

Policies of the University of North Texas	Chapter 5
05.010 Employment of Non-Citizens	Human Resources

Policy Statement. To comply with the provisions of the United States Immigration and Naturalization Act, as amended, and the Mutual Educational and Cultural Exchange Act of 1961, governing the employment of immigrant and non-immigrant aliens (non-citizens).

Application of Policy.

All Faculty and Staff

Definitions.

None

Procedures and Responsibilities.

- I. **Policy.** It is the policy of the University to employ immigrant and non-immigrant aliens within the provisions of applicable federal laws and regulations. Immigrants are those who have been granted permanent resident status, but who are not United States citizens. Non-immigrants are those individuals who are admitted temporarily for specific purposes and periods of time.

Immigrants (permanent residents) may engage in all forms of employment.

The University may employ non-immigrants (non-residents) only if permission to work in the United States has been authorized by the Bureau of Citizenship and Immigration Services (formerly Immigration and Naturalization Service).

- II. **Non-immigrant Status.** Non-immigrants who may be eligible to work normally fall into three categories:

non-immigrants with F-1 visas

non-immigrants with J visas

non-immigrants with H visas.

- A. **Non-immigrants with F-1 Visas:**

Non-immigrants with F-1 visas are aliens temporarily admitted to this country under Bureau of Citizenship and Immigration Services (BCIS) rules, to study at a recognized educational institution approved by the Attorney General of the United States. International Students can be identified by the symbol F-1 that appears on their I-94 (F-2 for spouses and children).

International students who are taking a full course of study and otherwise maintaining a valid F-1 status may hold any on-campus employment, limited to

hours listed below. International students do not require BCIS permission to accept on-campus employment. (The student's employment must not displace a United States citizen or permanent resident.)

The F-1 visa normally limits the number of hours international students may work to 20 hours per week during academic sessions. Under special circumstances, certain F-1 students may qualify to receive permission for exception to the 20 hour per week limitation during academic sessions; contact International Advising (IADV) for assistance. During the summer or when school is not in session international students on F-1 visas may work full-time when not enrolled in classes.

UNT international students seeking off-campus employment through either "optional practical training" or "curricular practical training" may contact the IADV for assistance. International students from institutions other than UNT who are employed by UNT under "optional practical training or "curricular practical training" must provide UNT with documentation as specified by BCIS stating the terms and limitations under which they may be employed.

Spouses or children with F-2 visas may not be employed.

B. Non-immigrants with J Visas:

Non-immigrants with J-1 visas (J-2 for spouses or children) are students, scholars, trainees, teachers, professors, research assistants, specialists or similar persons temporarily admitted to this country under BCIS rules, to participate in a program designated by the United States Department of State..

Non-immigrants with J-1 visas who are students may be employed in part-time employment on campus if work is authorized by their sponsor (this requires a confirmation letter from the sponsor.) Non-immigrants with J-1 visas who are Professors or Research Scholars may engage in employment stated on their Form IAP66. All Departments and J visa holders must check with IADV prior to offering or accepting employment or before making any increase in their employment schedule.

Spouses or children with J-2 visas must have permission of BCIS to seek employment in the United States before they may be employed on campus. (Note: Application to BCIS for permission to seek employment in the U.S. may be made through the IADV; however, the application is made directly to BCIS, not IADV)

C. Non-immigrants with H Visas:

Individuals with H-1B visas are admitted to the United States to perform in "specialty occupations." H-1B visa petitions for temporary employment of non-citizens in specialty occupations must fully comply with applicable federal laws and regulations. Moreover, H-1B petitions are filed on behalf of the University and must serve to support the teaching, research and service mission of the University.

The University will process H-1B petitions only for approved full-time faculty and professional and technical staff positions (“specialty occupations”) for which attainment of a baccalaureate or higher degree (or its equivalent) is a minimum requirement for entry into the occupation. Part-time positions including teaching fellows, teaching assistants, adjunct faculty, and lecturers are not eligible.

1. To ensure compliance with applicable federal laws and regulations, International Advising (IADV), a unit of International Studies, will prepare and file all H-1B petitions on behalf of the University. Hiring departments, NOT the prospective employee, are responsible for consulting with IADV and for submitting all requested documentation to IADV. Departments must consult and obtain the approval of IADV before making an offer of employment that will require processing a work authorization.
2. A University employee with delegated signature authority must sign H-1B petitions. The University has designated the Provost and Vice President for Academic Affairs with signature authority for H-1B petitions for full-time faculty positions. The Assistant Vice President for Human Resources is designated signature authority for H-1B petitions for full-time staff positions.
3. The University will pay all H-1B petition filing fees for petitions that it authorizes, prepares and files.
4. The University will not authorize or pay an outside attorney to prepare or file H-1B petitions on its behalf. At his or her own expense, an individual may hire an attorney to represent his or her own interests in regard to an H-1B petition. In such cases, the individual and his or her attorney may review the H-1B petition prior to filing upon request.
5. The University has the right to end the petitioning process at any time and for any reason.

When extenuating and unforeseeable circumstances arise, and so long as the expense for an outside attorney would not reduce a prospective employee’s proposed salary below the required prevailing wage, the Office of the Vice Chancellor and General Counsel may provide an exception to Section 2.3.4 and authorize a prospective employee to use an outside attorney to prepare or file H-1B petitions on the University’s behalf. However, in such circumstances, the expense for any such outside attorney will be borne by the prospective employee.

- III. Benefit Eligibility: Non-citizens who are employed are eligible for the same benefits as are other employees in comparable positions.

Non-immigrants on F-1 or J-1 visas who have been authorized to work are not subject to Social Security withholding (FICA) for a limited period of time. However, all non-immigrants must file Federal income tax withholding even if their income is otherwise

exempt from taxation. The University is required to withhold the correct amount of tax from the individual's paycheck. If the individual is tax exempt, he/she may receive a refund of all taxes withheld after filing an annual income tax return.

Non-immigrants on H-visas are subject to Social Security taxes and income taxes, unless tax exemption is specifically provided by treaty or convention.

Permanent residents (immigrants) and spouses or children (with J-2 visas) of individuals with J-1 visas must participate in Social Security and income tax withholding.

All foreign nationals and non-US citizen permanent residents must document their US tax status by completing the Foreign National Information (FNI) form and providing immigration documentation as required by the form to the Payroll Office. The FNI form is available in Payroll and in Human Resources.

- IV. Employment Eligibility: All employees must complete the BCIS form I-9 on their first date of employment. Within three business days of employment, hiring departments must ensure that documentation is provided by the employee to establish their work eligibility and identification (see Personnel Policy 05.009, Employee Affidavit and other requirements).

Responsible Party: Human Resources

References and Cross-references.

Immigration and Naturalization Act, as amended.

Immigration Reform and Control Act of 1986.

The Mutual Educational and Cultural Exchange Act of 1961.

IRS Publication 518, Foreign Scholars and Educational and Cultural Exchange Visitors.

IRS Publication 519, United State Tax Guide for Aliens.

Deficit Reduction Act of 1984.

UNT Policy 05.009, Employee Affidavit

Approved: 5/1/1983

Effective:

Revised: 9/94; 1/99; 7/02; 8/03

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