

State of California
Memorandum



CAL POLY
Academic Personnel

To: Scott Dawson, Doug Epperson, Keith Humphrey, Jim Meagher, Don Oberhelman, Christine Theodoropoulos, Andy Thulin, Dean Wendt
Date: November 1, 2017

File No.: O:\AA\Visa-Work Authorization

From: *Albert A. Liddicoat*
Albert A. Liddicoat
Vice Provost, Academic Affairs and Personnel

Copies: Kathleen Enz Finken
Mary Pedersen
Department Heads/Chairs
College Analysts
Adriana Popescu
Geneva Reynaga-Abiko
Nick Pettit
Kacey Chun
Chris Kitts
Amy Velasco
Jodi Block
Marc Benadiba
Jennifer Hiatt
Staff: AP, CPIC

Subject: Employment of Non-Immigrants – Important updates

Both the Academic Personnel Office and the International Center work closely with departments and the college dean's offices to invite international faculty, staff and students to campus for temporary paid and volunteer activities. These offices follow complex U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) and U.S. Department of State federal visa regulations to determine which visa type and category is most appropriate for each individual's proposed activity and assist with the required visa application documents.

State of California regulations and Worker's Compensation regulations also mandate that all employees be legally able to work in the U.S. and provide proof of employment authorization before beginning employment.

Below are some important guidelines and the processes to follow when inviting or hiring an international applicant. Please review carefully, as several important changes are being communicated with this update.

Academic Personnel Office- Tenure-Track Instructional Faculty and Temporary Lecturer Classifications

- Consult with the Academic Personnel office prior to offering a faculty position to an international applicant. Academic Personnel will determine if the individual has employment authorization or needs to be sponsored for an H-1B specialty occupation category visa. Sufficient lead time must be allowed for the H-1B application processing prior to the appointment start date, since USCIS processing time can be highly variable before employment authorization is received.
- The college or department is responsible for the H-1B filing fees except for any H-4 filing fees related to the employee's dependents. Review the [H-1B visa process and fees online](#).
- International applicants for tenure track or other permanent positions may also inquire about employer assistance with applications for U.S. Permanent Residency. **The CSU does not allow any attorney fees and/or any filing fees associated with a petition for employer-based permanent residency ("green card") to be paid by the campus employing the petitioner, either by direct payment or as a reimbursement, from any funding source, including non-state or non-general funds.** It is important to clearly communicate that the applicant is responsible for retaining an immigration attorney and is responsible for all required fees if interested in pursuing permanent residency at the time a preliminary verbal offer is extended in order to avoid any expectations to the contrary. This policy will also be communicated in the official offer letter on an as-needed basis.
- The department employing the international applicant should also be aware that not all types of positions will satisfy the eligibility criteria for employment-based permanent resident status. It is often not an option for employees in non-instructional classifications such as librarians, counselors, coaches, and the majority of staff and management positions to attain permanent resident status based on their Cal Poly employment.
- The college sends the offer letter and the applicant's file to Academic Personnel for approval.
- If an H-1 B visa petition is needed, the Academic Personnel office will be able to initiate processing of immigration forms and documentation required once the applicant accepts the written offer.
- If the required degree listed in the advertisement has not been conferred prior to the anticipated date of employment, the employee cannot begin working for Cal Poly, even in another capacity (such as a lecturer). When the highest degree earned was received from any international institution, the prospective faculty member is responsible for ordering and paying for their degree to be evaluated (and translated into English if provided in another language) by Academic Credential Evaluation Institute, Inc. (ACEI). This applies to any highest degree transcript from an international institution, even if obtained in English (such as from Canada). **No other form of degree evaluation will be accepted.** For verifying degrees from international universities that do not provide transcripts,

the employee should order ACEI's Comprehensive Report **including grades** whenever possible. Translation services are also offered if needed.

- Once the H-1B visa petition is approved by USCIS, send the new employee to Payroll Services to verify that all employment authorization documents are in place before starting work. The employee is required to bring an original Social Security Card to Payroll in order to receive pay. If needed, please refer the new employee to the Social Security Administration office.
- Notify the Academic Personnel Office whenever a non-immigrant employee terminates employment and/or leaves Cal Poly.

Faculty Working on Grants/Sponsored Projects, Contracts, or Sports Camps

- The Cal Poly Corporation cannot employ or compensate H-1B workers for grants, contracts, camps or any other additional employment funded through external funding. However, the employing department can provide the additional compensation funded by external sources directly to the H-1B worker through an additional appointment classification (such as Special Consultant) and request reimbursement from the grant, contract, or other program administered by the Corporation.
- All sources of employment and compensation taken together cannot exceed 125% FTE, regardless of the classification used to compensate or source of compensation. Departments who employ non-immigrant faculty on visas will use the Special Consultant classification (job code 4660) for the purpose of compensating these faculty for work on grants and contracts, and any other additional employment. It should be noted that since the Special Consultant is an exempt classification, faculty employed as Special Consultants must be compensated for the work in full day increments. During the academic term, faculty employed as Special Consultants are permitted to work up to a maximum of fourteen days per academic term to stay within the 25% additional compensation provisions. During academic holidays and breaks, Special Consultant assignments may be performed on a full-time basis.
- The procedures and forms for processing Special Consultant appointments for faculty on visas are available on the Academic Personnel website.

International Center - Inviting Visiting Instructors, Researchers and Student Interns

- Visit the International Scholars website for links to all forms and sample letters.
- At least five months prior to the start date, the academic department completes the International Visitor Form and sends it to the International Center to determine the appropriate visa type.
- If a J-1 visa is deemed appropriate, the academic department assigns a faculty mentor or student intern supervisor and asks that person to complete and return the Mentor Agreement or J-1 Student Intern Supervisor Form.

- The International Center will work with the Dean's office to provide information for the invitation letter.
- The invitation letters for all paid appointments will be sent to Academic Personnel for approval.
- The International Center sends the DS-2019 visa document to the Dean's office to send via international courier to the visitor along with the invitation letter. If the visitor is a volunteer, the Dean's office will also include a Volunteer Information (V-1) Form.
- Upon arrival, the visitor will check in with the International Center and then apply for a Social Security card if he or she is to be paid.

Contact Information

[Academic Personnel](#)

Nicole Hadley
756-2841

[International Center](#)

Judy Mitchell
756-5837