

Western Carolina University
International Programs and Services
H-1B visa Hiring Guidelines
For Departments/Colleges

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Western Carolina University
International Programs and Services
H-1B visa Hiring Guidelines for Department Heads

University Policy 92

Hiring Internationals at Western Carolina University

Administering Office: International Programs and Services

Approved by Executive Council: December 12, 2005

Posted: December 16, 2005

Revised May 5, 2009

POLICY

Western Carolina University's excellent reputation is attracting a growing number of international applicants for various faculty and professional administrative positions. With the advent of the Millennial Campus and related community engagement and regional economic development initiatives, there will be even more research, teaching, and administrative positions in the near future, and the recruitment of highly qualified international candidates will contribute to the university's rich intellectual and cultural diversity.

PROCEDURES

A. Introduction

This document explains the basic procedures involved in hiring an international candidate on either a temporary or a permanent basis. At no time during the search process may a candidate be asked about their citizenship or national origin. Questioning a candidate about citizenship and national origin is a violation of the university's nondiscrimination policies. Questions may be asked about a candidate's legal authorization to work in the United States if this question is asked of all candidates.

Because of the complexity of the federal laws regarding nonimmigrant employment in the United States, all employer-sponsored petitions must be approved in accordance with these procedures and processed through the Office of International Programs and Services.

B. H-1B Visas (temporary visas)

The H-1B Visa is an employer-sponsored visa that is available for individuals who are coming into the United States temporarily to perform services as professionals in specialty occupations. A "specialty occupation" is defined as one

that requires a "theoretical and practical application of a body of highly specialized knowledge." The position must require a bachelor's or higher degree (or foreign equivalent). Examples of specialty occupations include accountants, computer analysts, engineers, scientists, and teachers.

The entire H-1B petition process takes between 4-6 months, and an applicant generally may not begin work until the petition has been approved by U.S. Citizenship and Immigration Services (USCIS).

1. Tenure-track Faculty Positions. Academic departments that have an international candidate for a tenure-track faculty position and want to support an H-1B petition must obtain the approval of the Dean prior to extending an offer of employment. The Dean will consult with the Office of International Programs and Services to (i) review the qualifications of the prospective employee, (ii) determine whether the university can sponsor the prospective employee, (iii) review the department's recruitment process, and (iv) ensure that the federal government's requirements have been satisfied.

If the request for petition is approved, the office of International Programs and Services will complete and file the application. Application fees are to be paid by the department out of a state account (for faculty positions).

2. Other Academic or Administrative Positions. Academic or administrative departments that have an international candidate for any position other than a tenure-track faculty position and want to support an H-1B petition first must obtain the approval of the Dean for an academic/research position, or the appropriate Vice Chancellor for an administrative position, prior to extending an offer of employment. The request for petition is then reviewed by the Office of International Programs and Services, which has the authority for final approval. An adverse determination by the Office of International Programs and Services may be appealed to the Provost.

Although each request for petition will be reviewed on its merits, H-1B petitions for SPA and most EPA non-faculty positions are generally not approved by USCIS due to the rigorous requirements pertaining to education and expertise.

If the request for petition is approved, the department must pay the application fees listed in paragraph B.1 above.

C. Permanent Residency (Green Cards)

Persons holding permanent resident status are eligible to remain in the United States indefinitely. An international employee may obtain permanent resident status depending on the availability of an immigrant visa and the category for which one is applying. Employers may file petitions for permanent residency in certain limited circumstances. Ordinarily, petitions can be supported for tenured and tenure-track faculty. Other individuals with "exceptional ability" who hold an advanced degree in a profession may also be eligible to obtain an employment-based immigrant visa upon a showing that there are not sufficient U.S. workers able, willing, and (minimally) qualified for the position.

1. Tenured or Tenure-track Faculty. Academic departments that want to support a permanent residency petition for a tenured or tenure-track faculty member must obtain the approval of the Dean. The Dean will consult with the

Office of International Programs and Services to ensure that the federal government's requirements have been satisfied.

