



Policy Title:	Employment of Foreign Nationals and Scholarly Reassignment
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POLICY:

It shall be the policy of Coastal Carolina University to comply with state and federal regulations regarding the employment of foreign nationals who require immigration sponsorship for employment. This policy explains the essential need for ensuring that all foreign nationals employed by the University are legally authorized to work in the U.S. and employees must demonstrate that they meet all the requirements of their particular visa category.

PROCEDURE:

I. DEFINITIONS

- A. Non-Immigrant Visas – Visas issued to persons who plan to come to the United States for a temporary period of time.
 - 1. H-1B Visa – Available to individuals in “specialty occupations” with at least a U.S. bachelor’s degree or foreign equivalent in a particular field, or education plus experience in the field that is deemed equivalent to a degree (generally three years of experience for every one year of degree study). The position offered must be a “specialty occupation,” meaning at least a bachelor’s degree in a specific field(s) is required.

2. TN Visa – Available to individuals who are citizens of Canada or Mexico and who work in the United States under The North American Free Trade Agreement (NAFTA) and are considered NAFTA professionals. (See Appendix 1603.D.1 to Annex 1603 of the NAFTA for a list of recognized NAFTA professionals).
3. O-1 Visa – Available to aliens of extraordinary ability. The alien must be coming to the United States to work in his or her area of extraordinary ability or achievement. Extraordinary ability means a level of expertise indicating that the applicant is one of the small percentage who have risen to the very top of their fields.
 - a. O-1A – Extraordinary ability in the sciences, education, business or athletics.
 - b. O-1B – Extraordinary ability in the arts or extraordinary achievement in the field of motion picture or television production. This extraordinary ability in the arts means a distinction that is a high level of achievement in the field, evidenced by a degree of skill and recognition substantially above that ordinarily encountered.
 - c. J-1 Visa – May be issued to participants in an Exchange Visitor Program approved by the U.S. Department of State. The “J” exchange visitor program provides for the interchange of individuals most commonly in the fields of education, arts and sciences. J-1 visitors may include professors and research scholars.

II. NON-IMMIGRANT VISA PETITIONS

- A. Policy for H-1B Temporary Worker of Distinguished Merit and Ability
 1. To obtain H-1B status for an immigrant visa, the Office of Human Resources must submit a petition with the United State Citizenship & Immigration Services (USCIS). The University generally works with legal counsel to submit the petition, which includes a detailed letter of support. A Labor Condition Attestation (LCA) must be filed by the University and approved by the Department of Labor before an H-1B petition may be filed with USCIS.
 2. Once the petition has been approved, USCIS sends notification of the approval to the University and to the designated U.S. Embassy or Consulate as appropriate.
 3. Permission to remain in the United States in H-1B status is limited to a total of six years. The H-1B is usually approved for an initial period of three years and may be extended for an additional three years. Extensions beyond the six-year maximum may be granted in certain circumstances.
 4. H-1B status should only be sought when it is in the best interest of the University and the foreign national, as determined by the University in its sole discretion.

5. The University rarely, and only in limited circumstances, sponsors part-time employees, non-faculty or non-tenure track faculty positions (such as lecturers) in H-1B status.
6. In those instances when the University sponsors an employee for H-1B status, there is no guarantee that the H-1B status can be obtained. The process is dependent upon various government agencies, employee eligibility, and factors often outside the control of the University.
7. University sponsorship of employers in H-1B status does not impact the sponsored employee's at-will or other employment status at the University.
8. Costs associated with the H-1B process will be the responsibility of the employer. These costs do not extend to a spouse or dependent(s) of the employee.
9. The University has sole discretion in determining whether to provide any sponsorship.

