

## MEMORANDUM

TO: Vice Presidents  
Deans  
Department Chairs

FROM: Lori Lamb, Director of Human Resources  
Julie Rabaey, Assistant Director of the International Student Office/  
Immigration Advisor

DATE: August 13, 2007

RE: Update and Reminders Regarding International Faculty/Staff Visa Processing

Recently, the US Citizenship and Immigration Services updated and revised their visa processing requirements. Specifically, they increased certain fees and provided that certain portions of the process relating to permanent residency now be done by the employer (and paid for by the employer) rather than using outside counsel.

The purpose of this memorandum is to remind you of important issues related to the hiring of international faculty and staff:

**1. All probationary faculty searches require a national print ad.**

In order for an individual to obtain permanent residency in the United States as a result of working in a permanent position, the Department of Labor requires that the process to hire the individual included a national print advertisement. If this is not done, we as a university are unable to support the international faculty member with the permanent residency.

We have had several instances where a national print ad has not been done in order to save money for the department. In order to assist the international faculty member in permanent residency, we have had to require that they resign their current position and reapply for another probationary position that includes a national print ad. In this case the search must be conducted in good faith, so there is no guarantee that the international faculty member will be the successful candidate. This has caused significant difficulty for several of our valued international faculty members. Please remember that all probationary faculty searches require a national print ad.

(over)

We certainly can employ international faculty in fixed-term or adjunct positions. However, since the positions are temporary, there is no way to support them for permanent residency in the United States. They would have authorization to work only under an H-1B visa.

## **2. Processing timelines.**

An international faculty member generally begins employment with us on an H-1B visa. H-1B visas are specific to employers. Thus, when we hire someone we must process the H-1B visa paperwork. This process can take 4-6 months. Please allow for this amount of time prior to the beginning of a faculty member's appointment whenever possible.

We do have the ability, in extraordinary circumstances, to "premium process" an H-1B visa application. However, this expedited process costs an extra \$1,000 on top of other fees already incurred (\$820), so we want to use this only in exceptional cases.

## **3. We cannot support permanent residency petitions for non-teaching positions.**

The rules under which we hire faculty indicate that where you have a permanent position hired via a national print ad, the employer has to demonstrate that the non-resident alien was "the best qualified candidate" in the pool.

Unfortunately, for non-teaching positions the Department of Labor regulations require that in order to support a non-resident alien, we must demonstrate that the individual was "the only qualified applicant." This hurdle is virtually impossible to meet.

We certainly can employ non-resident aliens in non-teaching positions and can obtain H-1B visas for doing so. However, the maximum length an individual can work in the United States under an H-1B visa from an employer is six years.

I hope that is information is helpful to you. If you need further information regarding the process or guidelines for hiring international faculty and staff, go to: <http://www.mnsu.edu/humanres/international.html> or contact Julie at 389-1281 or Lori at 389-2015. Please feel free to share this information with others in your work areas who might be involved in hiring international faculty or staff.

/lml