

## **Troy University Non-Immigrant Alien Employment Procedures**

**Purpose:** The purpose of these procedures is to outline steps to implement the Troy Non-immigrant Alien Employment Policy.

### **Definitions:**

**Dependent** – spouse or child of a non-immigrant alien.

**Green Card** - A green card (pink or light blue in color) is given to foreign nationals who have obtained the right to live and work in the US without time limits (permanent resident status).

**Immigrant** - someone who intends to live and work permanently in the US (requires a Green Card).

**Non-Immigrant Alien** - someone who wishes to come to the US on a temporary basis to visit or work (requires a Visa).

**Visa** - A Visa is a permit to enter the US for a particular purpose. There are different types of Visas depending on the nature of the visit and the country of citizenship.

### **General:**

1. The need for a Visa for non-immigrant alien employment should be determined prior to making a conditional offer of employment. A subsequent condition of the offer, then, is the ability of the candidate and Troy University to obtain an appropriate Visa.
2. The hiring supervisor is responsible for initiating these procedures.
3. Troy University will pay for or reimburse anti-fraud fees and application fees for the potential employee. Troy University will not pay for or reimburse fees to expedite Visas or application fees for dependents.
4. Hiring supervisors will not issue faculty contracts or make commitments for employment that would exceed time limitations of the alien employee's current or planned Visa status.

### **Responsibilities:**

#### **Executive Vice Chancellor and Provost**

Provide University checks made out to USCIS and Bureau of Homeland Security for appropriate fees, (currently \$190 filing and \$500 anti-fraud fees, subject to change).

#### **Vice Chancellors and Deans**

Collect, endorse, and forward Sponsor Cover Letter and Preliminary Data Sheets, Part I and II to Human Resources.

#### **Department Chairs and Directors (Supervisors)**

1. Determine candidate's citizenship status prior to making a conditional offer of employment.
2. Coordinate pre-employment actions with HR.

3. Collect Preliminary Data Sheet, Part II, from the candidate.
4. Originate and forward Sponsor Cover Letter and Preliminary Data Sheet, Part I, with Part II attached, to appropriate Vice Chancellor or Dean.

### **Human Resources**

1. File Prevailing wage request with Alabama Department of Industrial Relations.
2. Publicly post University's intent to employ non-immigrant aliens and/or sponsor immigrant alien application.
3. File Labor Condition Application with Department of Labor.
4. File USCIS Form I-129 and supporting documents with Department of Homeland Security.
5. Assist University's Agent in filing Immigrant requests.

**Categories of Visas:** Troy University will sponsor Visas in the following categories: H-1b, F-1 and J-1 for practical or academic training, TN, O-1, and Immigrant Visas.

### **(1) H-1b Visa For Temporary Workers In Specialty Occupations**

H-1B Visa status is temporary, nonimmigrant category. Those eligible include professionals in specialty occupations who will work at Troy. The position to be filled must be temporary, or, if the position is a permanent one, the scholar must plan to fill it only temporarily. Human Resources is the only petitioner to the U.S. Citizenship and Immigration Service for H-1B status based on Troy employment. Attorneys are not authorized to do this work. All employees holding H-1B Visas at Troy must register with Human Resources.

#### *Who Qualifies*

Troy sponsorship for temporary employment under H-1B visa status may be available to (1) academic faculty, (2) sponsored research staff members, and (3) other critical professional staff members. H-1B status is often the most appropriate status for incoming Assistant Professors. Among those who do not qualify are people on "visiting" appointments, tenured faculty, or persons subject to the two-year foreign residence requirement, and those who are solely supported by personal or outside funds or who have insufficient Troy funding.

#### *Application Procedures*

In all cases involving a prospective faculty member, and in any other case in which H-1B status is under consideration for a current or prospective employee, ample lead-time is critical. The authorized central administrator should discuss the case with Human Resources at least four to six months in advance of the anticipated start date. If HR confirms that H-1B status is appropriate, the administrator will then receive the initial university and beneficiary documentation. The administrator, faculty sponsor, and scholar work together to provide HR with the necessary documents. Human Resources

then completes the application and files the appropriate materials with the Department of Labor (DOL) and CIS. Human Resources notifies the department, scholar, and Payroll Office when an initial or extension H-1b petition is approved.

*Limitations and Payment*

H-1b status may be approved for a total of six years: up to a three-year initial period and up to a three-year extension. The six-year limit applies whether the scholar has changed jobs or remained with the same employer. An H-1b scholar sponsored by Troy and appointed at Troy must generally be paid by Troy. Funding by outside sources is acceptable if the funding is funneled through Troy Sponsored Programs and meets other criteria. In all cases, funding levels must meet DOL guidelines.

