



Employment of Foreign Nationals in Visa Categories # 350.001

INITIAL EFFECTIVE DATE:	LAST REVISION DATE:	RESPONSIBLE UNIVERSITY DIVISION/DEPARTMENT
October 09, 2009	May 14, 2024	Office of the Provost, Planning and Finance

POLICY STATEMENT

The employment-based visas utilized at the University are H-1B, TN, O-1 Optional Practical Training (OPT) and J-1 Visa for Exchange Visitors. No employee may initiate the visa process for an H-1B, TN, or O-1 visa without the approval of the appropriate dean or vice president and final approval from the Office of Provost, Planning and Finance (for Faculty Positions), or Human Resources (for Administrative Positions), as appropriate. The Office of International Students and Scholar Services (ISSS) is responsible for J-1 visas.

Relevant Considerations in Visa Petitioning

- a) Nature of the Appointment:
 - 1. University should place primary emphasis on sponsoring employees who are faculty, researchers and other scholars. Other employees in full-time, professional positions may be sponsored, as appropriate. The University shall not sponsor employees in temporary positions for either immigrant or non-immigrant visas except F-1 and J-1 visa employees as determined by ISSS.
 - 2. If a prospective employee is eligible for one year of work authorization based on the OPT, the OPT must be utilized prior to pursuing any other temporary visa option, except that an H-1B petition may be pursued to hire for a faculty position.
- b) Duration of the Visa
 - 1. Extensions of a foreign employee’s temporary visa or immigration status will be considered by the University on a case-by-case basis, with the understanding that the sponsorship of the initial visa does not imply an agreement to support or to process extensions thereof nor a permanent residency sponsorship guarantee. It is the employee’s responsibility to maintain lawful immigration status by complying with all the requirements applicable to the employee’s visa/immigration status during the entire period of employment by the University.



- c) Reservation of Rights
 - 1. The University reserves the right to end the sponsorship and the petitioning process at any time and for any reason.

SCOPE

This policy applies to current and prospective employees, including but not limited to current University employees with employment immigration visas, University visa candidates, managers who supervise current employees with visas, managers who may supervise visa candidates and hiring managers.

For assistance with F-1 visas and J-1 visas, please contact the Office of International Students and Scholar Services.

REASON FOR POLICY

This policy states the university’s legal requirements and self-imposed expectations for providing employment-based visa sponsorship to its current and prospective employees who are foreign nationals. The policy serves that function by providing useful information to hiring units, as well as current and prospective employees.

DEFINITIONS	
TERM	DEFINITIONS
Foreign Nationals	Any prospective faculty, administrator, researcher, or staff member 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 his or her appointment.
H-1B	A “specialty occupation” which requires the theoretical and practical application of a body of highly specialized knowledge and the attainment of a bachelor’s degree or higher in a specific specialty (or its equivalent) as minimum qualification for entry into the occupation in the United States.
TN	The North American Free Trade Agreement (NAFTA) created special economic and trade relationships for the United States,



	Canada and Mexico. The TN nonimmigrant classification permits qualified Canadian and Mexican citizens to seek temporary entry into the United States to engage in business activities at a professional level.
O-1	For the individual who possesses extraordinary ability in the sciences, arts, education, business, or athletics, or who has a demonstrated record of extraordinary achievement in the motion picture or television industry and has been recognized nationally or internationally for those achievements.

ROLES AND RESPONSIBILITIES
<p>Sponsoring Department/unit/office: Provide accurate documents following FIU immigration process guidelines.</p> <p>Office of Provost, Planning and Finance: Oversee and monitor the internal employer-based immigration sponsorship process.</p>

RELATED RESOURCES
<ul style="list-style-type: none"> • U.S. Citizenship and Immigration Services (USCIS) • FIU Immigration Process Website

CONTACTS
<p>Office of the Provost, Planning and Finance 11200 S.W. 8th Street, PC 529 Phone: 305-348-2168</p>

HISTORY
<p>Initial Effective Date: October 9, 2009 Review Dates (<i>review performed, no updates</i>): N/A Revision Dates (<i>updates made to document</i>): May 14, 2024; Adopted October 9, 2006</p>



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PROCEDURE STATEMENT

1. Any department employing a foreign national in an H-1B, TN, or O-1 visa category that intends to change the employee’s responsibilities (including promotions), transfer the employee to another department or change the employee’s job title or job description must notify Office of Provost, Planning and Finance for faculty positions, or Human Resources for administrative positions and the legal counsel handling the visas for the University prior to taking such action.
2. Any department employing a foreign national in an H-1B, TN, or O-1 visa category must notify the Office of Provost, Planning and Finance for faculty positions, or Human Resources for administrative positions immediately if it terminates the employment of the employee or if the employee resigns.
3. Preparation and Filing of H-1B and TN Visa Petitions
 - a. All H-1B and TN visa petitions (including related Department of Labor filings) shall be prepared and filed on behalf of the University and the employee by the law firm retained by FIU. No department shall retain or authorize outside counsel to prepare H-1B or TN visa petitions.
 - b. If the employee candidate is subject to any foreign residency requirement, he/she shall be solely responsible, at his/her sole cost and expense, to obtain a waiver of that requirement. The University will not proceed with any visa/immigration petition until the waiver is obtained.
 - c. Except as noted below, all filing fees for the H-1B visa are paid by each department. There is a premium processing fee to obtain a decision from United States Citizenship and Immigration Services within 15 business days. This premium processing fee must be paid by the employer; however, it may be paid by the employee when the reason to expedite the case stems from the employee’s personal needs, for example, when the prospective employee wants to travel for personal reasons and therefore, wants an H-1B approval notice before he or she travels. The University shall not pay such premium fees in these situations



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4. O-1 Visas

O-1 visas are occasionally sponsored by the University but are primarily used for full-time faculty positions.