III. TN STATUS FOR CANADIAN AND MEXICAN CITIZENS / PROFESSIONAL WORKERS

- A. **TN status** or **TN visa** is a special non-immigrant **status** in the United States unique to citizens of Canada and citizens of Mexico. It allows Canadian and Mexican citizens the opportunity to work in each other's countries in certain professional occupations.
- B. To obtain TN status, an employee must:
 1. Be a citizen of Canada or Mexico.
 2. Apply to obtain the TN status for a profession recognized on the North American Free Trade Agreement (NAFTA) list.
 3. Apply for a position at the University, which requires a NAFTA professional.
 4. Meet or exceed the qualifications, specific requirements, education and/or experience of the profession.
- C. To obtain TN status, the Office of Human Resources will provide the employee with appropriate documents and generally works with University Counsel to submit the petition. Most TN petitions are submitted at a Port of Entry, but petitions can be submitted to USCIS as well.
- D. Permission to remain in the United States in TN status is generally granted in three-year increments and may be renewed on an indefinite, continuous basis. Petition approval is often dependent on the nature of employment.
- E. TN status does not allow for immigrant intent. The employee must maintain non-immigrant intent and plan to return to their home country at the end of the stay.

- F. TN status should be sought when it is in the best interest of the University and the foreign national, as determined by the University in its sole discretion.
- G. In those instances where the University sponsors an employee for TN status, there is no guarantee that TN status can be obtained. The process is dependent upon various government agencies, employee eligibility and factors outside of the control of the University.
- H. University sponsorship of employees in TN status does not impact the sponsored employee's at-will or other employment status at the University.
- I. Costs associated with the TN process will be the responsibility of the employer. These costs do not extend to a spouse or dependent(s) of the employee.
- J. The University has sole discretion in determining whether to provide any sponsorship.

IV. O-1 VISAS FOR ALIENS OF EXTRAORDINARY ABILITY

- A. To obtain an O-1A visa, an applicant must:
 - 1. Demonstrate extraordinary ability in the sciences, education, business, or athletics by being a recipient of a major, internationally recognized award or by demonstrating *at least* three of the following:
 - a. Multiple award winner for excellence in the field.
 - b. Membership in associations that require outstanding achievements of their members.
 - c. Publication of material in major media about the foreign national relating to his/her work in the field.
 - d. Participant as a judge of the work of others in the field.
 - e. Original contributions of major significance in the field.
 - f. Published material by the foreign national in professional journals or other major media.
 - g. Employment in a critical or essential capacity for organizations that have a distinguished reputation.
 - h. A high salary.

OR

- B. To obtain an O-1B visa, an applicant must:
 - 1. Demonstrate extraordinary ability in the arts or extraordinary achievement in the field of motion picture or television, as evidenced by the nomination for, or receipt of, a significant international or national award or prize, or by receiving or performing *at least* three of the following:
 - a. Lead or starring role in productions with distinguished reputations.
 - b. Critical reviews in major newspapers or trade journals.

- c. Lead, starring or critical role for organizations with distinguished reputations.
 - d. Record of major commercial or critically acclaimed successes.
 - e. Significant recognition for achievements.
 - f. A high salary.
 - 2. Once the petition has been approved, USCIS sends notification of the approval to the University and the designated U.S. Embassy or Consulate as appropriate.
- C. Permission to remain in the United States in O-1 status is generally granted for an initial two-year period with one-year extension petitions. O-1 status may be renewed indefinitely as long as the sponsorship opportunity continues.
- D. O-1 status should be sought when it is in the best interest of the University and the foreign national, as determined by the University in its sole discretion.
- E. In those instances where the University sponsors an employee for O-1 status, there is no guarantee that O-1 status can be obtained. The process is dependent upon various government agencies, employee eligibility and factors outside the control of the University.
- F. University sponsorship of employees in O-1 status does not impact the sponsored employee's at-will or other employment status at the University.
- G. Costs associated with the O-1 process will be the responsibility of the employer. These costs do not extend to a spouse or dependent(s) of the employee.
- H. The University has sole discretion in determining whether to provide any sponsorship.