If the request for petition is approved, the office of International Programs and Services will complete and file the following applications/petitions: (1) PERM Labor Certification Petition; and (2) USCIS Form I-140 – “Immigrant Petition for Alien Workers”. The application/petition fees are to be paid by the department/Dean out of a state account (for faculty positions). Provided that these applications are approved, the petitioning employee is then responsible for completing the USCIS Form I-485 – “Application to Register for Permanent Residence” - and paying filing fees and other related costs (i.e., attorney’s fees).

2. Other Academic and Administrative Employees. Academic or administrative departments that want to support a permanent residency petition for any employee other than a tenured or tenure-track faculty member first must obtain the approval of the Dean for an academic/research position, or the appropriate Vice Chancellor for an administrative position. The request for petition is then reviewed by the Office of International Programs and Services, which has the authority for final approval. An adverse determination by the Office of International Programs and Services may be appealed to the Provost.

Departments are not encouraged to pursue green card petitions for SPA and EPA non-faculty employees. In order to pursue permanent residency for a non-teaching employee, the employer must establish that there are no minimally qualified U.S. applicants available and willing to accept the position. If there are minimally qualified U.S. applicants, as determined by the Human Resources Department, the process will be terminated for failure to satisfy federal requirements.

If the request for petition is approved, the department/Dean must pay the application fees listed in paragraph C.1 above.

D. Employment of Foreign Nationals

The Office of Human Resources will use the Visualization Compliance II system to clear foreign nationals who are finalists for employment at Western as faculty or staff. A foreign national is defined as any person who is not a U.S. citizen, lawful permanent resident, political asylee, refugee, or another member of a limited class of protected individuals. Therefore, any foreign nationals employed under E, F, H, J, L, or O nonimmigrant visa classifications are considered foreign nationals for purposes of the “deemed export” rule, will be subject to background screening and may require a license. Formal employment is contingent upon the successful completion of a background check. In an effort to comply with export control regulations and to ensure compliance with all applicable employment discrimination laws, all advertised job opportunities and offers of employment will list “that eligibility to receive deemed exports of controlled technology” among the conditions of employment. Any collected information relating to an applicant’s nationality or citizenship is solely for export control compliance purposes and will not be used to unfairly discriminate during the hiring process.

END OF POLICY

PRE-HIRING ISSUES AND DIRECTIONS FOR PETITIONING FOR THE H-1B VISA: Permanent Residence Petition that could Follow the H-1B Petition

In advertising and hiring an international faculty member, there are a number of important issues that must be considered:

If the department decides that they would like to keep this individual as a productive colleague at WCU, the department may want to work with International Programs and Services on an employer petition for permanent residence, or PERM, that can be made with the U.S. Department of Labor.

If this might be the case, the department must make sure that the position was/is advertised as a **published web-based AD for 30 days or a printed AD in a national professional journal or the Chronicle of Higher Education**. The most recent Department of Labor ruling on electronic or web-based ads follows:

Is the employer permitted to use an electronic or web-based national professional journal instead of a print journal when conducting recruitment under the Department of Labor (Department) regulations at 20 Code of Federal Regulations (CFR) § 656.18, Optional special recruitment and documentation procedures for college and university teachers?

Yes, an employer may use an electronic or web-based national professional journal to satisfy the regulatory provision at 20 CFR § 656.18(b)(3), which requires use of a national professional journal for advertisements for college or university teachers. The advertisement for the job opportunity for which certification is sought must be posted for at least 30 calendar days on the journal's website. Documentation of the placement of an advertisement in an electronic or web-based national professional journal must include evidence of the start and end dates of the advertisement placement and the text of the advertisement.

