

TENNESSEE STATE UNIVERSITY
OFFICE OF INTERNATIONAL AFFAIRS
INTERNATIONAL EDUCATION

Policy No. 4.06.05

OIA IMMIGRATION REFORM AND CONTROL ACT– H-1B VISA

PURPOSE

This purpose of this policy is to align the internal H-1B process with the Immigration Reform and Control Act of 1986, Section of Public Law 99603, which requires employers to refrain from knowingly hiring unauthorized aliens. The Employment Verification System, Section 274A(b) further requires that employers attest to having verified applicants/employees are not unauthorized aliens.

POLICY

To comply with the Immigration Reform and Control Act of 1986, and amendments thereto, Tennessee State University shall verify that an applicant/employee is not an unauthorized alien by examining documents described herein.

PROCEDURE

1. A document establishing both employment authorization and identity, such as:

- United States Passport
- Certificate of United State citizenship
- Certificate of naturalization
- Unexpired foreign passport which bears an appropriate, unexpired endorsement of the Attorney General authorizing the individual's employment in the United States; resident alien card or other alien registration card, if the card contains a photograph or other personal identifying information and shows evidence of employment in the United States.

2. A document which evidences employment authorization, such as:

- Social security account number card (other than one which does not specify authorized employment in the United States)
- Certificate of birth in the United States or evidence of United States nationality at birth which the Attorney General finds, by regulation, to be acceptable
- Other documentation evidencing authorization of employment in the United States which the Attorney General finds, by regulation, to be acceptable.

3. A document which establishes the identity of an individual, such as:

- Driver's license or similar document issued by a State for the purpose of identification, if it contains a photograph or other identifying information.
- In the case of individuals under the age of 16 or in a state which does not issue an identification document other than a driver's license, such other documentation of personal identity that the Attorney General deems reliable.

H-1B Visa Procedures

The H-1B classification is for Tennessee State University (TSU) to sponsor a faculty member in a “specialty occupation”. A “specialty occupation” means an occupation that requires the theoretical and practical application of a body of highly specialized knowledge. The person for whom TSU is filing the H-1B petition must be able to prove s/he meets all the minimum hiring requirements of the position, including the degree(s) in the appropriate field, license, etc., and must prove with an equivalency evaluation that any foreign degree is equivalent to the required U.S. degree.

The H-1B Visa is generally granted for three (3) years and can be extended for a total length of six years. It requires an approved Labor Condition Application (LCA) from the Department of Labor (DOL), an approved Petition for a Nonimmigrant Worker (I-129) from Department of Homeland Security (DHS), and the payment of various fees (\$460 I-129 Base Fee + \$500 Anti-Fraud Fee + \$1,440 Premium Processing Fee) to DHS. By federal regulations, the department must pay the full costs associated with filing for the H-1B status for the employee. These fees will range from \$960 to \$2,400. These fees may not be passed on to the employee in any way (even if the employee is willing to absorb the cost), as doing so effectively lowers the wage promised to the employee.

The H-1B filing process requires a minimum of 22 business days for approval and posting of the LCA prior to the filing of the Petition for a Nonimmigrant Worker (I-129). OIA recommends starting dates for a new faculty member of 120 days after the return of the executed Notice of Appointment and Agreement of Employment for Faculty. H-1B hires will be considered on a case by case basis. The OIA will start the H-1B process after all conditions have been met.

Sponsoring Department must submit a Transfer Voucher to pay the processing fee of \$500.00 for each H1B Petition for Nonimmigrant Worker (I-129). The Transfer Voucher must be submitted with the H1B Nonimmigrant Workers Application.

The department hiring manger should:

1. Contact the Director of International Education at oia@tnstate.edu to discuss the department selection process, H-1B eligibility for the potential employee, H-1B fees, and H-1B start date consideration.
2. Complete the H-1B Nonimmigrant Workers Application form and route the form through the department, the dean, Provost and Vice President for Academic Affairs and TSU President for approval of H-1B hires. The H-1B process requires timely submission of applications and petitions to avoid expiration of the current authorization to work in the United States. Please notify the OIA for assistance when it has been determined the selected candidate will need H-1B assistance.

The Office of Human Resources and the supervisor have joint responsibility for obtaining documented evidence of employability under the Immigration Reform and Control Act Requirements and ensuring unauthorized aliens are not employed at the University.

REFERENCE

Immigration Reform and Control Act of 1986, Section of Public Law 99603. Supersedes "Immigration Reform and Control Act Requirements" Policy No. 5:01 in the University Wide Policy Manual.

Updated 7/2020