Procedures for Hiring Foreign National Faculty

Introduction:

PLU welcomes applicants for full-time tenure-track positions who are foreign nationals. As non-citizens of the US, foreign nationals are required to have immigration status approved by the U.S. Citizenship and Immigration Services, ("USCIS"), before they can begin work for PLU. The procedures below are designed to aid faculty involved in the search and hiring process and to convey a sense of the university's support.

Procedures:

1. If a foreign national in the pool of applicants rises to the level of semi-finalist, which means he or she is likely to be interviewed by phone or on campus, the Provost and Director of Human Resources shall both be contacted to discuss the employment status of the candidate and the wage to be offered. If a decision is reached by the search committee to recommend the foreign national for the position advertised, a memo from the Dean of the hiring area shall be submitted to the Provost informing him of the Dean's recommendation. If the job advertisement indicates that a Ph.D. is required, it is important that the foreign national recruit has acquired her/his degree, or is waiting to defend her/his dissertation. The contract will be contingent upon the achievement of obtaining their Ph.D. degree. If the foreign national recruit does not have her/his Ph.D. by September 1st, the offer should be rescinded, and the search reopened.

2. If the candidate who is a foreign national accepts PLU's offer, contingent upon her/his having employment authorization by the USCIS, the precise kind of Visa and eligibility should be determined immediately. The offer also should be contingent on whether or not an export license will be necessary. At this point, PLU's designate immigration resource person (currently Allyson Lindsley, Immigration Specialist with the Wang Center for Global Education) should be consulted, who will provide the prospective employee with an H-1B Visa Questionnaire and provide the Dean and Department Chair with a certification form on “deemed export” to be completed and returned to Allyson Lindsley. If necessary, the university's legal counsel may also be consulted. Once it has been determined what immigration status the individual in question requires, Allyson will notify the Provost's Office and Human Resources.

3. Before issuing a contract to the individual in question, the Director of Human Resources and the Dean will consult with the following parties in order to determine appropriate contractual language: the Provost, the Search Committee Chair, and the Department Chair (if applicable) in question, and Allyson Lindsley. Finally, prior to beginning employment at PLU, the Office of Human Resources will require documentation of the candidate's employability status. Tenure-track foreign national faculty will typically be allowed to work at PLU under the following categories: F-1 on Practical Training, H-1B, or Permanent Resident.

4. If the future employee is currently F-1 status and in "Optional Practical Training," ("OPT"), status, PLU's primary obligation is to issue an appropriately worded contract. OPT status is only valid for up to 12 months, but can be longer if the person in OPT is in a STEM field as defined by USCIS.
F-1 Visas are designated for students. At or 60 days before the completion of one’s (graduate) studies, a student can apply for OPT. If approved, USCIS grants the student an Employment Authorization Document (EAD card). The Ph.D. granting institute sponsors the application so PLU’s responsibility is to 1) know that the student has been granted OPT, and 2) has a current Employment Authorization Document (note expiration date). After that date the student is required to return to her/his non-US home country unless a petition or application has been filed for another type of visa (typically an H-1 B Visa).

5. Occasionally, PLU hires international scholars on J-1. These scholars can either be sponsored by PLU, or by a third party agency, such as the Fulbright Foundation. J-1 Scholars are not permitted to be on tenure-track. If a department recommends a J-1 professor for faculty on a tenure-track, Allyson Lindsley at the Wang Center should be notified, as a change of immigration status to H-1B or other specialty occupation Visa should be made. Some J-1 Scholars are subject to a 2 year home-residency requirement and may not be eligible for an extension of stay. Please contact Allyson Lindsley to verify if the J-1 Scholar is subject to this requirement. J-1 Research Scholars and Professors are not permitted to remain in J-1 Status for longer than 5 years. A J-1 Visa should be issued for a Visiting Professor who may require a visa.

6. The H-1 B Visa is a Visa for non-immigrant workers in specialty occupations. If it is determined that the individual will require an H-1 B visa, PLU becomes the sponsoring institution and the process is more complex than obtaining an F-1 or J-1 visa. Note: "H" visas must be applied for with USCIS and are not automatically granted. There are two parts to the application. The first step is the Labor Condition Application, and the second is the actual H-1B Visa Petition. The Director of Human Resources, in complying with Department of Labor regulations, determines the Prevailing Wage and Actual Wage, and the H-1B worker must receive the higher of the two wages. “H” visas are granted for three years and can be extended for an additional three years. Normally the total work time allowed in "H" status is six years. Nonetheless, "H" status may be extended beyond the six years if the non-immigrant worker had a Permanent Residency Labor Certification Application or an Immigrant Petition for Permanent Residency filed more than 365 days prior to the end of the six-year period in "H" status.

Once a contract has been signed using the process outlined, Allyson will act as coordinator of the immigration process and will handle the administrative end of the Visa petition. She will meet collectively with the Chair of the search and hiring department, and Human Resources. If the faculty member requiring the Visa is available, it is advisable that he/she be present at the meeting as well. The purpose of this meeting is to coordinate the working permit/visa application process and develop a timetable for timely submission of the required materials. At this meeting a faculty member or academic administrator will be designated as a departmental contact person for Allyson (this is usually the chair of the hiring department). The Dean of the Department typically signs the H-1B petition, and should be available at the time the petition is submitted.

Costs for petitioning for a worker for an H-1 B Visa run $325 for the Petition, $500 for the Fraud Fee, and an additional $1225 if Premium Processing service is used. The Premium Processing process requires the USCIS to adjudicate the H-1B petition within 15 days or refund the fee. On many H-1B cases, PLU’s immigration attorney may be asked to assist with the process, and these attorney fees typically range anywhere between $80 and $1000.
7. If PLU wishes to retain the foreign national in the tenure-track position indefinitely (usually decided after the first semester evaluations are reviewed), and the foreign national desires to remain at PLU and attain US permanent residency (a "green card"), the Dean (in collaboration with the Provost) will notify Allyson Lindsley. Allyson will be responsible for contacting the legal firm retained by PLU for immigration advice and for initiating the immigration process for permanent residence. She will provide the attorney the information needed and keep the Provost, foreign national, Dean and Chair of the Department, and the Director of the Wang Center for Global Education apprised of the pertinent legal issues and the progress of the application.

A permanent resident application has three parts: the Labor Certification Application, the Immigrant Petition for Alien Worker, and the Adjustment of Status Application. The processing time varies, and, depends on the availability of immigrant visas determined by the U.S. Department of State. The Division/School Dean should ask Allyson Lindsley to consult with PLU’s legal firm about processing times. The Labor Certification Application (Part One) needs to be filed within 18 months of the job offer. Applications for permanent residency require meticulous documentation of the search process. A detailed report of the search and selection process is required along with all advertising, original search materials, applicant files, and documentation of why this applicant was chosen over all U.S. worker applicants (U.S. citizens and permanent residents). This information must be shared with Allyson Lindsley in the Wang Center, and kept for five (5) years after the Application for Permanent Residency Labor Certification has been filed.

After a contract has been issued and accepted by the candidate, all normally accrued costs associated with immigrant or non-immigrant applications (visa and/or green card) will be paid for by PLU. The legal cost of supporting a permanent residency application for one worker is $10,000 plus any additional attorney services not covered in the original agreement. If PLU pays for the petition to be prepared and filed, the faculty member will be expected to continue to serve the university for a minimum of three years after the permanent residency has been approved.