Revised September 28, 2011

The PERM regulations do not define what is a "national professional journal." Neither the ETA nor the Board of Alien Labor Certification has provided substantive clarification. In determining what is an appropriate national professional journal, it is advisable to use a publication that contains more than mere job openings or is a newspaper/newsletter published by an organization or association that also publishes a self-described journal. Further, the posting of a position in the job section/tab of an organization or association's website is not the equivalent of publication in a journal.

Historically, the ETA has accepted the Chronicle of Higher Education, and it is anticipated that it will accept the e-journal Inside Higher Ed.

Also, there is a time limit for PERM petitions. WCU can petition for PERM within an 18-month window past the date that the employment contract is issued. However, the Council of Deans has suggested that departments wait until the first AFE is completed before asking IPS to petition on behalf of the international faculty member.

This usually means that if the international faculty member signed a contract at the end of May, the department and IPS has until the end of November in the following year to submit the PERM petition. However, since most AFE decisions are made in April or May of the academic year, there are only 6 months in which to get everything in place to submit the PERM petition. (See the guidelines on PERM for further information about this process or call IPS at x3433.)

THE INTERVIEW PROCESS- LOOKING OUT FOR H-1B ISSUES

QUESTIONS THAT, LEGALLY, YOU CAN ASK OF ALL CANDIDATES

- A. If you were to be hired, would you have and be able to provide proof of legal authorization to work in the U.S., and for our organization?

OR, YOU COULD ASK THIS IN TWO PARTS:

- A. If you were to be hired, would you be able to provide proof of legal authorization to work in the U.S.?
B. Would you require immigration sponsorship to work for our organization?

NOTE: If you just ask, “Would you have and be able to provide proof of legal authorization to work in the U.S.?” then you would still not know whether the candidate would be able to work for you without the sponsorship of an H-1B. For example, the candidate might have an H-1B sponsored by another company, but you would not be able to “port” this H-1B to WCU on behalf of the candidate without filing an entire new packet of H-1B forms with the USCIS (the United States Citizenship and Immigration Service, formerly INS) filing fees. These fees would include a filing fee and anti-fraud fee of \$500, and probably an additional “premium” processing fee (for expediting the case).

BEFORE PROMISING H-1B SPONSORSHIP TO A FOREIGN NATIONAL

1. Have IPS review the position to determine if it meets the H-1B specialty occupation definition, and also to determine whether the candidate qualifies.
2. Before WCU will petition for an H-1B visa, IPS will need to know if the person the department seeks to hire holds:
 - a. **F-1 student visa** and can work for one year on Optional Practical Training (OPT). This is only permitted if the new faculty member is in a temporary position and is **NOT in a TENURE-TRACK** position.
 - b. **J-1 student visa** and can work for up to 18 months on Professional Training. Again, this will only be for temporary faculty positions, **NOT TENURE-TRACK** positions.
 - c. **TN visa from** Canada or Mexico with renewals each year. [NOTE: we **MUST** provide H-1B visa to a TN-holder if the position is tenure-track.]
 - d. **H-1B visa** from another university/company. We will need to port this person to WCU.
3. Fill out the H-1B Request Form (attached).

NOTE: IMPORTANT

The H-1B visa is a non-immigrant visa but can also have immigrant intent. Therefore, many new hires will inquire about the possibility of getting the green card (permanent residency) with WCU. WCU offers assistance with 2 types of permanent residency. There are many other ways to apply and the new

hire may qualify for one or more of them. However, below are the two types that WCU will sponsor on behalf of the new hire.

1. PERM (a form of permanent residency) is possible for those candidates who were hired with an ad published in a web-based journal or newspaper with national distribution. Application occurs within the first 18 months of employment. IPS will consider these applications on a case by case basis ONLY for teaching faculty at the rank of assistant professor and above, in a tenure track position, and with evidence of a print ad in a national publication during the search process. **NOTE: The print ad must clearly identify the minimum qualifications required in the advertised position. If the committee will accept ABD applicants, the print ad must clearly state this. If the print ad reads Ph.D. required and the committee hires an international candidate who is ABD, the later petition for PERM is jeopardized. This means that either THIS candidate will have a difficult time receiving permanent residency OR the search will have to be redone.**

2. Outstanding Professor (permanent residency) is possible for those candidates with 3 years teaching experience, an outstanding research background, national/international awards and recognition, etc.

