

Information

Employment of Non-Resident Aliens (Non-Immigrants)

Effective

May 1, 1992

Number

PER-2.17

Applicability

This policy applies to University Administrators, Faculty, Staff, and Students.

Administrative Authority

Vice President for Human Resources

Responsible Unit

Human Resources

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History

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Categories

Statement:

The university may hire non-resident aliens for non-permanent staff positions of up to one year and also for any visiting faculty appointment or appointments if the alien has the appropriate visa. The standard temporary visas encountered for employment are the F1 (students) with "practical training" approval, the H1 distinguished merit scholar or worker, and the J1 exchange visitor student.

The university may hire non-resident aliens for an indefinite term (i.e., in permanent positions) upon compliance with the labor certification process.

Related Information:

If the unit or department intends to offer employment to a non-resident alien, it is important to give immediate notice to the appropriate university office(s) to start coordinating any visa or work authorization process required for the alien with the [Immigration and Naturalization Service \(INS\)](#) or the [Department of Labor \(DOL\)](#). Early notification may assist the alien in complying with his or her employment verification obligation under federal law before beginning work.

In order for the university to offer a staff position or a regular faculty appointment for an indefinite term (i.e., permanent employment) to an alien who does not have permanent residence (evidenced by the "green card"), an Application for Labor Certification must be approved in advance from the Department of Labor. A special procedure and exception to the general selection standard applies to employing faculty and allows non-selection of other qualified U. S. applicants if the non-resident alien is more qualified. This exception does not apply to non-faculty hiring. Therefore, filing a labor certification application to hire non-resident aliens in

permanent university staff positions is a difficult and lengthy process. Approval will not be granted if the salary offered is not at the prevailing market rate or if another U.S. applicant is even minimally qualified for the position. When an offer of permanent faculty employment is involved, the Office of General Counsel and VP for Legal Affairs coordinates directly with the requesting department the filing for labor certification on behalf of the university. When an offer of permanent employment is involved for non-faculty, the Office of General Counsel and VP for Legal Affairs assists in Human Resources coordination of the labor certification process. [See PER 2.16, Employment of Resident Aliens \(Immigrants\)](#), for specific information relating to this process.

U.S. law requires that all non-immigrant aliens have a valid passport issued by their home country and extended, renewed, and reissued by the home country as necessary. The university requires that such a passport be presented upon employment, along with an attached visa stamp and/or arrival/departure document issued at the port of entry in the United States. This document will bear the alien's status (F1,J1,H1), along with either an expiration date or "D/S" (duration of status for an indefinite period).

[Immigration and Naturalization Service \(INS\)](#)

[Department of Labor \(DOL\)](#)

[See PER 2.16, Employment of Resident Aliens \(Immigrants\)](#)

[International Center](#)

[International Students & Scholars](#)

Definitions:

Non-resident aliens (non-immigrants) are aliens admitted temporarily for specific purposes and definite periods of time.

An F1 student is a person with a resident in a foreign country to which he or she plans to return and who is coming to the United States temporarily and solely for the purpose of attending a school previously selected by him and approved by the

Attorney General.

Procedures:

1. F1 - Student Category

To apply for this status, the student must first apply for and be granted admission to the university. An Immigration and Naturalization Form I-20 (Certificate of Eligibility for F1 student status for academic and language students) must be completed and certified by the university's foreign student coordinator. Information on this procedure and copies of the form may be obtained from the [International Center](#) office or at [International Students & Scholars](#).

An F1 student may be employed as a research assistant or teaching assistant or in connection with a fellowship without prior approval from anyone. Such employment is considered a part of his or her educational program.

A student may be employed in other on-campus positions if such employment will not interfere with his or her ability to carry a full program of study and will not displace a U.S. worker. The student may work a maximum of 20 hours per week while school is in session and full time during vacation periods.

The F1 student classification is normally used by foreign students enrolled in formal academic programs, but there are two instances in which a foreign student may work in this country in F1 status after completing his or her studies.

1. Practical training. A foreign student who has just completed a degree in the U.S. may engage in either academic or non-academic employment for up to 12 months if the work is directly related to his or her field of study and if such employment is considered to be unavailable in his or her country. Approval of the Immigration and Naturalization Service is required. Authorization for practical training is granted in two categories -- pre-completion and post-completion. Each of these is limited to twelve months. Post-completion practical training is further divided into two six-month periods. The university may authorize temporary employment for practical training except for the second period of post-completion practical training, which requires Immigration and Naturalization Service (INS) authorization. Students must have been in F-1 status for nine months to be eligible for any type of practical training. The

number of times a student attends a university in another non-immigrant visa classification does not count toward this nine-month period. Students requiring information concerning specific INS regulations on practical training may contact their representative at the [International Center](#) (852-6602).

