

Policy Name: Hiring and Sponsorship for Foreign Nationals	Effective Date: January 3, 2024
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Overview

The University enrolls students and employs individuals with a variety of diverse backgrounds, including foreign nationals. This practice contributes to our commitments to increase international student enrollment; advance a diverse, equitable, and inclusive community; and help prepare our students to become global citizens. The process of enrolling students and employing foreign nationals (as faculty, staff, or employees claiming student status) involves federal rules and regulations that, if not carefully followed, can result in severe penalties. To ensure the University complies with all applicable federal regulations, The Global Education Center (GEC) (for students and Fulbright scholars) and the Office of Human Resources (for employees) have been designated as the sole offices authorized by the University to process and file the paperwork required in order for foreign nationals to enroll as students or to be hired into a faculty or staff position. The contact in the GEC for students and visiting scholars is the Director of International Student Services. The contact in Human Resources for employees is the Director of Compensation and Recruitment. The contact in the Provost’s Office, who will serve as a liaison between faculty members and Human Resources, is the Deputy Chief of Staff.

All international students and scholars as well as any foreign national who performs work at the University must be authorized to do so in accordance with this policy, as well as all local, state, and federal laws, rules, and regulations.

Definitions

- A. **Foreign National:** means any prospective faculty, staff or student who is not a United States Citizen, United States National, Lawful Permanent Resident (“green card” holder), Asylee, Refugee, or Temporary Resident under the 1986 amnesty program at the time of their appointment or admission.
- B. **Nonimmigrant:** means a foreign national who is admitted to the United States for a specific, temporary period of time. Clear conditions are attached to their stay.
- C. **Lawful Permanent Resident:** means a person who has the right to live and work in the United States for any employer.

- D. **Labor Certification:** means an administrative process required for many employment-based permanent residence categories. The labor certification process requires extensive evidence of unsuccessful recruitment for qualified U.S. workers.
- E. **Visa:** means a legal document issued by a United States Embassy or Consulate which allows the bearer to apply for entry to the U.S. in a certain classification, such as student (F), exchange visitor (J), visitor (B) or temporary worker (H). A visa does not grant the bearer the right to enter the United States.
- F. **Visa Status:** means the legal category under which the visitor was admitted to the U.S. The categories are associated with letters such as F-1, J-1, H-1B, etc. The foreign national's visa status will determine obligations the student/scholar/employee has to his/her educational institution/employer and rights they have while in the U.S.

Immigration Sponsorship of International Students for F-1 or J-1 Status

International student applications for exchange programs and degree programs are processed through Undergraduate Admissions and Graduate Admissions, as it pertains to each program. The [Global Education Center \(GEC\)](#) works directly with the Admissions department to provide information about subsequent steps to apply for F-1 and J-1 student visas.

The University facilitates legal entry of qualified international students by serving as the sponsor of their immigration status as F-1 or J-1 students. The Global Education Center (GEC) validates the immigration status of newly arrived international students, holds orientation for the students, handles the SEVIS reporting, authorizes employment for students, and advises schools and individual students on immigration-related issues that affect their studies and vice versa.

Students with F-1 visa status who graduate from other institutions can be considered for temporary one-year Optional Practical Training teaching positions at Elon University if they are teaching in a field directly related to their major area of study. For Department of Homeland Security-designated STEM fields it may be possible to extend this time for an additional two years. These positions can be considered by the University when specific areas of expertise are needed and must be approved by the program's dean. The institution the student graduated from is responsible for supporting the student's maintenance of their F-1 status.

Employment Sponsorship

During the search for and hiring of employees, processes are included that are designed to minimize delays to securing visas, delays to the start of employment, and impacts to the future immigration filing options that are available to employees.

When submitting position requisitions for approval, hiring managers should indicate if a search for a specific area of expertise is likely to yield a pool with a high percentage of foreign nationals and if a foreign national is hired, whether the hiring department plans to request permanent residency for this individual. Human Resources will provide hiring managers with assistance incorporating language in



the position description and in posting advertisements in locations that support successful sponsorship processes.

During the search, if a candidate self-reports immigration status to a search committee, hiring managers will notify the Vice President of their unit and the Director of Compensation and Recruitment in Human Resources. If this individual becomes a finalist, their hiring manager will schedule a meeting for the candidate with the Director of Compensation and Recruitment during their campus visit. If the candidate is applying for a faculty position, the hiring manager should contact the Deputy Chief of Staff in the Provost's Office, who will facilitate the connection between the finalist member and Human Resources.

Once a Letter of Agreement is approved and signed, the new hire and their hiring manager arrange to meet with the Director of Compensation and Recruitment in Human Resources, who will connect them with outsourced immigration counsel engaged by the University to arrange to apply for the appropriate immigration status. If the new hire is a faculty member, the hiring manager should contact the Deputy Chief of Staff in the Provost's Office to facilitate the connection between the new hire and Human Resources.