Please contact the office of International Programs and Services to discuss permanent residency requirements.

WARNING: We are NOT REQUIRED to file an H-1B for the foreign worker, but if we promise to hire the foreign worker and then, after the fact, determine that we need to sponsor him/her with an H-1B, we will have to do so, or deal with the legal issues of promising a benefit and not carrying through with that promise. This can create a complex situation because, even if you agree to sponsor the H-1B and pay the USCIS fees, the foreign national may or may not qualify for the H-1B for the following reasons:

1. The position into which you want to hire the foreign national might not be an “H-1B caliber” position. USCIS requires that the position itself be a “specialty” occupation, which is defined as an occupation that requires, at minimum, a bachelor’s degree in the specific specialty field. In higher education, the minimum degree is a master degree and the “specialty” occupation is teaching/research.
2. The foreign national might not possess the specific degree or related degree required for the position. Even if you would be willing to accept the foreign national’s degree, USCIS would not approve the case since the H-1B regulations require that the degree must be in the specialty field.
3. The foreign national might have an H-1B from another institution, and it might seem that you can “port” (bring) this H-1B so that the foreign national can work for you. However, unless the foreign national is still working for that sponsoring institution, there could be legal issues in “porting” the H-1B that might not be resolvable, or might only be resolvable if the foreign national leaves the U.S. and applies for a new H-1B in his/her own country. Post 9-11, this is always risky.
4. The foreign national might have other current or past immigration issues (ex: out of status or working without authorization) or other legal issues that would prevent him/her from obtaining an H-1B visa.

**TO INCLUDE IN
LETTER OF JOB OFFER TO
H-1B BENEFICIARIES

SUGGESTIONS FOR WORDING**

This contingency clause MUST be inserted into the job offer letter to international candidates requiring the H-1B visa

Contingency Clause to Insert into Offer Letter for H-1B candidates:

“Since you are a non-US citizen, this offer is contingent upon the following three conditions:
(1) upon acceptance of this offer, you must work with the WCU International Programs and Services (IPS) office to provide documents required by U.S. immigration law;
(2) with the assistance of IPS, you must obtain approval from U.S. Citizenship and Immigration Services (USCIS) to be employed at WCU in an appropriate immigration classification prior to the starting date; and
(3) the University can not be responsible for your failure to comply with U.S. immigration laws nor can we be held liable for limitations set forth in the U.S. Immigration and Nationality Act.”

DEPARTMENTAL APPLICATION PROCESS FOR THE H-1B VISA

Definitions: “Beneficiary” is the international faculty member or employee.
 “Petitioner” is WCU Department hiring the international faculty member.

Note

Beneficiaries on F-1 (OPT), TN are fairly easy to process.
Beneficiaries on J-1 cannot receive the H-1B if they are subject to the 2-year, home residency rule.
Beneficiaries currently on the H-1B need to be currently employed in order to “port” them to WCU. If the Beneficiary is not currently in a job, there may be other visa issues that would require the Beneficiary to leave the country and re-enter. However, this is risky.

H-1B Conditions

- * H-1B visa belongs to the petitioner (e.g., WCU), NOT the prospective employee.
- * Beneficiary may not begin work until Form I-129 is approved by USCIS
- * Petitioner is liable for reasonable transportation costs for the employee’s return home if the employee is dismissed from employment prior to the end of the H-1B authorization period.
- * Beneficiary is liable for return transportation costs if s/he voluntarily leaves his/her H-1B supported position.

