified immigration counsel for complex cases.

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