

SPONSORING FACULTY FOR NONIMMIGRANT AND IMMIGRANT STATUS

Policy Statement

This policy outlines the conditions under which a foreign national may obtain University sponsorship for temporary (non-immigrant) and permanent (immigrant) status based on employment with the University.

Hiring a foreign national differs significantly from hiring a United States citizen. The appointment of a foreign national is a complex matter involving interaction with several federal agencies. This area of law is heavily regulated and federal law makes it illegal for an employer to knowingly hire a foreign national who is not authorized to work in the United States. It is therefore important that the hiring of foreign nationals be undertaken in conformance with this policy.

The University will only make sponsorship applications for faculty positions and only under exceptional circumstances. Decisions regarding sponsorship for both immigrant and non-immigrant status will be on a case-by-case basis, depending on such factors as the needs of the department and the faculty members' qualifications. The University reserves the right to decline to file a visa sponsorship application or an extension of an existing visa stay on behalf of any foreign national.

The authority to grant employment eligibility to foreign nationals ultimately rests with the federal government. The University makes no representation concerning the success or timing of any application for employment eligibility. Approval for University sponsorship is not a guarantee of reappointment or promotion. If a faculty member's application is ultimately rejected, the University may be constrained to withdraw an offer of employment.

Temporary Non-Immigrant Visas

Temporary employment sponsorship under a non-immigrant visa is not a guarantee of future employment nor is the University obligated to sponsor for permanent residency.

H1-B (Specialty Occupation)

The H-1B is reserved for individuals who fill "specialty occupations." A specialty occupation is one that "requires a theoretical and practical application of a body of highly specialized knowledge to fully perform the occupation and which requires the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent."

H-1B status is available for up to six years, in three year intervals. This six year period may be extended under certain circumstances.

J-1(Exchange Visitor)

The purpose of the J-1 visa exchange visitor program is to promote mutual understanding between the people of the United States and other countries by means of educational and cultural exchange. J-1 positions must be temporary and of limited duration. This type of visa frequently requires that the foreign national return to his/her home country for a period of time after completion of their program ("home residency requirement").

Permanent Immigrant Visas

Permanent residents are admitted to the United States indefinitely on immigrant visas, commonly referred to as "Green Cards." This is a multi-step process, the order of which depends upon the employment-based (EB) category being pursued.

Permanent employment sponsorship under an immigrant visa is not a guarantee of future employment.

Under the category of "Professionals With Advanced Degrees or Persons With Exceptional Ability" (EB2), a labor certification is first required by the DOL. In this application, the University makes representations concerning the

wages to be paid to the foreign national as well as stating that offering the position will not adversely affect the working conditions of the United States workers, and in the case of a professor must typically demonstrate that the foreign national was found to be more qualified than any United States applicants. The labor certification process requires that the University actively recruit for the position, as evidenced by such factors as advertising.

A labor certification is not necessary in very unique circumstances, such as when there is strong evidence that the applicant can be classified as an “Outstanding Professor or Researcher” (EB1). This is reserved for professors who are internationally recognized as outstanding in a particular scientific or scholarly field. The Outstanding Professor/Researcher visa involves a filing by the University demonstrating distinction as evidenced by proof of receipt of major awards, publication in professional journals, evidence of original scientific or scholarly research, etc.

The Human Resources Department will work with the division of Academic Affairs to ensure that foreign nationals are processed in compliance with University guidelines and U.S. laws.