

## Procedure to Hire International Employee in Nonimmigrant Worker (H-1B) Status

### STEP 1: Hiring and Recruitment

Hiring department contacts Human Resources (for regular positions), Office of the Senior Vice Provost for Faculty Development and Faculty Affairs (for faculty/TAUP positions), and/or Office of Postdoctoral Fellows (for Postdoctoral Fellows and Visiting Research Scholars) for instructions on how to create and recruit for specific position.

### STEP 2: Requesting H-1B Processing

When foreign national has been offered and has accepted a position and at least four (4) months before prospective start date, hiring department completes and submits to International Services the H-1B Application Form and all required supporting documentation.

### STEP 3: Prevailing Wage Determination

International Services reviews submitted documentation and determines required minimum wage for position. (NB: Prevailing wage is determined by reviewing salary surveys commissioned by the University, data available through Department of Labor's Foreign Labor Certification Data Center, or data available through another wage source acceptable to the Department of Labor. For positions covered by collective bargaining agreements, no prevailing wage determination is required; Human Resources advises relevant union of intent to hire a nonimmigrant in H-1B status.)

If no salary data are available for specific position, International Services submits to the Pennsylvania Department of Labor a request for a prevailing wage, based on documentation submitted by hiring department and/or Human Resources. (NB: Requests for prevailing wages submitted to the Department of Labor require at least two (2) weeks' processing time.)

If salary does not meet prevailing wage requirement, hiring department has four options:

- Increase offered salary to meet prevailing wage requirement;
- Through International Services, request an appeal of prevailing wage determination by Department of Labor;
- Through International Services, request Exchange Visitor (J-1) status instead of H-1B status; or
- Withdraw employment offer.

### STEP 4: Labor Condition Application

- When salary meets prevailing wage requirement, International Services submits a Labor Condition Application (LCA) through Department of Labor's Foreign Labor Certification LCA Online System and informs Human Resources of the posting on that site.
- When Human Resources confirms to International Services that a posting notice will be posted in two (2) conspicuous locations on campus for no fewer than 10 days, International Services certifies LCA through LCA Online System.

**STEP 5: Petition Submission and Adjudication**

- A. Within two (2) weeks of receipt of a certified LCA and all required supporting documentation and fees, International Services submits to the United States Citizenship and Immigration Services (USCIS) a petition for Nonimmigrant Worker.
- B. Approximately two (2) weeks after petition packet is sent to USCIS, International Services receives from USCIS a Notice of Action (Form I-797)/Receipt Notice.
- C. USCIS adjudicates petition; current routine processing time for the adjudication is three (3) – five (5) months. (A 15-day Premium Processing is available for an additional US\$1,000.00 fee paid to the USCIS.)
- D. If USCIS requires additional evidence before making final adjudication, International Services receives a Notice of Action (Form I-797)/Request for Evidence (RFE) approximately two weeks after the RFE is sent by USCIS. International Services works with hiring department to prepare necessary documentation for response to RFE and submits the response to USCIS.
- E. Approximately two (2) weeks after petition is approved by USCIS, International Services receives a Notice of Action (Form I-797)/Approval Notice. International Services immediately provides copy of Form I-797 to Human Resources/Payroll Management and hiring department.
  - a. If nonimmigrant is outside of the U.S., International Services sends Form I-797 and other supporting materials to nonimmigrant to obtain H-1B visa stamp at U.S. Consulate;
  - b. If nonimmigrant is in U.S. and is transferring H-1B status to Temple or is changing status to H-1B, upon arrival at Temple, s/he schedules appointment with International Services to pick up Form I-797 and other supporting materials;
  - c. If nonimmigrant is in U.S. and is extending or amending H-1B status, s/he schedules appointment with International Services to pick up Form I-797 and other supporting materials.
- F. If USCIS denies petition, hiring department may request that International Services prepare and submit a Notice of Appeal or Motion (I-290B) to USCIS.