

Subject: **Employment of Foreign Nationals**

Applies to: All Employees hired by the University.

- I. Policy: The University will not knowingly employ or continue to employ persons who do not meet the requirements of federal laws pertaining to immigration and naturalization.

Further, all employees must complete the U. S. Citizenship and Immigration Service's (USCIS) Employment Eligibility Verification, Form I-9, as per USCIS guidelines.

II. Guidelines:

Generally, any person residing in the United States who is not a citizen is a Foreign National. All Foreign Nationals are classified as follows:

- A. Immigrants/Resident Aliens/Permanent Residents are Foreign Nationals who have been admitted for permanent residence. They can remain in the United States indefinitely and work if they comply with the laws relating to Foreign National registration, change of address, and annual reports. Foreign Nationals are issued Form I-151 (also known as a Green Card) by the USCIS as evidence of lawful permanent residence.
- B. Non-immigrants are Foreign Nationals admitted temporarily for specific purposes and periods of time. They are generally required to carry a Form I-94 endorsed to show their status. The I-94 will bear one of the following letters indicating their status, and will have a number after it (i.e., F-1, H-1, J-1, TN, etc.)

The non-immigrant visas most commonly seen at the University include:

- F-1 Foreign National students admitted to attend specified schools. Students should not accept employment beyond part-time without written permission of the International Services Office (ISO).
- F-1 students who have graduated may be eligible for 12 months of optional practical training work authorization.
- F-2 Spouse and dependents of F-1 are not authorized to work.
- H-1B Temporary workers in a specialty occupation. The position must require a bachelor or higher degree and the foreign national must hold the appropriate bachelor or higher degree. (The H-1B non-immigrant status is specific to the employer only, the foreign national, and the job being performed by the foreign national).
- H-4 Spouse and dependents of H-1B. A person in H-4 status cannot apply for Work Authorization. However, if he or she is qualified, an employer can

apply to change an H-4's status to H-1B, which would then allow him/her to be work-authorized.

J-1 Exchange visitors who are here under Department of State approved programs of study, teaching, research or training. There are eight categories within the J-1 non-immigrant status. The University is authorized to use four of these categories which are: Student, Professor, Short Term Scholar and Research Scholar.

If a department is bringing a person for a period of time between one day and six months, the Short Term Scholar category is generally used.

J-1 students who have graduated may be eligible for 18 to 36 months of academic training work authorization.

J-2 Spouse and dependents of J-1 are only eligible to work with an employment authorization document issued by the USCIS.

B-1 Visitors to the U.S. under the B-1 Tourist for Business category, which includes W-B (Waiver for Business) category from visa waiver countries, are not authorized to work; however persons in this status may be eligible to receive reimbursement for expenses and a modest honorarium payment but only if their visit to the University lasts less than nine (9) days and they have not visited more than 5 institutions, including the University, within the last six (6) months.

B-2 Visitors to the U.S. under the B-2, Tourist for Pleasure category are also not authorized for employment and are generally not eligible to receive expense reimbursement or honorarium payments.

TN (Trade NAFTA)

A Canadian citizen who has received work authorization for a specific employer. Only certain professional positions qualify for TN. A person must be a citizen of Canada to apply for TN non-immigrant status.

TD Spouse or dependents of TN are not work authorized.

Except for those Foreign Nationals with specific work authorization or authorization that is "incident to their status" (such as F-1 students working part-time), non-immigrant Foreign Nationals may not work.

III. Procedure:

A. All persons who accept employment at the University, regardless of their country of birth, must complete USCIS [Form I-9](#), completing section one no later than the first day of work and completing section two no later than the third day of work.

- B. Supervisors considering applicants for staff positions who are not citizens of the United States should consult with The Employment Center if there is a question about the applicant's eligibility (work authorization) to accept employment.

Supervisors considering applicants for faculty or post doctoral positions who are not citizens of the United States should consult with the International Services Office (ISO).

Departments who employ Foreign Nationals should anticipate the end of the Foreign National's period of lawful employment and submit the appropriate personnel action form to terminate the individual no later than the date of the expiration of the work permit.

- C. Foreign Nationals who are employed by the University are instructed to use the GLACIER software program to ensure University and individual compliance with federal tax requirements.

See Also: University of Rochester's International Services Office website:
www.iso.rochester.edu