

UNIVERSITY OF HOUSTON - Clear Lake
MEMORANDUM OF ADMINISTRATIVE POLICY

SECTION: Human Resources

NUMBER: 02.A.33

AREA: General

SUBJECT: Employment of Foreign Nationals

I. PURPOSE AND SCOPE

- 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.
- 1.2 This document applies to the employment of foreign nationals in any faculty or staff position at the University of Houston - Clear Lake.

II. DEFINITIONS

- 2.1 Foreign National: An individual who is not a U.S. citizen.
- 2.2 Staff employee: A staff employee of the University of Houston - Clear Lake is an individual who performs services for the university and is paid through the payroll of University of Houston - Clear Lake, 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 University of Houston - Clear Lake, with accompanying tax withholding as provided by law.
- 2.4 Permanent Resident: A permanent resident is a non-citizen who is authorized to live and work permanently in the United States, without restriction.
- 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 visa 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 a specific specialty.

III. POLICY INFORMATION

- 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 University of Houston - Clear Lake employee enter into an 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 H1-B 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 Immigration Services Office.
- 3.5 Petitions by the University of Houston - Clear Lake for H1-B 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 H1-B 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. The University of Houston – Clear Lake may limit H1-B approval for faculty positions only.
- 3.7 Applications or petitions for permanent residency supported by the University of Houston - Clear Lake 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 University of Houston - Clear Lake 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 University of Houston - Clear Lake 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 Chief Human Resources Officer (CHRO) and appropriate vice president of the division.
- 3.9 Faculty and staff of the University of Houston - Clear Lake are prohibited from authorizing any private attorney to represent the University of Houston - Clear Lake 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 the General Counsel. A foreign national may choose to retain an attorney to represent his/her interests. The University of Houston - Clear Lake will not pay for or offer reimbursement for this private representation.
- 3.10 The policy of the University of Houston - Clear Lake 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 Official Non-Discrimination Statement, see [SAM.01.D.05 – Equal Opportunity and Non-Discrimination Statement](#).
- 3.11 For purposes of administering this document, the University of Houston – Clear Lake will operate as a separate employer in matters related to petitions and applications for work authorization.

IV. RESPONSIBILITY

- 4.1 Each hiring manager is responsible for working with Human Resources and the Office of the 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 University of Houston - Clear Lake 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 promptly communicate to the Office of the General Counsel any changes in

employment such as job duties, appointment percentage, physical location (including satellite campuses), promotion, demotion, wage rate etc. Any changes must be reported prior to the changes being made, as it may be necessary to amend the conditions of the H-1B.

- 4.4 Each hiring manager is required to report to Human Resources or the Office of the General Counsel when a foreign national in H1-B status ends their employment prior to the expiration date indicated on their H-1B approval notice.

In addition, the department is responsible for paying the reasonable costs of the return transportation to the home country for an H-1B who is dismissed prior to the expiration of the current H-1B authorization.

V. REVIEW AND RESPONSIBILITY

Responsible Party: AVP, Human Resources/CHRO

Review: Every five years on or before May 31

VI. APPROVAL

Approved:

/Mark Denney/
Vice President for Administration and Finance

/Richard Walker/
President

Date: December 6, 2023

VII. REVISION LOG

REVISION LOG

| Revision Number | Approval Date | Description of Changes |
|------------------------|----------------------|------------------------------------------------------------------|
| 1 | 10/20/2020 | Initial edition |
| 2 | 11/29/2023 | To align with SAM 01.D.07, updated non-discrimination statement. |