



**REMINDER: UPDATE FORM I-9 TODAY FOR STUDENTS
CHANGING TO H-1B STATUS ON OCTOBER 1ST**

On Wednesday, October 1, 2014, F-1 students with approved FY-2015 H-1B change of status petitions will see their status automatically change to H-1B. Employers should update the Form I-9 Employment Eligibility Verification for these employees to reflect their new work-authorized status and expiration date. Students should check in with their Designated School Officials (DSO) in order to notify their DSO that their status has been changed to H-1B.

Q1: Are all F-1 student employees affected?

A1: No, only those with an H-1B petition approved that requested a change of status to H-1B with an effective date of October 1st are affected. This will include most students who were selected in the FY-2015 H-1B lottery, and for whom a request for a *change of status* was approved.

Q2: What do I need to do?

A2: Remind your student employee that you will need to re-verify his or her employment eligibility. While you may not specify the particular document or documents required of the employee, please be aware that the employee will likely present his or her Form I-94 Arrival/Departure Record as evidence of H-1B employment authorization. The Form I-94 will most likely be found at the bottom of the Form I-797A Notice of Action/Approval Notice for the H-1B petition your company filed on his or her behalf. You would record the document in Section 3 of the Form I-9 and make a copy of the document if it is your company's policy to copy supporting documents. Make sure to calendar when work authorization needs to be reverified.

Q3: What if we filed an H-1B petition but didn't request a "change of status"?

A3: If you filed an H-1B petition, which has been approved without a "change of status," the student's F-1 status will not automatically change to H-1B on October 1st. Rather, additional steps are required before the student will hold H-1B status. Unless the student is a Canadian citizen (visa-exempt), he or she must travel abroad to apply for an H-1B visa in his or her passport at a U.S. Embassy or Consulate, usually in his or her home country. Canadian citizens would need to travel outside the U.S. and reenter the U.S. in H-1B status by presenting their valid passports and Form I-797 Approval Notices, but they would not have to apply for an H-1B visa. If a student still holds valid F-1 nonimmigrant status and a valid Optional Practical Training (OPT) Employment Authorization Document (EAD) card, the student may continue in his or her employment until the EAD card expires; however, in order to maintain continuous employment authorization, the student will need to apply for an H-1B visa abroad (unless Canadian) and reenter the United States in H-1B status before his or her current EAD card expires. After readmission in H-1B status, the Form I-9 Employment Eligibility Verification should be completed, generally based on the H-1B employee's valid passport and Form I-94 record created upon admission in H-1B status.

For more information on properly updating the Form I-9 to document employment eligibility, contact your FosterQuan immigration attorney.