University Policies and Procedures

03-12.00 – EMPLOYMENT-BASED NON-IMMIGRANT AND IMMIGRANT VISA PROCEDURES

I. **Policy Statement:** To establish procedures for preparing and filing Employment-Based Petitions to the United States Citizenship and Immigration Services (“CIS”).

II. **Reason for Policy:** To clarify Towson University’s (“University”) role in the CIS petition process for employment-based non-immigrant and immigrant visa/status classifications.

III. **Definitions:**

A. **H-1B:** visa category (or, non-immigrant status classification) for the temporary employment of a foreign national who will perform professional services in a “specialty occupation” for a specific employer. The term “specialty occupation” generally refers to an occupation requiring the theoretical and practical application of a body of highly specialized knowledge, and the attainment of at least a bachelor’s degree in that particular field. The H-1B status requires petitioning by a U.S. employer on behalf of a foreign national. Applicants cannot self-petition for this visa/status.

B. **Faculty:** regular, full-time faculty whose assignments include instruction, research, and/or public service as a principal activity and who hold academic rank as professor, associate professor, assistant professor, professional librarian, or instructor. The term faculty shall not include faculty appointed on a part-time (i.e., less than a full load of courses and/or less than one academic year) basis.

C. **Lawful U.S. Permanent Resident:** the status of an alien who has been lawfully accorded the privilege of residing permanently in the United States as an immigrant. One of the three principal eligibility avenues for legal permanent resident status is employment based.

IV. **Responsible Executive and Office:**
Responsible Executive: Provost and Vice President for Academic Affairs
Responsible Office: International Student and Scholar Office

V. Entities Affected by this Policy: All faculty and staff.

VI. Procedures:

A. Limitations

1. The University will petition for the H-1B status or visa on behalf of Faculty only.

2. Faculty cannot engage outside legal counsel to petition on behalf of the University for H-1B status. It is the Chairperson’s responsibility to notify Faculty of this restriction.

3. Employment with H-1B status does not guarantee the University’s sponsorship for employment-based U.S. Permanent Resident status. If a Faculty member is interested in and qualified to be evaluated for University tenure, the Faculty member may request the University’s sponsorship for permanent residency, but the Faculty member must begin the application process at the outset of the Faculty member’s second semester at the university, so that the “special handling” provisions (“special recruitment and documentation,” available only for college and University teachers, per 20 CFR § 656.18) can be used. Pursuant to existing regulations, special handling labor certification requests must be filed with the U.S. Department of Labor no later than 18 months after the Faculty member was selected, i.e., no later than 18 months from the date the University provost signed the Faculty member’s contract. The University will not be obligated to financially assist with the process of petitioning for adjustment to permanent resident status, but will cover all costs and attorney fees for the labor certification which establishes eligibility for adjustment. Eligible Faculty will be referred by the International Student and Scholar Office Director (“ISSO Director”) to legal counsel approved by the Maryland Attorney General’s Office and qualified to file the special handling labor certification with the Department of Labor on behalf of the University, and to petition CIS for employment-based U.S. Permanent Residency (Second Preference category: Members of the Professions Holding Advanced Degrees) with the Faculty member as the beneficiary.

4. Exceptions to the H-1B sponsorship policy, to sponsor individuals other than Faculty, will be considered on a case-by-case basis. Before an exception can be considered, however, it must be established that the salary will meet or exceed an official
prevailing wage determination by the local office of the Department of Labor [as per 20 C.F.R. § 655.731(a)(2)(i) – (iii)], that the position qualifies as a true “specialty occupation” [as per Immigration and Nationality Act (I.N.A.) § 214(i)(1) and 8 C.F.R. § 214(h)(4)(iii)(A)] and that the individual selected is not disqualified by U.S. immigration regulations for sponsorship (such as an alien subject to I.N.A. § 212(e), the “two-year home country physical presence requirement”; an alien who had previously failed to maintain status; or an alien with too much prior time spent in H-1B status, as the maximum is six years).

B. Administrative Process And Responsibilities

1. The ISSO Director is the University administrator authorized to approve and sign all immigration-related forms and documents on behalf of the University.

2. Pursuant to the checklist attached, the ISSO will assist academic departments in applying for H-1B status on behalf of qualifying foreign national tenure-track Faculty. To assure timely filing of H-1B applications, it is the responsibility of the departmental Chairperson to contact the ISSO Director no later than five months before the effective date of employment.

3. The ISSO Director may from time to time publish general information regarding immigration compliance matters consistent with this Policy.

Related Policies: None.

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Amended Date:

Approved by: President’s Council 09/16/2002