Duration of H-1B Visa

- * Maximum of six (6) years; 1-3 year increments
- * Petitioner may choose to support employee for permanent residency “green card”

Transfer of H-1B from one employer to the next

- * H-1B visas may be transferred from one petitioner to another if:
 1. Prospective employee has not exceeded the H-1B 6-year maximum
 2. Petitioner submits a new H-1B visa application.

Timeline for the H-1B visa petition:

The WCU Department hiring the Beneficiary needs to follow the timeline below and complete the following forms and submit to International Programs & Services (IPS), 109 Cordelia Camp Building, Tel: x7494 or x3433.

1. Submit to IPS: H-1B Visa Request Form (pages 12-13), copy of the Job Description, copy of the published Ad (with source and dates of advertisement) and Web Ad (URL), Signed contract, and candidate resume.
2. IPS will submit the prevailing wage to the Department of Labor
3. **Once the prevailing wage has been approved**, IPS will request that the department post the Job (see page 19) in 2 places in the department for 10 working days.
4. Department takes down the two (2) postings and sends BOTH to IPS.
5. IPS will file the LCA with the Department of Labor.

6. Submit to IPS: Letter of Department in Support of H-1B Petition with specific dates in consultation with IPS (pages 14-15). Should be on Departmental Letterhead.
7. Submit to IPS: Check drawn on the department's or dean's state budget code, payable to The Department of Homeland Security, USCIS-California Service Center, 24000 Avila Road Room 2312, Laguna Niguel, CA 92677.
 - a. For New H-1B petitions, make one check payable for \$325 for the I-129 Petition for a Nonimmigrant Worker fee and \$500 for the Fraud Prevention Fee (see page 11). **Pick up checks from the Controllers Office and deliver to IPS – DO NOT SEND DIRECTLY TO USCIS.**
 - b. For Extended H-1B petitions, make check payable for \$325 (see page 11). **Pick up check from the Controllers Office and deliver to IPS – DO NOT SEND DIRECTLY TO USCIS.**
 - c. **If premium processing is requested**, attach a check drawn on the dean's state budget code, payable to The Department of Homeland Security, USCIS Premium Processing Unit, California Service Center, 24000 Avila Road Room 2312, Laguna Niguel, CA 92677, for \$1,225 (see page 11). **Pick up check from the Controllers Office and deliver to IPS – DO NOT SEND DIRECTLY TO USCIS.**
8. For employee's Public Access File, Department must complete the following and submit to IPS:
 1. Actual Wage Determination form (pages 17-18)
 2. Notice of Intent to Employ an H-1B Non-Immigrant (page 19), 2 copies, and hang each in a prominent place in the department for 10 working days.
 3. Certification Pertaining to the Release of Controlled Technology or Technical Data to Foreign Persons in the United States (p. 20)

Note: Checks require Agency and Address.

FOR H-1B EXTENSIONS,
make \$325 check payable to:

Department of Homeland Security
USCIS
CALIFORNIA SERVICE CENTER
24000 AVILA ROAD, ROOM 2312
LAGUNA NIGUEL, CA 92677

FOR NEW AND PORTING H-1B PETITIONS,
make 2 checks for \$500 & \$325 payable to:

Department of Homeland Security
USCIS
CALIFORNIA SERVICE CENTER
24000 AVILA ROAD, ROOM 2312
LAGUNA NIGUEL, CA 92677

FOR PREMIUM PROCESSING, make \$1,225 premium
processing check (cannot be combined with any check
above) payable to:

Department of Homeland Security
USCIS
CALIFORNIA SERVICE CENTER
24000 AVILA ROAD, ROOM 2312
LAGUNA NIGUEL, CA 92677

CHECK REQUESTS GUIDELINES

There are 2 pieces of paper that need to accompany a check request for the H-1B visa petition (3 pages in all):

1. Go to <http://www.uscis.gov/files/form/m-735.pdf> to download and print the first page of a H-1B checklist that gives the current fees for
 - a. the base fee (for the H-1 B application),
 - b. Fraud Prevention Fee and
 - c. the Premium Processing Service

to submit with your check request, in order to justify the cost of the petition.