If applicable, departments who seek to sponsor a current employee for permanent residency should contact the Director of Compensation and Recruitment in Human Resources, who acts as a point of contact with outside counsel for this process. If the current employee is a faculty member, the department should connect them with the Deputy Chief of Staff in the Provost's Office to facilitate the interaction with Human Resources.

The Compensation and Recruitment office in Human Resources issues the initial immigration documents and facilitates immigration consultations for a new hire. Human Resources advises departments of appropriate steps to take, assists in the completion of procedures, and contacts legal services, when necessary. Because of visa restrictions, some foreign nationals will not be permitted to accept employment. Departments should also be aware of time delays in processing paperwork through the U.S. Citizenship and Immigration Services, and plan accordingly. If the new hire is a faculty member, the Deputy Chief of Staff in the Provost's Office will serve as a liaison between the faculty member and Human Resources for this support.

The Compensation and Recruitment Unit is the primary administrative unit for University sponsorship of visas for:

- H1-Bs (foreign workers in specialty occupations),
- TNs (citizens of Canada and Mexico in certain professional occupations), and
- O-1s (Foreign Nationals of Extraordinary Ability).

Classifications and procedures are available at <http://www.elon.edu/u/fa/hr/international-faculty-and-staff/>.

The University files nonimmigrant petitions, sponsors for permanent residency, pays filing fees, and pays associated attorney's fees of the University's outsourced immigration counsel for employees, but



not for employee's family members. Employees are responsible for travel and consular processing fees when necessary. The university does not provide reimbursement for attorney's fees if an employee chooses to retain legal counsel outside of the University's outsourced legal counsel.

The Office of Human Resources is legally limited in the advice and assistance they can provide to departments and foreign nationals on matters not directly related to employment, study, or other scholarly activities at the University.

A. Non-Immigrant Faculty and Staff Employees

The Director of Compensation and Recruitment in Human Resources works with immigration counsel engaged by the University to process employment petitions for H-1B status. This status can be sought for either full-time faculty members or full-time staff members in a specialty occupation. Ordinarily, the University sponsors full-time tenure-track faculty members for the H-1B category. Under special circumstances, deans can request that prospective candidates for full-time non-tenure-track ongoing faculty positions in a different track be considered for an H1-B visa, due to a need for their specific area of expertise. Reviews of requests for sponsorship of non-tenure track full-time ongoing faculty members will consist of the Provost and Vice President for Academic Affairs, the Office of Human Resources, and outside immigration counsel engaged by the University.

Federal law explicitly prohibits the payment by an employee (or recoupment by the employer) of the H-1B filing fees, which include the petition filing fee and the fraud prevention fee. If premium processing is requested, then this fee is paid by the employee, unless it was requested for the convenience/benefit of the school or college.

The University may also use other non-immigrant statuses as it determines most appropriate such as the TN, J, or O categories.

B. Immigrant Employment Petitions

When the University seeks to sponsor an employee for permanent residency, the process is outsourced to immigration counsel engaged by the University, which is coordinated through the Director of Compensation and Recruitment in Human Resources. The University obtains the prevailing wage determination, pays the filing fees and associated attorneys' fees for the labor certification process, and submits the application for Permanent Labor Certification (PERM). If the hiring department or the University makes a payment on behalf of the employee that is not legally required, it must be treated as taxable income to the employee. The filing of the I-485, Adjustment of Status (obtaining a green card), is filed by the employee and they pay the costs associated with it.

Ordinarily, the University sponsors full-time tenure-track faculty members for permanent residency. Under special circumstances, deans can request that ongoing full-time faculty members in a different track be considered for sponsorship for permanent residency, due to a need for their specific area of expertise. The University does not generally support PERM for staff positions. However, any department wishing to sponsor a staff member for permanent residency can submit their request for



review. Reviews of requests for sponsorship of non-tenure track full-time faculty members or of staff members will consist of the appropriate Vice President for the hiring department, the Office of Human Resources, and outside immigration counsel engaged by the University.

Hosting of Foreign Nationals who do not Require the University's Immigration Related Sponsorship

The University encourages international educational and cultural exchange and welcomes individuals from around the world to share their perspectives and to participate in academic activities on campus. University departments wishing to host international scholars, including Fulbright Scholars, are required to follow established University protocols for issuing official letters of invitation on behalf of the University. University departments are expected to familiarize themselves with restrictions and/or requirements related to payments including honoraria to non-resident aliens. Questions on this may be directed to the Responsible Officials for those policies.

Approval of Letters of Agreement: The University's Letter of Agreement must be followed when payments or other contractual obligations to international scholars are arranged. This requires approval of the contract by the Vice President of their unit prior to signature. Failure to follow the Contract Approval Procedures may result in delay in payment or denial of payment in instances where legal impediments to payment exist.