A Troy appointment is only authorized once CIS has approved an H-1b petition and H-1b status for the particular scholar, unless the scholar is already in the United States in a valid status that includes employment authorization. H-1b status is employer-specific such that only the petitioner(s) may employ the individual. If an individual is in H-1b status for employment elsewhere, that individual is authorized for Troy employment only if Troy also files and obtains approval for a transfer of an H-1b Visa.

*Dependent H-4 Visas*

The spouse and children of an H-1b may have H-4 Visa status. They may not work under any circumstances. It is possible for an individual in H-4 status to attend school. Petitioning alien is responsible for Visa fees for dependents.

**(2). F-1 and J-1 Students On Practical Or Academic Training**

An international student who will complete a degree at a university in the United States may be eligible to apply for a period of training and employment authorization in the field of study immediately upon degree completion. The F-1 student is eligible for a maximum of 12 months of "practical training." The J-1 student is eligible for 18 months of "academic training" or, if the student has completed a doctorate and will do postdoctoral research, up to 36 months. Extensions of practical or academic training beyond these periods are not permitted. It may be possible to apply to CIS for change of status, to H-1b or J-1 scholar, for continued employment.

Both F-1 and J-1 students may apply for practical training in advance of receiving their degrees through the international student office at the university where their degree is to be granted. Departments should urge prospective practical trainees to apply for this permission well in advance of the proposed start of appointment or employment at Troy. CIS will issue an Employment Authorization Document (EAD), a small laminated card, as proof of employment eligibility to F-1 practical trainees. J-1s do not need EADs but should possess evidence of academic training authorization with a valid Form

DS-2019. F-1 or J-1 scholars in this status must register with the International Student Office and Human Resources if they are on academic appointment at Troy.

*Permission to Work for J-2 Dependents*

Spouses and children who hold J-2 visas are usually able to obtain permission to work from CIS. J-2s may work anywhere and at any level in the United States. CIS will issue an Employment Authorization Document (EAD), a small laminated photo ID card, as proof of employability. J-2s who are appointed to the academic staff or sponsored research staff (paid or unpaid) must have employment authorization and must register with HR. Petitioning alien is responsible for Visa fees for dependents.

*Two-year Foreign Residence Requirement*

Some J-1 visa holders are required to return home for two years before they are eligible for either an immigrant visa or an H or L nonimmigrant visa classification. This requirement is the result of agreements between the student or scholar's home government and DOS, or funding from a government agency, such as the Fulbright Commission or the Medical Research Council of Canada. In some cases, DOS and CIS issue waivers of this requirement. Depending on the circumstances, waivers can be difficult to obtain. Those who have questions regarding the residence requirement should discuss them with the HR staff.

*Payment*

Practical trainees may be paid a salary by Troy, a fellowship from an outside organization, or may be supported by personal funds.

**(3). TN Visa For Canadian And Mexican Professionals**

TN is a temporary, nonimmigrant status available on a yearly basis for Canadian or Mexican citizens only. TN status is employer specific and must be for specific qualifying professions as listed by CIS. TN dependents are classified as "TD" and are not eligible for employment. The procedures for Canadians and Mexicans to obtain TN status are quite different. Canadian citizens are not issued Visa stamps and instead are admitted to the United States in TN status when they present appropriate documentation to immigration inspectors at the point of entry. Their TN status is then noted on Form I-94. For Mexicans, the employer must send documentation to DOL and CIS for approval in advance. Mexican citizens must then obtain TN Visa stamps before being admitted to the United States with the TN notation on Form I-94.

For Canadians or Mexicans who will hold academic staff or sponsored research staff positions, HR will help determine the appropriate Visa and will assist with TN applications.

**(4). O-1 Visa For Individuals Of Extraordinary Ability In Sciences, Arts, Education, Business Or Athletics**

O-1 Visa status is another temporary, nonimmigrant category. Those eligible include professionals and people highly distinguished in their fields (in the top 10% of the field) who will work in that field at Troy. The position to be filled must be temporary or, if the position is a permanent one, the scholar must plan to fill it only temporarily. Human Resources is the only petitioner to CIS for O-1 status based on Troy employment. Attorneys are not authorized to do this work. Decisions regarding Troy support of an O-1 application are made in Human Resources after consulting with the department, laboratory, or center liaison. A number of factors are considered when deciding whether Troy will support an O-1 application, including the level of the position, the level and certainty of funding for the position, the qualifications of the scholar, the scholar's particular immigration situation, and the departmental support for the case.