In the second section of this page, circle the correct amount (confer with IPS) for the I-129 application fee and the fraud fee if applicable (we only pay the fraud fee initially, not for H-1B extensions). Also circle the amount if we are premium processing the application.

2. Attach page 2 of Form I-129 with the international faculty's name in Part III, number 1. No need to fill out any other part of this form. You can write the name in the blank.
3. Attach these pages to the check request for the Controller's office.

!!! Make sure that the checks are returned to the departmental secretary or picked up by that person. DO NOT SEND THE CHECKS TO HOMELAND SECURITY !!!

Deliver the checks to IPS as soon as they are received by the department.

Thanks,

**DEPARTMENTAL
H-1B VISA REQUEST FORM**

The following information is to be completed by the hiring department. Please keep a copy for department records.

I. INTERNATIONAL APPLICANT INFORMATION

Last Name of Foreign National	First Name	Middle Name

U.S. Social Security Number (if none, leave blank)	Email Address

Date of Birth (mm/dd/yyyy)	Country of Citizenship

Country of Legal Permanent Residence	

Tel.# in country of Citizenship	U.S. Tel. #	U.S. Cell Tel. #

Foreign Address	

Current Address	

Department Contact Name	Telephone #

II. VISA STATUS INFORMATION

Current Visa Status	Date of Arrival in U.S.(mm/dd/yyyy)	Current Stay Expires (mm/dd/yyyy)

Selection date of candidate: _____

The selection date is prior to the offer letter and is the date on which the candidate's selection approval was confirmed by Human Resources.

III. POSITION INFORMATION

Title of Position	

Employee Salary:	Date of Hire (mm/dd/yyyy)

--

Job description

IV. EMPLOYEE TYPE

- EPA SPA Tenured/Tenure Track Non tenure

This request is for:

- New Appointment
 Extension of stay
 Amendment to appointment
 Transfer (already in U.S.)
 Replace lost documents
 Other _____

**** Please attach a description of position duties and responsibilities.**

V. CERTIFYING SIGNATURES

By signing this document you agree that:

1. The foreign national will be supervised by the department head whose name appears below.
2. The teaching and/or research is consistent with the objectives and limits of the Department of Labor (H-1B visa) and U.S. Immigration regulations.
3. The department will consult International Programs and Services regarding significant changes with the appointment (including position title and description, salary, FTE, and dates).
4. The department will notify International Programs and Services of termination and/or departure of the international employee.

--	--

Department Head Signature

Date

--	--

College Dean's Signature

Date

SAMPLE LETTER OF EMPLOYING DEPARTMENT IN SUPPORT OF PETITION

On DEPARTMENTAL LETTERHEAD

[DATE]

A. For new H-1B visa petitions:

B. For courier or express deliveries:

DEPT. OF HOMELAND SECURITY USCIS - CALIFORNIA SERVICE CENTER P.O. Box 10698 LAGUNA NIGUEL, CA 92677	DEPT. OF HOMELAND SECURITY USCIS - CALIFORNIA SERVICE CENTER PREMIUM PROCESSING UNIT 24000 AVILA ROAD, 2 nd Floor, ROOM 2312 LAGUNA NIGUEL, CA 92677
C. Premium Procession mailing Address Premium Processing USCIS Texas Service Center P.O. Box 279030 Dallas, TX 75227-9030	D. Premium Processing Courier Address Premium Processing USCIS Texas Service Center 4141 N. St. Augustine Road Dallas, TX 75227

Choose one of the RE: below depending on the type of visa petition

For a new H-1B visa petition and for expediting a petition:

RE: Petition by Western Carolina University for a Nonimmigrant Worker
Beneficiary: *[faculty full name]*

For a new H-1B visa petition and for extending a petition:

RE: Petition by Western Carolina University to extend a Nonimmigrant Worker
Beneficiary: *[faculty full name]*

For Porting to WCU a new faculty member currently on an H-1B at another university

RE: Petition by Western Carolina University to port a Nonimmigrant Worker in H-1B Status
Beneficiary: *[faculty full name]*

Dear Sir or Madam:

This letter is submitted in support of the H-1B Petition of Western Carolina University on behalf of *[faculty full name]*.

