

UNIVERSITY OF HOUSTON SYSTEM  
ADMINISTRATIVE MEMORANDUM

**SECTION: Human Resources**

**NUMBER: 02.A.33**

**AREA: General**

**SUBJECT: Employment of Foreign Nationals**

---

1. PURPOSE

- 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 in the employment of unauthorized aliens.
- 1.2. This document applies to the employment of foreign nationals in any faculty or staff position within the University of Houston System.

2. DEFINITIONS

- 2.1. Foreign National: An individual who is not a U.S. citizen, permanent resident or resident alien of the U.S.
- 2.2. Staff employee: A staff employee of the System is an individual who performs services for the university and is paid through the payroll system, 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 component 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 system, with accompanying tax withholding as provided by law.
- 2.4. Permanent Resident or Resident Alien: A permanent resident is a non-citizen who is authorized to live and work permanently in the United States.
- 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.
- 2.6. H-1B Status: A temporary, nonimmigrant visa issued to a foreign national who has specialized educational credentials and who has been offered a position requiring the application of a theoretical and specialized body of knowledge acquired in his/her degree program.

3. POLICY

- 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 System employee knowingly employ, or contract employment with, an unauthorized alien.
- 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 System 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. Component campuses may limit H1-B approval for faculty positions only.
- 3.7. Applications or petitions for permanent residency supported by the System 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 System 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 System 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 component Chief Human Resources Officer (CHRO) and appropriate vice president of the division.
- 3.9. Faculty and staff of the System are prohibited from authorizing any private attorney to represent the System 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 component 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 System will not pay for or offer reimbursement for this private representation.
- 3.10. The policy of the University of Houston System and its components 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, veteran’s status, genetic information, or sex (including pregnancy), except where such a distinction is required by law. Additionally, UH System prohibits discrimination in all aspects of employment and educational programs on the basis of sexual orientation, gender identity, or gender expression. For the UH System’s Official Non-Discrimination Statement, see [SAM.01.D.05 – Equal Opportunity and Non-Discrimination Statement](#).
- 3.11. For purposes of administering this document, each component university will operate as a separate employer in matters related to petitions and applications for work authorization.

#### 4. 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 System 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, promotion, demotion etc. Any changes must be reported prior to the changes being made.

- 4.4 Each hiring manager is required to report to the component Human Resources department 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.

5. REVIEW AND RESPONSIBILITY

Responsible Party: Associate Vice Chancellor for Human Resources

Review: Every five years on or before May 31

6. APPROVAL

Approved: Jim McShan  
Senior Vice Chancellor for Administration and Finance

Renu Khator  
Chancellor

Date: December 2, 2016

## REVISION LOG

Revision Number	Approval Date	Description of Changes
1	02/23/1996	Initial edition
2	03/27/2003	Applied revised SAM template to meet current documentation standards. Changed University of Houston System or its components to "System" throughout text. Added information to Section 3.4 about expected employment for an indefinite period of time. Added information about H1-B petitions with a private attorney. Updated GENDA statement in Section 3.6. Changed responsible party from Vice Chancellor for Administration and Finance to Assistant Vice Chancellor for Human Resources. Changed review period from odd numbered years on or before August 31 <sup>st</sup> to every three years on or before May 31 <sup>st</sup> . Added Vice Chancellor for Administration and Finance to approval process in Section 6
3	12/02/2016	Applied revised SAM template and added new SAM Revision Log. Removed information in Section 1.2 on FTE, appointment period and funding source. Added new definitions to Section 2 for Staff Employee (Section 2.2), Faculty Employee (Section 2.3), and Permanent Resident or Resident Alien (Section 2.4). Removed definition in Section 2.7 on Firm Employment Offer. Extensively revised both Section 3 and Section 4 on policies and responsibilities regarding the process of employment for foreign nationals. Added Section 3.10 with current GENDA/Title IX Statement per U. S. Department of Education's Office of Civil Rights' requirements. Changed review period from every three years on or before May 31 <sup>st</sup> to every five years on or before May 31 <sup>st</sup> . Changed titles as applicable