



I. 4.5.12 Employment of Non-Citizens

Chapter 4 - General Personnel	Original Effective Date: November 2000
Section: 4.5 Employment Administration	Date Last Reviewed: January 2025
Responsible Entity: Senior Vice President and Chief Human Resources Officer; Vice President for Academic, Faculty and Student Affairs	Date Last Revised: January 2025

II. Purpose

The purpose of this policy is to establish requirements for employing individuals who are not citizens of the United States.

III. Scope

This policy applies to all UT Health San Antonio faculty, administrative and professional (A&P), and classified positions at the University of Texas Health Science Center at San Antonio (UT Health San Antonio).

IV. Policy

A. General Policy

1. Departments seeking to hire and obtain employment authorization for international faculty or staff should contact the Office of Human Resources and the Office of International Services (OIS) as early as possible in advance of any offer for approval and to determine the appropriate visa classification to pursue. Most circumstances for the application process involve external agencies and compliance with specific timelines that can impact start dates and timing of when an individual can come to the U.S. if residing outside of the country.
2. UT Health San Antonio will comply with the provisions of the United States Immigration and Naturalization Act, as amended, and the Mutual Education Cultural Exchange Act of 1961 governing the employment of immigrant and non-immigrant aliens (non-citizens).

Immigrants are those who have been granted permanent resident status, but who are not United States citizens. Non-immigrants are those individuals who are admitted temporarily for specific purposes and periods of time.

3. Non-immigrants who may be eligible to work at the UTHSA generally fall into the following immigration categories sponsored by the institution:

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- a. International students (F1);
- b. Exchange Visitors (J-1) ;
- c. Specialty Occupations (H-1b).
- d. Extraordinary Ability in the Sciences (O-1)
- e. NAFTA Free Trade (TN)

B. International Students on F visas

International students in the F1 visa are allowed to enter the United States as full-time students at an accredited college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language training program. An F1 student must be enrolled in a program or course of study that culminates in a degree, diploma, or certificate and the school must be authorized by the U.S. government to accept international students.

1. F-1 On Campus Employment:

- a. International students who are taking a full course of study may be offered on-campus employment pursuant to the terms of a scholarship, fellowship, or assistantship deemed to be part of their academic program if related to their course of study.
- b. International students do not require U.S. Citizenship and Immigration Services (USCIS) permission to accept on-campus employment.. The Office of International Services should verify such employment.
- c. The F-1 visa normally limits the number of hours international students may work to 20 hours per week during academic sessions. During the summer or other vacation periods, international students may work up to 40 hours per week.

2. F-1 Optional Practical Training (OPT)

OPT is a form of training that directly relates to the student's program of study and can take place during the student's program of study (pre-completion) or after finishing the program of study (post-completion).

3. Employment Authorization Document (EAD) for F1 students

- a. F-1 international students under OPT may hold an EAD while on F-1 visa status and are eligible for full-time employment during the validity of the EAD.
- b. The standard OPT validity period is 12 months, and the employment should relate to the student's OPT relates to the student's major area of study.
- c. Certain F-1 students who obtained a Science, Technology, Engineering or Mathematics (STEM) degree may apply for a 24-month extension of their OPT with the USCIS. These students will also hold an EAD. The Office of International Services can verify F1 employment.

4. Spouses or children with F-2 visas may not be employed.

C. Non-immigrants on J visas

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1. Non-immigrants with J-1 visas are exchange visitors (J-2 for spouses and children) and are authorized to participate in an approved program for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, receiving training, or to receive graduate medical education or training. J1 exchange visitors are students, scholars, trainees, postdoctoral fellows, teachers, professors, research assistants, specialists, or similar persons temporarily sponsored by an exchange program that is designated as such by the U.S. Department of State.
2. UT Health San Antonio departments/ units may employ non-immigrants on a J-1 visa only in positions related to sponsored programs. Any changes or transfers in the J-1 program must be coordinated by the Office of International Services in advance of the transaction.
3. Spouses or children with J-2 visas must have permission from the USCIS to seek employment in the United States before they may be employed. The individual must make the application in person to the nearest USCIS office for permission to seek employment in the United States. Employment may not begin until the J-1 holder has received an Employment Authorization Document (EAD) work permit. Information on the procedure is available from the Office of International Services.

D. Non-immigrants on H-1B visas

The H-1B visa program is designed to allow U.S. employers to hire foreign workers in specialty occupations. Individuals admitted to the United States as "workers of distinguished merit," "temporary workers," "postdoctoral fellows," or "trainees" under special circumstances may be employed at the health science center on a temporary basis.

1. Specialty Occupations (H-1b)

- a. A specialty occupation is defined as a position that requires a theoretical and practical application of a body of specialized knowledge, and typically requires at least a bachelor's degree or its equivalent in the specific field.
- b. The hiring unit should consult the Office of International Services for immigration guidance and the job titles that can be used for sponsoring the H-1b visa. If approved for an H-1b visa; the international visitor will hold a USCIS I-797 H-1b Approval Notice that will be used as evidence of employment eligibility for I-9 purposes.
- c. An H-4 dependent of the H-1b visa may hold an EAD and be eligible for employment and I-9 purposes. To qualify for the EAD the spouse or H-1b holder, must be in the process of obtaining permanent residency (green card) and have an approved I-140 immigrant petition.

E. Non-immigrants on J visas

The Office of International Services can provide guidance and verify the authorization of such employment.

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F. Non-immigrants on O-1 visas

The North American Free Trade Agreement (NAFTA) created special economic and trade relationships for the United States, Canada and Mexico. The TN nonimmigrant classification permits qualified Canadian and Mexican citizens to seek temporary entry into the United States to engage in business activities at a professional level. The Office of International Services can provide guidance and verify the authorization of such employment.

G. Benefits and Withholding

1. Non-citizens who are employed are eligible for the same benefits as are other employees in comparable positions. Non-immigrants with F-1 or J-1 visas who have been authorized to work are not subject to social security withholding (FICA) for a limited period of time. The Office of Human Resources should be contacted for specific limitations.
2. All non-immigrants must complete a W-4 form claiming a single exemption only and pay income tax withholding unless treaty provisions exempt them from doing so. The Office of Human Resources in coordination with Payroll and Business Affairs will determine if an individual is or is not subject to federal income tax.
3. Non-immigrants on H visas are subject to withholding for social security and income taxes unless tax exemption is specifically provided by treaty or convention. Permanent residents (immigrants) and spouses or children (with J-2 visas) or individuals with J-1 visas must participate in social security and income tax withholding, unless eligible to file an exemption from income tax withholding.

V. Definitions

There are no defined terms used in this policy.

VI. Related References

Office of International Services, <https://wp.uthscsa.edu/ois/>

VII. Review and Approval History

The approving authority of this policy is the University Executive Committee.

Effective Date	Action Taken	Approved By	Effective Date
11/2000	Policy Origination		
12/2001	Policy Revision		
01/2025	Policy Revision	Executive Committee	01/2025