Policy Title | Immigration Support for Faculty and Staff
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Policy Category | Operational
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Policies Superseded | None
Responsible Office | Finance
Related Policies | None
Frequency of Review | Three Years
Date of Revision | 

I. SCOPE

This Immigration Support for Faculty and Staff Policy ("Policy") applies to all University community members. Please see Section IV below for the definition of capitalized terms contained in this document.

II. POLICY STATEMENT

Arcadia's global connections are integral to our mission of educating students. The University's mission transcends race, ethnicity, gender, religion, political perspective, or geography and reflects the core of the University's values. We will do everything possible to support the faculty and staff who are at the heart of what we do. The purpose of this document is to set forth the University’s Policy for providing immigration support for the hiring or continued employment of domestic faculty and staff who are Foreign Nationals. This Policy is only applicable to Foreign Nationals applying for or holding positions located in the United States.

III. POLICY

Arcadia University is an equal opportunity employer. The University seeks to strengthen its academic standing by hiring faculty and staff who are highly qualified for their jobs and who have the potential to make significant contributions to the institution. In general, if a person is a Foreign National and not a U.S. citizen or a Lawful Permanent Resident, then the University may sponsor that individual and petition for authorization from United States immigration authorities, before he or she can be employed by, or remain employed by, the University.

**Confirmation of Employment Authorization**

As required by federal law, all faculty and staff hired after November 6, 1986, without limitation or discrimination, whether U.S. or foreign-born, must complete and sign United States Citizenship and Immigration Service Form I-9, the Employment Eligibility Verification. Every new employee must complete Section 1 of Form I-9 on or before the first day of employment, but no later than three days after commencement of employment, and present acceptable original document or documents as required by Form I-9 to establish identity and eligibility to work in the U.S. Form I-9 may be completed prior to the first day of employment only if the employee has received a written offer of employment.
Employment of Foreign National Workers

Like all workers, Foreign National workers will not be permitted to work for the University until authorized to do so by federal law. The University, through the Office of Human Resources, will make the determination of whether or not a Foreign National is authorized to begin or continue employment or will need immigration sponsorship. In order to be employed by the University, a Foreign National worker must hold (i) an unexpired Nonimmigrant Visa Status and I-9 admission record authorizing employment with the University, (ii) an unexpired Employment Authorization Document (or work permit that provides temporary employment authorization to noncitizens), or (iii) be afforded employment authorization by virtue of some other provision of law such as optional practical training in F-1 status, or “cap-gap” authorization for F-1 students with pending H-1B petitions, or “H-1B portability” employment authorization afforded to those H-1B workers with a pending change of employer petition.

University Support for Immigration Filings

A University department seeking to hire a Foreign National who may need to be sponsored for Nonimmigrant Visa Status (temporary stay) must obtain institutional approval before extending the offer of employment. In such cases, the University will consider supporting the petition of the prospective employee to secure the immigration status, which he/she needs to be legally employed by the University. For faculty, the Provost has the budgetary authority to grant such support. For staff, the Vice President for Finance and Administration has budgetary authority to grant such support.

In appropriate cases, the University will itself, or through designated and approved outside counsel for the University, prepare and file a nonimmigrant visa petition to obtain appropriate work authorization. It is the responsibility of the Foreign National to cooperate with this process by providing all requested documents within a reasonable time.

As part of this process, the University will request the Foreign National to produce documents to confirm his/her citizenship and current United States immigration status if any, and eligibility for the requested visa classification. This will include, but not be limited to:
- Passports,
- Visas,
- Arrival-Departure Records (Forms I-94),
- Forms I-20, notices of approval for other petitions or applications,
- Employment Authorization Document(s),
- Degrees/diplomas, transcripts, and
- Other documents relevant to the immigration case.

In the event that a Foreign National is physically present in the United States and not in valid Nonimmigrant Visa Status at the time of filing or unknowingly misrepresented any aspect of his immigration or work history, or is inadmissible or removable under federal immigration law, then the University reserves the right to withhold sponsorship or support for the Foreign National and/or to request the withdrawal of any pending petition or the revocation of any approved petition. Notwithstanding the foregoing, the University will withhold sponsorship if the Foreign National intentionally misrepresented their status or had prior knowledge of or concealed any immigration status problem.
New Immigration Sponsorship or Extensions and Renewals of Nonimmigrant Visa Status

Some members of University’s faculty and/or staff in Nonimmigrant Visa Status may require new immigration sponsorship or extensions of their immigration status. In order to ensure the timely filing of a sponsorship or an extension thereof, it is the responsibility of current faculty and/or staff to inform the Office of Human Resources of any University-sponsored immigration status not less than six months prior to the expiration date. Thereafter, it is the responsibility of the faculty or staff to provide any and all documents that may be required to prepare and file an application for, or timely extension of, the person’s Nonimmigrant Visa Status.

University-Sponsored Applications for Legal Permanent Residence

Some Foreign National workers may seek University support for employer-sponsored permanent residence, also referred to as a “green card.” The University may sponsor tenure track faculty for permanent residence status after the University advertises the position in a national professional journal as required by federal regulations and uses whatever other criteria the University deems necessary in order competitively recruit the candidate. Such sponsorship is subject to any applicable employment probationary period. The University may, but is under no obligation to, sponsor Foreign National workers who are not tenure track faculty for legal permanent residence in the United States. Decisions to provide University support for an employer sponsored permanent residence to non-tenure track faculty shall be made on a case-by-case basis. The availability of United States workers to fill the position or the degree in difficulty in filling the position shall be used as criterion in the case-by-case review of sponsorship requests for non-tenured track faculty.