V. J-1 STATUS FOR PROFESSORS AND RESEARCH SCHOLARS

- A. To obtain a J-1 status, an employee:
- 1. Must not be a candidate for a tenure track position.
 - 2. Cannot have participated in or completed a professor or research scholar program within the last 24 months preceding the begin date of the new program.
 - 3. Cannot have participated in the J-visa program for all or part of the 12-month period immediately preceding the start date of a professor research scholar program unless they meet one of the following exceptions:
 - a. The participant is currently in a professor or research scholar program and is transferring to another institution in the U.S. to continue his/her current J-1 program.
 - b. The participant's prior physical presence in the U.S. on a J-visa was less than six months in duration.
 - 4. Must have sufficient proficiency in the English language.

- B. To obtain J-1 status, a J-1 sponsor approved by the U.S. Department of State must issue Form DS-2019 to the J-1 participant. Typically, the individual will interview at the designated U.S. Embassy or Consulate abroad and enter in J-1 status. Some J-1 participants may be subject to a two-year home residency requirement, which may be waivable. Instead of consular processing, the J-1 participant may also timely file a change of status application and remain in the U.S.
- C. Permission to remain in the United States in J-1 status in the professor or research scholar category is generally limited to five (5) years. Admission is based upon the period listed on Form DS-2019, and the status expiration is typically recorded on Form I-94 as “Duration of Status.”
- D. J-1 visa holders must maintain non-immigrant intent.
- E. J-1 status should be sought when it is in the best interest of the University and the foreign national, as determined by the University in its sole discretion.
- F. In those instances where the University sponsors an employee for J-1 status, there is no guarantee J-1 status can be obtained. The process is dependent upon various government agencies, employee eligibility and factors outside the control of the University.
- G. University sponsorship of employees in J-1 status does not impact the sponsored employee’s at-will or other employment status at the University.
- H. Costs associated with the J-1 process will be the responsibility of the employer. These costs do not extend to a spouse or dependent(s) of the employee.
- I. The University has sole discretion in determining whether to provide any sponsorship.

VI. IMMIGRANT VISA PETITIONS

- A. It is the policy of Coastal Carolina University to sponsor for permanent residence (green card) only those employees whose positions are full-time, permanent in nature and on a tenure track. Special circumstances surrounding a particular employee may be considered.
- B. The University works closely with legal counsel on permanent resident sponsorship. If a PERM (Program Electronic Review Management) application is filed, the employee must meet the required qualifications and must be deemed by the search committee to be the most qualified candidate for the position as part of a competitive recruitment and selection process.

- C. A PERM application must be filed within 18 months of the candidate's acceptance of the University's offer. All other Department of Labor requirements must be met as well.
- D. Coastal Carolina University will pay for all expenses of the PERM process and the I-140 petition if applicable. The employee will be responsible for all expenses (legal and filing) related to the I-485 petition filing (including I-765 and I-131 petitions). The employee will also be responsible for any costs associated with filings for family members. The employee may choose to work with the University's legal counsel on any immigration filings for his/her family.

VII. SCHOLARLY REASSIGNMENT

- A. The criteria for eligibility for Scholarly Reassignment and procedures for application are available in the *Faculty Manual* (Section 5.2.5). To be eligible, the applicant:
 - 1. Must be a tenured member of the faculty.
 - 2. With a minimum of four consecutive years of service.
 - 3. Must be able to serve for at least one year following completion of the Scholarly Reassignment.
 - 4. Must have the final report of his/her most recent Scholarly Reassignment on file in the Office of the Provost prior to submitting a new application.
- B. Individuals cannot submit an Application for Scholarly Reassignment within three years of the completion of a previous Scholarly Reassignment.
- C. Applicants must submit:
 - 1. An abstract of proposal.
 - 2. Curriculum Vitae.
 - 3. A description of the reassignment activities (no more than three pages) including any necessary details and an explanation of this specific activity's relationship to the applicant's scholarly endeavors.
- D. It is the policy of Coastal Carolina University to review visa sponsorship in connection with a Scholarly Reassignment. Special circumstances surrounding a particular employee's scholarly endeavors may be considered by the provost.