

**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, regardless of full-time equivalency (FTE), appointment period or funding source.

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. Employee: An employee of the System is an individual who performs services that are subject to the will and control of the component university in terms of the job description and requirements. An employee is paid through the payroll system, with accompanying tax withholding as provided by law.

2.3. Volunteer: No foreign national can perform any activity that benefits the organization and cannot receive, nor expect to receive, payment or remuneration of any kind for such labor or service at any time.

2.4. Permanent Resident or Resident Alien: An alien who has been lawfully admitted to the U.S. to live; an immigrant; holder of a green card.

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.

2.7. Firm Employment Offer: An oral or 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.

3. POLICY

3.1. It is the policy of the System that a component university may employ, or make employment offers to foreign nationals only when U.S. citizens or permanent residents of equal training, experience and competence for the position are unavailable. Such a determination can only be made following a completely documented search and evaluation process. 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. 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.

3.3. Petitions by the System for H1-B status will normally be reserved for individuals who have been offered faculty positions or positions requiring similar credentials. Holders of H-1B status may only be appointed for the time period permitted under the individual's status.

3.4. Applications or petitions for permanent residency supported by the System are normally reserved for individuals who have been offered, or are employed in tenure-track faculty positions or regular staff positions of similar status that require credentials similar to faculty positions and are expected to continue for an indefinite period of time.

3.5. Faculty and staff of the System are prohibited from authorizing any private attorney to represent the System in any nonimmigrant or immigrant petition or application. 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. A private attorney retained by a foreign national in support of an H1-B status must submit the H1-B petition and labor condition application through the appropriate authority of the System.

3.6. Nothing in this policy shall be used as the basis for discrimination against any individual or group because of race, gender, age, color, religion, national origin, disability, sexual orientation or veteran status; nor may it be construed to be a basis for circumventing equal employment opportunity laws, policies and standard employment procedures.

3.7. 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. The Chief Executive Officer of each component university will assign the authority and responsibility to assure that the provisions of this policy is properly administered to an appropriate department or departments.

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.

5. REVIEW AND RESPONSIBILITY

Responsible Party: Assistant Vice Chancellor for Human Resources

Review: Every three years on or before May 31

6. APPROVAL

Approved: Arthur K. Smith

Date: March 27, 2003