A request to sponsor a Foreign National worker for legal permanent residence shall be made in writing by the Foreign National’s Dean or Supervisor to the Provost or the Vice President of Finance and Administration, as applicable. Such requests shall be treated as recommendations only and are not binding on the University. In making such requests, Deans and Supervisors shall consider i) the program or activity the Foreign National worker is involved in, length of service, and the estimated period of continued service; ii) how the Foreign National worker is needed as an integral part or as an essential component of the department or activity; iii) what current and future benefit the Foreign National worker brings to the University, iv) present and future funding source for the Foreign National worker’s position, and v) efforts, if any, that have been made to recruit other qualified workers.

The decision to sponsor a Foreign National worker for legal permanent residence will be made by the Provost (academic affairs employees or candidates) or the Vice President for Finance and Administration (all others), in consultation with the Office of of Human Resources, the Dean of the School in which the applicant is working, the University’s General Counsel, and the Department Chair or Supervisor.

Attorney’s Fees and Costs Relating to Immigration Related Filings

The Department of Labor considers the costs related to filing an H-1B petition to be a business expense of the employer. In filing an H-1B petition, the employer must attest that it is paying the required wage rate so that the wage offered to the Foreign National cannot fall below prevailing or actual wage guidelines. As such, the University will pay the reasonable attorney’s fees as well as filing fees per employee in support of an H-1B visa petition.
If the employee is not eligible for H-1B status yet qualifies for another visa category, the University will pay attorney’s fees and filing fees for the temporary visa application including, for example, TN, O-1, etc. in an amount not to exceed the current attorney’s fees and filing fees required for an H-1B petition. The employee to the extent permitted by U.S. immigration law must pay any fees in excess of that amount.

As required by federal regulation, the attorney’s fees and costs directly associated with the filing of a Labor Certification as part of the permanent residency process shall also be paid by the University and the Foreign National worker shall not be required to pay any part of such fees or costs, either directly or through reimbursement. The University also will pay all attorneys’ fees and other costs associated with the University’s I-140 immigrant petitions based on Labor Certification. Except as otherwise provided herein, the worker is required to pay for other permanent residency filings, including for example, the University’s I-140 immigrant petitions not based on Labor Certification and the employee’s I-485 adjustment of status applications.

Because I-140 Petitions are applications of the University, prepared, signed, and filed by the University with compliance obligations for the University, and in order to be assured of the professional competence and integrity of any attorney representing the University, the University will select, engage, supervise and work directly with a lawyer or law firm of the University’s choice.

Except as otherwise stated herein, the University does not pay attorney’s fees associated with the preparation and filing of petitions for Nonimmigrant Visa Status. It is the responsibility of the Foreign National worker to make timely payment of all attorney’s fees and costs in association with a University-sponsored nonimmigrant visa petition. This applies to new filings, transfers, and extensions of visa status. Any costs associated with the filing of immigration-related applications for family members i.e., spouse and minor children accompanying the Foreign National worker shall be borne by the Foreign National worker.

The University will pay for such fees and costs if otherwise required by law. The University will also pay the standard filing fees for nonimmigrant petitions.

**Authorized Signatures**

Only the Vice President of Finance, the Provost, or their designees, are authorized to sign immigrant or nonimmigrant petitions prepared by counsel for the University in order to ensure the University’s compliance with the law. No other faculty member, Dean, Department Chair, or Supervisor should sign any immigration-related documentation prepared or presented by any Foreign National or attorney.

**Immigration Sponsorship Does Not Supersede the University’s Employment Policies or Practices**

This is to confirm that the University’s agreement or willingness to sponsor any Foreign National worker for a temporary visa classification or for legal permanent residence is not a contract of employment and does not supersede any of the University’s agreements, policies, or handbooks relating to employment. Moreover, any statements made by the University or any of its faculty or staff in support of any immigration-related application or petition shall not supersede or be included in or be a part of any employment-related evaluation, including evaluations for tenure, promotions, pay increases, or new appointments.
IV. DEFINITIONS

**Foreign National**: Any prospective faculty or staff member who is not a United States citizen, United States National, Lawful Permanent Resident ("green card" holder), Asylee, Refugee, or Temporary Resident under the 1986 amnesty program at the time of their appointment.

**Immigrant Visa Green Card**: serves as proof that its holder is a lawful permanent resident with permission to reside in the United States and, if they choose, may work in any position with any United States employer for no set time limit.

**H-1B Status**: is a temporary, Nonimmigrant Visa Status, which is employer-sponsored and employer-specific. This means that it is a petition signed and submitted by a United States employer on behalf of a foreign worker. A person in H-1B status is authorized to work only for the petitioning employer. In general, foreign workers can be granted up to six years (2 cycles of 3 years) of H-1B status, although this period can sometimes be extended under certain circumstances.

**Labor Certification**: an administrative process required for many employment-based permanent residence categories. For faculty, "Labor Certification" must be sought within 18 months of the faculty member's appointment decision being made. Some faculty may be exempt from the "Labor Certification" process due to their exceptional scholarly record. For non-teaching positions, the labor certification requires extensive evidence of unsuccessful recruitment for qualified U.S. workers (a full nationwide search that has been unsuccessful).

**Lawful Permanent Resident** ("green card" holder): is an individual who holds a green card which serves as proof that the holder is a lawful permanent resident with permission to live in the United States indefinitely and work in any position with any United States employer or choose not to be employed.

**Nonimmigrant Visa Status**: a temporary immigration status providing permission for a Foreign National to work for the University in a specific position. Includes H-1B status, TN status, and O-1 status, among others.

**University**: Arcadia University, its colleges, schools, affiliates, divisions and subsidiaries.

V. EFFECTIVE DATE

This Policy is effective on the date signed by the President.

VI. SIGNATURE, TITLE AND DATE OF APPROVAL

By: [Signature]

President

Date: 2/14/18