The Petitioner

Western Carolina University was founded in 1889 and employs approximately 2,000 individuals. It is a non-profit institution of higher learning, offering undergraduate and graduate level degrees. Western Carolina University is one of sixteen institutions in the University of North Carolina system of higher education.

The Position Offered --(Note: for extensions, eliminate “offered” and change verb tense)

The Department of [*WCU department name*] at Western Carolina University requires the services of [*job title*]. This is a [*identify type of position, e.g., permanent, tenure or non-tenure track, 9 or 12-month*] position. The specific focus of this position will be [*2-3 sentence description of position*].

Professional Nature of Position Offered --(Note: for extensions, eliminate “offered” and change verb tense)

The position of [*job title*] is professional in nature, as it requires completion of a Ph.D. degree in [*discipline*] or related areas. The specialty occupation [*job title*] carries with it a scope of responsibilities and level of authority which is commensurate with the professional standing of this type of position at Western Carolina University. The position cannot be performed without attainment of the Ph.D. degree.

It is the position of Western Carolina University that the position qualifies as a specialty occupation because it meets all of the following criteria:

- A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position
- The degree requirement is common to the industry, or the duties of the position are so complex or unique that a degree is required
- The employer normally requires a degree or its equivalent for the position
- The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

[Faculty full name]’s Qualifications

We believe that Dr. [*faculty name*] is a professional individual whose training and experience uniquely qualify her for this appointment as [*job title*] at Western Carolina University. (*He/she*) received (*his/her*) Ph.D. in [*discipline*] in [*date*] from [*university*], (*his/her*) [*Masters degree*] in [*discipline*] in [*date*] from [*university*], and (*her/his*) [*bachelor degree*] in [*discipline*] in [*date*] from [*university*]. [*You can mention certifications, other education*].

[*Here describe other qualifications that make the candidate unique for this position in a brief paragraph*]

Dr. [*faculty name*] comes to us highly recommended in areas of (*his/her*) research, teaching and service [*or other qualifications*]. Based on Dr. [*faculty name*]’s academic background and work experience, we consider (*him/her*) to be an essential candidate for employment with our university.

Therefore, we seek (*his/her*) temporary H-1B visa employment authorization pursuant to the terms below.

Terms of Employment

You need to state clearly the exact dates for which the H-1B is being requested. It depends upon the appointment, funding, when the prior status of the foreign nationals ends, etc. Up to 3 years can be requested at a time if your college has funding and are willing to attest to USCIS that the person will work for 3 years. If you put one to three years, that will confuse USCIS. Put, for example, 1/19/06 to 1/18/07—specifics. However, don't put any conflicting info about the appointment or USCIS will get confused and not know which dates to approve. Also, information about tenure review, etc. is confusing to USCIS.

NB: Each year that WCU files for an extension, the college needs to pay the application fee. If we must rush the application, the college will have to pay the premium processing fee, too. If the department is sure that it wishes to employ the person for 3 years, and CAN – check with IPS-, then it is more cost-efficient to do so.

Dr. [faculty name] will be employed as a(n) [job title] at a salary of [\$\$\$\$] per year. We request that the H-1B begin on [date provided by IPS], and conclude on [date provided by IPS]. The College of [name] agrees to pay [beneficiary/faculty name] the reasonable cost of return transportation to [foreign city and country] if [he/she] is dismissed before the end of the period of authorized employment. The employment of H-1B workers will not adversely affect the working conditions of similarly employed individuals in regard to hours, shifts, vacations and fringe benefits.

