

**UNIVERSITY OF HOUSTON SYSTEM
ADMINISTRATIVE MEMORANDUM**

SECTION: Human Resources

NUMBER: 02.A.33

AREA: General

SUBJECT: Employment of Foreign Nationals

1. PURPOSE

- 1.1. This document establishes a framework for consistent decisions and practices that ensure compliance with federal regulations governing the employment of foreign nationals. It serves as a guide to protect the organization and individual employees from substantial penalties that may be incurred due to unauthorized employment of a foreign national.
- 1.2. This document applies to the employment of foreign nationals in any faculty or staff position within the University of Houston System.

2. DEFINITIONS

- 2.1. Foreign National: An individual who is not a U.S. citizen.
- 2.2. Staff employee: A staff employee of the System is an individual who performs services for the university and is paid through the payroll system, with accompanying tax withholding as provided by law, excluding those employees holding teaching and/or research positions classified as faculty, whose services are subject to the will and control of the university in terms of the job description and requirements.
- 2.3. Faculty Employee: An individual holding a teaching and/or research position for the university classified as faculty and paid through the payroll system, with accompanying tax withholding as provided by law.
- 2.4. Permanent Resident: A permanent resident is a non-citizen who is authorized to live, work, and study permanently in the United States, without restrictions.
- 2.5. Nonimmigrant: A citizen of another country who has been admitted to the U. S. for a temporary period and for a specific purpose. Nonimmigrants' duration of stay and lawful activities, such as employment, study, and accompaniment by dependents, are prescribed by their class of admission to the U.S.

- 2.6. H-1B Status: A temporary, nonimmigrant classification issued to a foreign national who has specialized educational credentials and who has been offered employment in a specialty occupation requiring the application of a theoretical or technical specialized body of knowledge acquired through attainment of a degree in the specific specialty.

3. POLICY

- 3.1. Employment of foreign nationals will be authorized only under the provisions of this policy and only when conditions and visa requirements established by federal law are assured and documented. Under no circumstances may any System employee knowingly enter into unauthorized employment or enter into an unauthorized contract with a foreign national.
- 3.2. Firm Employment Offer is a written communication in which a hiring authority makes an offer to employ a specific person in a specific position at a specified rate of pay to start within a certain time frame. For faculty offers, the proposed appointment and terms of offer should be reviewed and approved by Office of the Provost before tendering any such commitment.
- 3.3. Any offer of employment to a foreign national under a nonimmigrant program is considered temporary and is subject to the terms and conditions of the specific program's work authorization. Although a nonimmigrant may be appointed to a tenure-track position, tenure will not be granted to a nonimmigrant employee until the employee is granted permanent residence.
- 3.4. All H-1B requests and permanent residency requests for faculty should be approved by the Provost Office, and staff positions by the Division Vice President and the Chief Human Resources Officer (CHRO) prior to submission to the Office of General Counsel.
- 3.5. Petitions by the System for H-1B status will be reserved for individuals who have been offered full-time faculty positions or positions requiring similar credentials for at least four and one-half continuous months, excluding students employed in jobs that require student status as a condition of employment. Any exception to this policy for faculty sponsorship requires review and approval of the Office of the Provost.
- 3.6. H-1B request for staff positions will be limited to critical positions identified as "difficult to fill" by Human Resources. The request must be approved by the Chief Human Resources Officer (CHRO) or designee and the appropriate vice president of the division. Universities may limit H-1B approval for faculty positions only.
- 3.7. Applications or petitions for permanent residency supported by the System are reserved for individuals who have been offered, or are employed in full-time tenured or tenure-track faculty positions or full-time non-tenure track faculty

positions of similar stature and credentials including Instructional, Clinical, or Research Assistant Professor, Associate Professor, or Professor positions which are expected to continue for an indefinite period of time. The System will also give consideration to associate faculty holding the titles of Librarian, Senior Associate Librarian, Associate Librarian, and Assistant Librarian. Any exceptions to this policy are subject to review and approval of the Office of the Provost.

- 3.8. The System will not support permanent residency applications or petitions for staff positions. In rare cases, full-time staff permanent positions that are documented as “difficult to fill” by Human Resources may be eligible when other non-immigrant options are exhausted. Such cases, however, will require detailed justification and approval by the university Chief Human Resources Officer (CHRO) and appropriate vice president of the division.
 - 3.9. Faculty and staff of the System are prohibited from authorizing any private attorney to represent the System for an employee in any nonimmigrant or immigrant petition or application. Therefore, no university representative should sign a G-28 (Notice of Appearance) allowing an attorney to represent any UHS campus, unless authorized by the Office of General Counsel. A foreign national may choose to retain an attorney to represent his/her interests. The System will not pay for or offer reimbursement for this private representation.
 - 3.10. The policy of the University of Houston System and its universities is to ensure equal opportunity in all its educational programs and activities, and all terms and conditions of employment without regard to age, race, color, disability, religion, national origin, ethnicity, military status, genetic information, sex (including gender and pregnancy), sexual orientation, gender identity, or gender expression. For the UH System’s Official Non-Discrimination Statement, see [SAM.01.D.05 – Equal Opportunity and Non-Discrimination Statement](#).
 - 3.11. For purposes of administering this document, each university will operate as a separate employer in matters related to petitions and applications for work authorization.
4. RESPONSIBILITY
- 4.1. Each hiring manager is responsible for working with Human Resources and the Office of General Counsel to ensure that the University maintains compliance in all aspects of recruitment, hiring and sponsorship process.
 - 4.2. Each individual hiring authority is responsible for ensuring that employment offers to foreign national applicants or candidates for positions within the System are contingent upon receipt of necessary work authorization documents.
 - 4.3. Sponsoring departments are required to closely monitor to ensure that the H-1B employee’s job duties do not deviate from what was reported to USCIS and

