

## **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 (who will consult with the Associate Vice President of Human Resources) shall 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, the Dean of the hiring area shall convey the recommendation to the Provost. If the job advertisement indicates that a Ph.D. (or terminal degree) 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. (or terminal) degree. If the foreign national recruit does not have her/his Ph.D. (terminal degree) by September 1st, the offer should be rescinded, and the search reopened.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. Once it has been determined what immigration status the individual in question requires, Human Resources will notify the Office of the Provost. Before issuing a contract to the individual in question, Human Resources and the Office of the Provost will consult to determine appropriate contractual language. If necessary, the university's legal counsel may also be consulted. 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.

**3.** At this point, PLU's designate immigration resource person (currently in Human Resources) should be consulted, who will provide the prospective employee with an H-1B Visa Questionnaire (once the signed contract is received) and provide the Dean, Associate Dean, and/or Department Chair with a list of necessary documentation to be submitted to the Office of the Provost and Human Resources. Finally, prior to beginning employment at PLU, Human Resources will require documentation of the candidate's eligibility to work.

**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-1B 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, Human Resources 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 Human Resources 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-1B Visa is a Visa for non-immigrant workers in specialty occupations. If it is determined that the individual will require an H-1B 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. Human Resources, in complying with Department of Labor regulations, determines the Prevailing Wage and Actual Wage, and the H-1 B 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, Human Resources will act as coordinator of the immigration process and will handle the administrative end of the Visa petition. Costs for petitioning for a worker for an H-1B Visa run \$325 for the Petition Filing Fee, \$500 for the Fraud Detection and Prevention Fee, and an additional \$1,225 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 \$500 and \$5,000.

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 and Chair of the Department will notify the Office of the Provost and Human Resources. If support is approved, Human Resources will be responsible for contacting the legal firm retained by PLU for immigration advice and for initiating the immigration process for permanent residence. 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 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). Search records should be retained for 7 years from date of hire.

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.