Your expeditious and favorable consideration for our petition for this appointment is greatly appreciated. If you have any questions or concerns, please contact the undersigned.

Sincerely,

[Department Head Signature]

[Department Chair Name], Professor and Chair
Department of [department name]

Actual Wage Determination Form
Explanation of the System Used to Set the Actual Wage

(Please fill out this form and send to IPS to keep in the Public Access File for H-1B employee)

In accordance with U.S. Department of Labor regulation, documentation of actual wage determination is required in order to ensure that an employer is paying similarly-situated employees equivalent salaries. The purpose of this statement is to provide the criteria used by the employer to differentiate among employees with regard to pay who are in the same occupation with similar experience and qualifications.

H-1B Employee's Name: _____
Hiring Department: _____
Position Title: _____
Salary Offered: \$ _____ per _____

Is the position unique, in that there are no other employees in the university with the same or similar job title and basic duties? Yes No (if no, please proceed below)

If yes, please provide specific, employment-related reasons why the position is unique and therefore the actual wage rate is that paid to the H-1B employee:

There are _____ employees within the department at this time with the same job title and similar duties/responsibilities.

The salary range for these employees is \$ _____ to \$ _____ per _____.

The following criteria are used to determine the salary of the individuals in these positions:

- Experience
- Education
- Job Responsibilities and Function
- Specialized Knowledge
- Other Legitimate Business-Related Factors, meaning those that it is reasonable to conclude are necessary because they conform to recognized principles or can be demonstrated by accepted rules and standards

Please attach any applicable documentation as to how salaries are set.

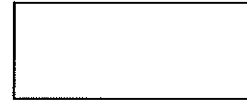
ID #	Job Classification	Salary	Education	Years of Experience	Job Responsibilities/Function	Specialized Knowledge	Other

I hereby certify that the offered salary above reflects the wage level paid to all other individuals with similar experience and qualifications working in this department. If required to do so, I will provide documentation, including payroll records of similarly employed individuals within the department.

 Name of Department Head (please print)

 Signature of Department Head

 Date



NOTICE OF INTENT TO EMPLOY AN H-1B NON-IMMIGRANT
(After posted, must be placed in PUBLIC ACCESS FILE in the IPS Office)

This notice is posted to satisfy Department of Labor requirements in regard to petitioning to the US Citizenship and Immigration Services for H-1B Temporary status for an intended hire.

Employer's Name and Location: Western Carolina University, Cullowhee, NC

Department:

Job Title:

Rate of Pay:

Period of Employment:

Number of H-1B Employees Being Sought for This Position: One

Department of Labor regulations require that the following criteria be met when filing a labor condition application and H-1B petition on behalf of an employee.

- *Wages:* employers must pay non-immigrants at least the local prevailing wage or the employer's actual wage, whichever is higher, and pay for non-productive time. Employers must offer non-immigrants benefits on the same basis as U.S. workers.
- *Working Conditions:* employers must provide working conditions for non-immigrants, which will not adversely affect the working conditions of workers similarly employed.
- *Strike, Lockout, or Work Stoppage:* employers attest that no strike or lockout in the occupational classification at the place of employment on the date the labor condition application is filed.
- *Notice:* Notice of the labor condition application filing must be posted in the location where H-1B non-immigrants will be employed

The Labor Condition Application is available for public inspection in the Office of International Programs and Services, 109 Cordelia Camp Building, 69 East University Way

Complaints alleging misrepresentation of material facts in the labor condition application and/or failure to comply with the terms of the labor condition application may be filed with any office of the Wage and Hour Division of the US Department of Labor.

This notice is posted in two conspicuous locations at the place of employment. These places are:

1. _____
2. _____

These notices have been posted for 10 working days from _____ until _____
(mm/dd/yyyy) (mm/dd/yyyy)

Notice completed by:

(Signature) (Name) (Position Title)

(Please return the two originals, completed and signed forms to the office of International Programs & Services, 109 Cordelia Camp Building)