2. Postdoctoral status. An alien who has completed a doctorate in the U.S. or abroad may continue in F1 status or secure an F1 visa to enter this country to engage in postdoctoral research or study. The position must be within the normal limits of postdoctoral research and thus could not be a regular staff position. Students may also be employed for pre-completion practical training after completion of all course requirements for the degree (excluding thesis or equivalent). They may also engage in postdoctoral research study (not teaching) in temporary positions for a maximum of three years. Upon obtaining the appropriate clearances from the requesting department and Human Resources, prior approval from INS for F-1 practical training is coordinated by the International Student Coordinator at the International Center. The procedures for completing the employment process of an F1 student is contained in the Business Policies and Procedures Manual.

2. H1 - Temporary Worker of Distinguished Merit

The H1 alien must be pursuing a scholarly or professional objective that is of a temporary nature (i.e., he or she cannot hold a permanent faculty or staff position, though he or she may take the place of, for one or two years, an American holding a permanent faculty or staff position). Extensions of stay are usually available to an H1 alien for up to three or four years. Requests for extensions beyond that period would bring into serious question the "temporary" aspect of his or her activities in this country. The Immigration and Naturalization Service generally only classifies graduates of foreign medical schools who are coming to teach or conduct research at the university as H1 students. An alien with an H1 classification is only authorized to work for the person, company, or institution providing sponsorship. The H1 visa category allows an alien of distinguished merit and ability to be employed at the university for a specified period of time (i.e., on a temporary basis in a professional staff or faculty position generally requiring at least a Master's Degree for up to three years, with two one-year extensions possible). This category would also be appropriate for a postdoctoral research associate of proven merit and ability. This category is generally inappropriate for faculty appointments that include tenure or are subject to the university's tenure policy. Upon obtaining an appropriate

departmental request regarding faculty employment and clearance from the Human Resources Department for staff employment, the Office of General Counsel and VP for Legal Affairs coordinates the completion of H1 petitions (form I-129B), which takes about two months for approval after the official filing date. Procedures for completing the employment process of an H1 temporary worker is contained in the Business Policies and Procedures Manual.

3. J1 - Exchange Visitor Student

The exchange visitor classification is used for a variety of educational purposes. Under the exchange visitor status, students, scholars, trainees, professors, researchers, and similar persons may come to the U.S. for temporary periods for the purpose of educational exchange under the sponsorship of an organization or institution which has previously been approved by the International Communication Agency as an exchange visitor program sponsor. Students may come to the U.S. in J1 exchange visitor status if they are participants in a sponsored program (such as the Fulbright program) or under the sponsorship of their U.S. college or university, if it is designated as an approved exchange, visitor program sponsor.

The basic document necessary for an alien to apply for a J1 visa and J1 status is the Form IAP-66, Certificate of Eligibility for Exchange Visitor (J1) Status, issued by the university's foreign student coordinator. This form may be obtained through the International Center. The applicant follows procedures similar to those for F1 status, except for the following differences:

1. The J1 student is considered a "sponsored" student and must have a sponsoring agency which may or may not provide financial support. The United States University may be that sponsoring agency for immigration purposes. If so, a special relationship of sponsorship exists between the university and the student.
2. Sponsoring agencies have considerable authority to impose additional requirements on the student over and above those for F1 students in matters such as definition of a full program of study, whether the student can change fields of study, extend his or her stay, or transfer to another school or sponsorship, etc.
3. The sponsoring agency has the authority to grant off-campus work permission to the J1 student without referring the matter to the Immigration and

Naturalization Service if the sponsor determines that the employment is necessary because of an "urgent financial need which has arisen since acquiring exchange visitor status" and will not cause the student to fail to carry a full program of study.

4. J1 students are eligible for up to 18 months of practical training, as determined by the program sponsor, after completing their educational programs, compared to the maximum of 12 months which can be authorized for F1 students.
5. The dependents of J1 students can be authorized by the Immigration and Naturalization Service to accept employment if they can demonstrate that the employment is necessary for the support of the dependents and will not be used for the financial support of the J1 student.
6. A J1 student is not allowed to change his or her educational objective in the U.S. He may change the field of study or degree objective (provided the sponsor approves), but may not switch from one category of exchange visitor to another, i.e., from student to researcher or from student to professor.
7. Certain J1 exchange visitors are required to live in their home countries for a period of two years after completing their exchange visitor programs in the U.S. before they are eligible to apply for immigrant status or for non-immigrant status as temporary workers, trainees, or intracompany transferees. The two-year home country requirement applies only to those exchange visitors who:
 1. Are financially supported by the U.S. government or their home government; or
 2. Have skills which are needed in their home countries; or
 3. Are medical doctors who have graduated from a foreign medical school and have come to the U.S. to study or work in the field of medicine.

Responsibilities:

Upon receiving the appropriate clearances through the requesting department and the Human Resources Department, J1 visas are coordinated by the International Student Coordinator at the International Center.

Forms/Online Processes:

[Immigration and Naturalization Form I-20](#)

[Form IAP-66, Certificate of Eligibility for Exchange Visitor \(J1\) Status](#)

[Form I-129B](#)

[Form I-20, DS 2019 Request Form](#)