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## **How Can An H-1B Employee Change Job Positions?**

In order for an H-1B petition to be filed with the USCIS for a foreign national worker, a Labor Condition Application or “LCA” must first be filed with the USDOL. An LCA is valid for any location within the Metropolitan Statistical Area (“MSA”) or Primary Metropolitan Statistical Area (“PMSA”) in which the place of employment is located, or within “normal commuting distance” of that location. The LCA is occupation-specific.

Whenever a new job position comes into play, steps must be taken to ensure that the proper clearances have been obtained before work begins. If the new position falls under a different occupational classification, then an amended H-1B petition must be approved before the employee can begin work in the new position. If the new position remains within the same occupational classification, then no action is required. (The same holds true for an employee in TN, L-1, E-1, or E-2 status, unlike in the job location change context where employees in these categories are free to move about.)

Here are some examples of job position changes and the steps necessary with respect to them:

- Jeff works as a Pharmacist. He is being promoted to Pharmacy Manager. Both positions fall under the same occupational classification. No action is required.
- Yaohong works as a Pharmacist Intern. She will soon begin work as a Pharmacist. These positions fall under different occupational classifications. An H-1B amendment must be approved before she can begin work as a Pharmacist.
- Dagmar works as an Engineer II. Her promotion to Engineer III will not require any action, as both job positions fall under the same occupational classification.
- Srikanth will be promoted from Engineer IV to Director of Engineering. These positions fall under different occupational classifications. An H-1B amendment must be approved before he can begin work as a Director of Engineering.
- Lloyd works in TN status as a Pharmacist. A promotion to Pharmacy Manager does not require any action, whereas a promotion to General Manager requires an amendment.
- Karl’s promotion from Accountant to Chief Operating Officer requires an amendment to his E-2 status due to the different occupational classifications for these job positions.

This article address changes in job position for H-1B employees at the same location where they are presently working. For information regarding changes of work location, please see our article “Making Sense of Job Location Changes For H-1B Employees.” As well, for job position and location issues related to the green card process, please see “Making Sense of Job Position And Job Location Changes During The Green Card Process.”