*Who Qualifies*

Troy sponsorship for O-1 status is available, depending on credentials, to (1) upper level academic faculty and (2) sponsored research staff members. Among those who do not qualify are tenured faculty members, administrative, technical, or support staff, and those with insufficient funding.

*Application Procedures*

Departments who are considering O-1 status for a current or potential Troy employee should discuss the case with HR at least four to six months in advance of the anticipated start date. If sponsorship is appropriate, the administrator, faculty sponsor, and scholar work together to provide HR with the necessary documents. Human Resources then reviews and completes the application, files the petition and supporting documents with CIS, and awaits CIS review. If the application is approved for a scholar inside the United States, the change to O-1 status and permission for Troy employment are valid as of the effective date of CIS approval. If CIS approves a petition for a scholar who is outside of the United States, or who is subject to the two-year home residence requirement, CIS will inform the relevant American Consulate abroad so that the scholar may apply for an O-1 Visa stamp. Human Resources notifies the department, scholar, and Payroll when an initial or extension O-1 petition is approved.

*Limitations and Payment*

O-1 status may be requested initially for no more than three years but may be renewed subsequently in one-year increments. An O-1 scholar appointed at Troy must generally be paid by Troy. Funding by outside sources may be permitted.

A Troy appointment is only authorized once CIS has approved an O-1 petition and O-1 status for the particular scholar, unless the scholar is already in the

United States in a valid status that includes employment authorization. O-1s may be employed only by the petitioner. If an individual is in O-1 status for employment elsewhere, that individual is not authorized for employment at Troy unless Troy also files and obtains approval of an O-1 petition.

#### *Dependent Visas*

The spouse and children of an O-1 have O-3 Visa status. They may not work under any circumstances. It is possible for an individual in O-3 status to attend school. Petitioning alien is responsible for Visa fees for dependents.

#### **(5). Immigrant Visas (Permanent Residents)**

People immigrate to the United States in a variety of ways: sponsored by relatives who are United States citizens or permanent residents, sponsored by employers who offer them permanent jobs, or as refugees or asylees. Human Resources assists those who are immigrating based on their employment at Troy. Any employee desiring to apply for immigrant status will have to retain the services of an immigration attorney or service. Approval of that agent working for the university is at the discretion of HR.

Decisions regarding Troy support of an immigrant Visa application are made in Human Resources after consulting with the department, laboratory, or center head. Typically, tenure-track faculty members are eligible for sponsorship assuming DOL and/or CIS criteria can be met. A number of factors are considered when deciding whether Troy will support an immigration application for research positions. These include the level of the position, how long the scholar has been at Troy, the permanence of the position and the likelihood of long-term employment at Troy, the level and certainty of funding for the position, the search that was conducted to fill the position, the availability of qualified American citizens and permanent resident workers in the field, the qualifications of the scholar, and the department head's support for the case.

Troy can only pursue permanent residence for individuals whose particular immigration status, Visa history, and situation would not preclude it. In order to be sponsored, faculty members must meet the criteria for the first preference classification, "Outstanding Professor/Researcher;" or for the second preference classification under the "Special Handling" provisions. Researchers must meet criteria for a first preference classification, "Outstanding Professor/Researcher" or "Extraordinary Ability."

#### *Processing Time*

Immigrant Visa applications are time consuming. It may take two to three years to complete the procedure due to processing backlogs at the various government agencies: the Department of Labor, if applicable, the CIS, and, in some cases, the American Consulates abroad. During the processing time, a

scholar must maintain a valid nonimmigrant Visa status if he or she is in the United States.

**Additional Information**

These procedures are written for all Troy University locations. It is impossible to write procedures to cover all situations. Some situations may require additional levels of coordination.

The goal of these procedures is to define a process that allows the best qualified person be employed at Troy University.

The Human Resources Department will supplement these procedures as necessary. **Personnel involved in the employment process seeking additional assistance should contact the Human Resources Department.**

**Attachments:**

1. Sponsor Cover Letter
2. Preliminary Data Sheet, Part I
3. Preliminary Data Sheet, Part II

MEMORANDUM

To: Human Resources

FROM: College of \_\_\_\_\_ (\_\_\_\_\_ Department)

SUBJECT: Troy Sponsorship of \_\_\_\_\_ for a Non-Immigrant Alien VISA

DATE: \_\_\_\_\_

The College of \_\_\_\_\_ (\_\_\_\_\_ Department) desires to sponsor \_\_\_\_\_ for a non-immigrant alien VISA. The sponsored individual is a citizen of \_\_\_\_\_, is being sponsored into the position of \_\_\_\_\_, which requires a \_\_\_\_\_-level degree in \_\_\_\_\_. The proposed start date of employment is \_\_\_\_\_. \_\_\_\_\_ has/has not been given a conditional offer of employment pending their ability to obtain an appropriate VISA.

