

Special Considerations When Appointing Non-US Citizens (Non-Resident Immigrants)

A non-resident immigrant is a person who was born in another country and is neither a naturalized citizen nor a permanent resident of the United States.

Recruitment and hiring practices must guarantee that there is NO consideration of one's visa status in making any hiring decision; discrimination against individuals based on their national origin is illegal. The decision to offer employment to a non-resident immigrant is to be made on the same basis as any other personnel decision: the candidate represents the best of the applicants.

Since recruitment for any faculty position could result in the hire of a non-resident immigrant, careful attention to certain guidelines from the beginning of all searches is important. Adherence to the guidelines below should minimize the normal time lapse between the offer of employment and receipt of the required work authorization needed for a foreign worker. In most cases, it would not be necessary to engage an attorney to obtain work authorization. Such services are usually very costly and do not result in a quicker outcome or a higher likelihood of success.

- The position description must state **requirements** that are clearly **job related**. The language needs to be specific enough to distinguish among applicants, but not so specific that very few qualify. The job description cannot be unique to characteristics only foreign nationals can meet such as “native fluency” in language.
- The advertisement must be **printed** in an established higher education or discipline-specific publication having **nationwide circulation**. Because the hiring unit must be able to verify that the advertisement appeared in that publication, you must obtain a copy of the publication tear sheet showing the publication date(s). For obvious reasons, relying solely on national website postings is not sufficient and, therefore, not encouraged.
- The announcement of the job opening with job-related requirements must be posted in the *Monitor*.

- A recruitment summary must be prepared on department/school/program letterhead and submitted to the Dean when the appointment is recommended (at the time the Appointment Activity Record is submitted). The summary must detail the recruitment procedure, and, according to the Ohio Department of Job and Services, “The reason the alien is **more qualified** than any U.S. worker who applied must be stated, and the reason must be specific, lawful, and job-related.” It is not sufficient to express in what ways U.S. certified worker applicants were not as good or that the candidates were essentially “equally qualified.”
- If a non-resident immigrant is hired with the expectation of continued employment, an application for Alien Employment Certification must be filed with the Ohio Bureau of Employment Services **within 18 months of the date of recruitment**, working with the faculty member and the Director of the Center for International Programs who will handle the application preparation.

It is advisable to complete the Immigration and Naturalization Services' I-9 certification for all final candidates at the time these individuals come to campus for interviews. If that certification indicates the final candidate is a non-resident immigrant, the chair/director should contact Immigration Services to begin the process of obtaining appropriate employment certification and/or a visa. Given current limitations on H1-B1 visas, the status most faculty seek, it will be imperative that contingent instructional plans are made to cover any teaching responsibilities pending visa approval. Non-resident immigrants **may not begin work** until the appropriate papers are received nor may they “volunteer” to serve pending work authorization.

Although the process for obtaining appropriate work authorization for non-resident immigrants is time-consuming, it should not be viewed as a barrier to international hires. Discrimination on the basis of national origin is illegal. Beyond that, internationalizing the faculty is a priority goal for BGSU.

Any and all questions about foreign faculty hires should be directed to International Programs and Partnerships at 419-372-2247