

International Hiring Process and Guidelines

As Kansas State University continues to hire international faculty and professionals, it is important for the hiring manager to recognize that there are several immigration issues that must be considered when employing a foreign national. Hiring managers should be aware of the visa options. In all cases, the department will need to initiate the paperwork for the visa process (except when the applicant is in F-1 status on Optional Practical Training.)

1. Recruitment

- a. As with all recruitments, identify the need to hire, determine job responsibilities, determine candidate selection criteria, and create the job description. When recruiting for a tenure-track position or a position that has a teaching component, advertising for the position becomes critical. In addition, it is recommended that your recruitment ads always contain a statement indicating that the applicant must have authorization to work in the U.S. at the time of hire.
- b. For faculty positions (including tenure-track and instructor positions) it is important to initiate every recruitment process with the presumption that a foreign national applicant may be hired for the position. In most of these cases, the hiring department will want to petition for permanent residency for the employee. For faculty members with classroom teaching duties, the employer must only show that the foreign national is better qualified than any U.S. worker applicants.

The special procedures for faculty cases require the employer to demonstrate that it has selected the candidate by means of a competitive recruitment process through which the foreign national was determined to be the best qualified available applicant for the position. The employer must also show that an advertisement for the position was published in a national professional journal to recruit workers for the position. The paperwork must be filed within 18 months that the foreign national was selected for the position.

For specific guidelines on recruitment ads and the search, go to http://www.k-state.edu/iss/scholars-interns/permres/faculty_permres.html.

- c. If the department/unit is considering a foreign national candidate not currently residing in the U.S., the candidate may have to get a visitor visa to appear for the interview.
- d. During the interview process for each candidate the search committee may ask the following questions:
 - i. Are you legally authorized to work in the United States?
 - ii. Will you now or in the future require sponsorship for employment visa status?

2. Offer

- a. If a foreign national candidate is selected for the position, contact International Student and Scholar Services (ISSS) to determine an appropriate visa category for the position and to determine if there are any obstacles that may interfere with ability to obtain work authorization. However, you should be aware that you are not permitted to ask the applicant questions regarding their visa status. You can ask if they will require sponsorship for a visa.
- b. Visa options are listed at <http://www.k-state.edu/iss/scholars-interns/>. After working with ISSS to determine the appropriate visa category for the position, your hiring unit has the option of not extending a job offer to a foreign national candidate if (1) your department chooses not to pay immigration fees or (2) the immigration process will not be completed in time for the required start date.

- c. Draft and extend the offer letter, which must include required university wording to specify employment eligibility and immigration status. Please note that if there is no clear evidence of an earlier selection date, the U.S. Department of Labor relies on the date the offer letter was sent to the foreign national employee as the official date of offer.
 - d. Once the foreign national accepts the employment offer, the visa process can be started.
3. Documents required for hiring – [Nonimmigrant Visa Classifications](#)
4. Special considerations
- a. **Tenure or tenure track:** Foreign national tenure-track hires that require immigration assistance should start the process as soon as possible. The application for a green card or permanent residency should be initiated within 18 months of the date of offer. Although this is the responsibility of the newly hired faculty member it is advantageous to the hiring department to have this process started timely. If it is not, then a new search will need to be conducted at the expense of the department.
 - b. **Responsibilities of a hiring department when an employee is in H-1B status:** As the hiring department, you are responsible for ensuring that your H-1B employee's job duties do not deviate from what was reported to U.S. Citizenship and Immigration Services (USCIS). Material changes in job duties may require the university to file an H-1B amendment with USCIS. Such changes may include, but are not limited to:
 - i. Promotions
 - ii. Demotions
 - iii. Changes in job duties, responsibilities
 - iv. Changes in appointment percentage
 - v. Changes in FTE status, salary, benefits
 - vi. Changes in physical location
 - vii. Moves to other university departments

All employment changes must be reported to ISSS in advance in order to determine whether an amendment to the H-1B is necessary.

Terminations: Kansas State University is required to report to the federal government early terminations of H-1B and J-1 employees. When a foreign national in H-1B status ends their employment at the university prior to the expiration date indicated on their H-1B Approval Notice, the sponsoring department must notify ISSS before the employee's final day of work. This also applies when an individual is changing departments or schools. If your department dismisses or fails to renew the contract for the employee before the end of the authorized period of H-1B employment, your department will be responsible for paying the **reasonable costs of return transportation** of the employee to his or her last place of foreign residence. The exception is when the employee voluntarily resigns. (ISSS will need a copy of the resignation letter.) The offer of the return transportation must be in writing and the employee must have the option to accept or decline the offer. A copy of the letter with the employee's acceptance or denial of the transportation must be sent to ISSS.