

SPECIAL HANDLING MEMO

IMMIGRATION REQUIREMENTS RELATED TO FACULTY RECRUITMENT

The federal regulations include restrictive requirements because the basic parameter is the selected applicant was "more qualified" than applicants who are U.S. citizens.

A. Basic Parameters for conducting a search as required by federal immigration requirements and documentation necessary to have required material on file to support a new faculty member's immigration processes:

- Must be a Competitive Professional Recruitment Process — all ads must name Employer, Job Duties, and Location of Job.

One **PRINT** advertisement **in a national professional journal** listing title, duties (must include actual classroom teaching) minimum qualifications, and contact information to apply for the position. Preferences can be used during the screening and selection process but should be avoided if possible in advertisement (The candidate must meet the minimum requirements at time of selection.) A national professional journal is not defined in the regulations, but traditionally requires the selected journal — is an actual journal that is circulated nationally, not just a compilation of job postings; a journal in which other employment ads appear; *Chronicle of Higher Education* is always deemed acceptable, but an ad is not required to be in the *Chronicle* if another journal meets the requirements. Documentation of the ad must be kept on file; this can be an affidavit from the Journal and copies of the print ad or tear sheets. IF ABD candidates will be considered to meet minimum degree requirements this information must be included in the advertisement.

An employer may use an electronic or web-based national professional journal to satisfy the regulatory provision at 20 CFR § 656.18(b)(3), which requires use of a national professional journal for advertisements for college or university teachers. The advertisement for the job opportunity for which certification is sought must be posted for at least 30 calendar days on the journal's website. Documentation of the placement of an advertisement in an electronic or web-based national professional journal must include evidence of the start and end dates of the advertisement placement and the text of the advertisement. The electronic ad must be viewable to the public without payment of subscription and/or membership charges. An ad invoice that indicates the time period for which the ad will be posted should be kept on file as well.

- A Notice of Filing (internal posting) and Prevailing Wage from the Department of Labor must be obtained prior to the PERM filing. This process takes approximately 90 days.
- Complete a written recruitment report/recommendation from search committee to appointing authority - including total number of applicants; procedures used and by whom the applications were reviewed; list which applicants were invited for

interviews (telephone and on-campus) and how and by whom (use names and titles) interviewed applicants were evaluated, and rationale for recommendation of finalist selected.

- Recruitment/posting sources utilized — in addition to listing the recruitment sources used in PeopleAdmin a copy of the actual posting with dates (from — to) needs to be included in the search file, to include dates and locations of on-site recruiting at meetings or other universities. The Department of Labor may ask for copies of resume from candidates so keep all resumes that are received.
- Additional documentation required can be pulled from PeopleAdmin records - a list of applicants and explanation as to why selected candidate is more qualified than other applicants (specific lawful job related reason why chosen as more qualified than other applicants); recruitment sources.
- A written statement attesting to the alien's educational and professional qualifications and why he/she was the "best qualified". The written statement of the achievements and qualifications can be a detailed summary of the teacher's academic accomplishments. While it can appear in the statement of hiring authority (but should be a distinct section) or selection committee report, it may be a better practice to make it a separate document so that the Certifying Officer does not overlook it in an audit review.
- The offer letter and acceptance is in order for the selection date to be identified. Selection can be interpreted as the date the candidate accepts the offer, since we may offer the job to several candidates before a final selection occurs we need to document when the candidate accepts —email response to telephone offer, date signed appointment letter, etc. (The selection date determines deadlines relating to filing permanent residence applications.) From the date of selection you have 18 months to submit the PERM application.
- A separate signed Recruitment Report with a matrix of applicants must be kept, along with a separate Selection Committee Report. The final report of the faculty, student, and/or administrative body making the recommendation or selection at the completion of the competitive recruitment process must be provided. Customarily it states at a minimum that the committee chose the candidate, the names of the committee members, and perhaps the date of selection (but this is optional and can be inferred from the date of the offer or appointment letter). The report may bear the signature of the chair, another person reporting for the committee, or of all of its members.
- A separate Statement of the Hiring Authority must detail the recruitment steps undertaken, the total number of applicants, and the specific lawful job-related reasons why the teacher is more qualified than each U.S. worker who applied.

B. At conclusion of search:

1. Immediately notify HR Recruitment Administrator and Faculty Records staff if the selected candidate is not a U.S. citizen. Provide Faculty Records with information

you have regarding the candidates current status and current contact information (email, telephone, mailing address). A candidate may NOT perform work in any capacity until appropriate work authorization is received and documented!

- Be sure to clearly indicate the expected start date, especially if offering a start date earlier than September 16. (Immigration petition documentation must be submitted to USDOL no earlier than six months before the beginning date of the period of intended employment.)
- All intended locations of employment (all CWU campuses where the faculty member will be located) must be identified. In some cases, it will be necessary to file a request for authorization for employment at additional work locations.

2. After the new faculty member begins work the appointment authority needs to notify Faculty Records **prior** to:

- Any transfer of work locations (e.g. moving from Ellensburg campus to a Center campus) as this may require filing of a new LCA and adjustments to H1-B.
- Faculty member's FTE is permanently reduced
- Faculty member resigns or is terminated
- Faculty member is in a "nonproductive" period utilizing short term disability leave or leave without pay. If other situations of non-productivity, other than quarter/summer breaks, arise they need to be reported so it can be determined if the situation has an impact on the LCA or H1-B status.

Faculty Records will track employment authorization expiration dates and contact faculty to begin renewal process.