The College of \_\_\_\_\_ (\_\_\_\_\_ Department) understands:

- Should the sponsored individual’s employment end early, the university is responsible for return airfare to their home country.
- The Provost is responsible for paying the current \$500 anti-fraud and \$190 filing fees for the sponsored individual (fees subject to change).
- The university cannot write a faculty contract that exceeds the sponsored individual’s current authority to work in the US.
- Normal VISA processing time is four to six months.
- The individual can choose “expedited processing” by paying the \$1,000 fee – the university will not reimburse that fee (fee subject to change).
- The individual is responsible for immigration expenses for their family members.
- The individual can choose their own immigration agent, but is subject to university approval as that agent represents the university.

\_\_\_\_\_  
Department Chair (Director)

\_\_\_\_\_  
Dean (Vice Chancellor)

Attachments:  
Preliminary Data Sheets, Part I and II

**TROY UNIVERSITY  
HUMAN RESOURCES  
VISA PRELIMINARY DATA SHEET, Part I**

To be completed by the appropriate Troy University department for a prospective appointee who is not a U.S. citizen or a U.S. permanent resident  
Please TYPE or PRINT clearly

**INFORMATION ABOUT THE SPONSOR:**

\_\_\_\_\_  
Faculty member corresponding with appointee Department

**INFORMATION ABOUT THE DEPARTMENT CONTACT PERSON:**

Name \_\_\_\_\_ Telephone \_\_\_\_\_

E-mail \_\_\_\_\_

Mailing Address  
\_\_\_\_\_

**INFORMATION ABOUT THE PROSPECTIVE APPOINTEE:**

Appointee's full name

\_\_\_\_\_  
Family/Last First/Given Middle

**INFORMATION ABOUT THE APPOINTMENT:**

Proposed title  
\_\_\_\_\_

Dates of appointment: From (mm/dd/yy) \_\_\_\_\_ To (mm/dd/yy) \_\_\_\_\_

Exact address where individual will be working:  
\_\_\_\_\_

What percentage of time will be spent on the following activities?

\_\_\_\_\_ Teaching \_\_\_\_\_ Research \_\_\_\_\_ Study

\_\_\_\_\_ Other (please be specific) \_\_\_\_\_

Academic degree(s) required for the position: \_\_\_\_\_

Major field of study required for the position: \_\_\_\_\_

Years of education required: \_\_\_\_\_

Minimum number of years of job experience required: \_\_\_\_\_

Describe briefly the proposed duties of the prospective appointee:

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**Reminder: You must process this appointment through the appropriate Dean or Vice Chancellor's Office in order for Troy University to provide visa sponsorship.**

**Attach Preliminary Data Sheet, Part II which was completed by the individual to be sponsored for a VISA.**

Signature of the Department Sponsor

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Date \_\_\_\_\_

**RETURN TO:  
Troy University  
Human Resources  
116 Adams Administration Building  
Troy, AL 36082**

**Telephone: 334-670-3710    Fax: 334-670-5666**

**TROY UNIVERSITY  
HUMAN RESOURCES  
VISA PRELIMINARY DATA SHEET, Part II**

To be completed by the foreign national  
Please TYPE or PRINT clearly

**INSTRUCTIONS**

*In order to help you obtain the most appropriate visa to come to Troy University, you must complete this form and return it to your department sponsor at Troy.*

*Issuance of a visa may take weeks or months. If you are already in the U.S., you should be aware that applications for a transfer of visa sponsorship or for a change of immigration status may take several months to be processed by the USCIS, and it may not be possible to receive a Troy salary until the application is approved. Visa status affects the type of employment and length of stay permitted, permission for a spouse to work and income tax liability.*

**PERSONAL DATA**

Your full name (as it appears in your passport)

\_\_\_\_\_

\_\_\_\_\_ family/last                      first/given                      middle

Date of birth \_\_\_\_\_ Place of birth \_\_\_\_\_

mm/dd/yy                      city                      province                      country

\_\_\_ Male \_\_\_ Female

Citizenship country \_\_\_\_\_

Legal permanent residence country \_\_\_\_\_

*(attach proof of such residence if not your citizenship.)*

Position in home country: Check appropriate category    \_\_\_ Professor/Teacher

\_\_\_ Graduate Student    \_\_\_ Researcher    \_\_\_ Physician    \_\_\_ Other (specify): \_\_\_\_\_

Academic degrees and years awarded \_\_\_\_\_

**(Attach copies of diploma(s), certificates, transcripts and your curriculum vitae.)**

Current mailing address \_\_\_\_\_

Permanent address outside the U.S. \_\_\_\_\_

Telephone number \_\_\_\_\_ E-mail \_\_\_\_\_

**YOUR APPOINTMENT AT TROY UNIVERSITY**

Name of Troy Department sponsor corresponding with you \_\_\_\_\_

Date of previous affiliation with Troy, if any \_\_\_\_\_

**FINANCIAL SUPPORT FROM ALL SOURCES WHILE IN THE U.S.:**

(attach proof of financial support if not paid by Troy)

The amount must be furnished even when it is not provided by University sources, since it is the sole basis for determining whether or not the support will be adequate to maintain a minimum decent standard of living for the appointee and his/her dependents. The funding information provided here will appear on a visa certificate and will be a determining factor in whether a visa is actually issued by a U.S. Embassy or Consular official. It is, therefore, important that this information be accurate. The University may be held liable for statements made about scholarships and salaries. If the individual will be supported predominantly by personal funds, HR will require a bank statement or other documentation confirming the availability of these funds. **All amounts from all sources must be furnished in U.S. dollars.**

<b>PERIOD</b>	<b>AMOUNT</b>	<b>TIME</b>
<input type="checkbox"/> <b>Troy University</b>	U.S. \$ _____	per _____
<input type="checkbox"/> <b>U.S. Government Agency</b> Name of agency: _____	U.S. \$ _____	per _____
<input type="checkbox"/> <b>Your government</b> Name of agency: _____	U.S. \$ _____	per _____
<input type="checkbox"/> <b>Other Organizations</b> Name of agency: _____	U.S. \$ _____	per _____
<input type="checkbox"/> <b>Personal funds</b>	U.S. \$ _____	per _____

**U.S. VISA HISTORY**

Are you currently in the U.S.?  yes  no If yes, latest date of arrival: \_\_\_\_\_

If yes, please indicate current visa status \_\_\_\_\_ and check one:

I will be leaving the U.S. and returning before I begin my appointment at Troy  
Give destination and travel dates: \_\_\_\_\_

I am requesting a transfer or extension of my current visa status

\_\_\_ I am requesting a change of visa status to: \_\_\_\_\_

**Attach a photo copy of all previous visa documents including I-94s,DS-2019s,I-20s,EADs,H-1B approval notices, social security card, etc.**

If no, please complete:

At which U.S. consulate/embassy will you apply for your visa? \_\_\_\_\_

Proposed U.S. arrival city \_\_\_\_\_

Passport expiration \_\_\_\_\_ U.S. Social Security Number, if any \_\_\_\_\_

**All applicants must complete:**

Have you ever been in the U.S. in any visa class other than tourist? \_\_\_ yes \_\_\_ no

If yes, please complete this section. Begin with your most recent visa class and work backwards chronologically.

Visa Classification    Begin and end dates of status    Purpose of stay and location (school or institution)

\_\_\_\_\_

Have you ever filed, or has anyone ever filed for you, an application for permanent resident (green card) status? \_\_\_ yes \_\_\_ no

*If you answered yes, please attach a separate sheet and explain (give dates and places of filing, name of person who filed, relationship of that person to you, final decision on application, current status of application.)*

**FAMILY INFORMATION**

*Please complete this section for any family members who will travel with you to the U.S. or who will arrive later to join you. If your family will travel to the U.S. separately, a visa document will be prepared to allow them to enter the U.S. Only your spouse and minor children (under age 21) may be included as family members.*

Name of family member    Date of birth    City, Province, & Country of Birth    Citizenship  
Relationship

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_ Family will travel to the U.S. with me \_\_\_ Family will arrive later. Expected arrival \_\_\_\_\_

*If your family is already in the U.S. with you, please attach copies of passport data & expiration pages, I-94 cards, and Social Security cards, if applicable.*

Your signature \_\_\_\_\_ Date \_\_\_\_\_

*Return this completed form and supporting documents to your Troy department sponsor.*

**Please do not forget these important documents as they are vital to processing of your Visa request:**

**Copies of diploma(s), certificates, transcripts and your curriculum vitae.**

**Copy of all previous visa documents including I-94s, DS-2019s, I-20s, EADs, H-1B approval notices, social security cards, etc.**

**Copies of family passport data & expiration pages, I-94 cards, and Social Security cards, if applicable.**