

# **GUIDELINES FOR DEPARTMENTS**

**Western Carolina University**

## **Labor Certification Process for International Tenure-Track Hires (PERM)**

**Prepared by**

**The office of International Programs and Services  
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## GUIDELINES FOR DEPARTMENTS

### Western Carolina University Labor Certification Process for International Tenure-Track Hires (PERM)

“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.” (From WCU Policy #92)

#### Introduction to PERM

A permanent labor certification issued by the Department of Labor (DOL) allows an employer to hire a foreign worker to work permanently in the United States. The DOL must certify to the US Citizenship and Immigration Service (USCIS) that there are no qualified U.S. workers able, willing, qualified and available to accept the job at the prevailing wage for that occupation in the area of intended employment and that employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers.

#### Search Requirements

The documentation required for PERM (Basic Labor Certification) is consistent with normal WCU recruitment procedures, however, this process requires evidence of an ad in a journal or newspaper with national circulation. The Chair of the search committee must also prove that the search was competitive and that the candidate was selected by a committee from a sizeable pool of qualified candidates. The Chair of the search committee will need to document the search BEFORE the office of international programs and services can undertake the first part of the PERM petition. The application should demonstrate that a competitive recruitment process resulted in the selection of a foreign national who is more qualified than American citizen or permanent resident applicants.

**NOTE:** On August 31, 2011, DOL's Employment and Training Administration revised the Frequently Asked Questions-Permanent Labor Certification portion of its website to indicate that an employer may use an electronic or web-based national professional journal to meet the Electronic and Web-Based Journal Advertisements Memo minimum recruitment requirements stipulated under 20 CFR §656.18, which concerns the process applicable to university or college teachers. Previously, the ETA specified that the advertisement must be in the print edition of the journal.

It remains acceptable to use a publication in a print edition of a national professional journal, but it may be that advertising in an electronic or web-based journal better represents the recruitment typically undertaken for a position and that this change may save in recruitment costs. Regardless of whether in print or published electronically, the advertisement for the job must have been placed during the recruitment period prior to the selection of foreign worker.

**It is important to note that ETA requires the following for all electronic ads; specifically, with regard to a web-based or electronic journal:**

- (1) The job listings in the journal must be viewable to the public without payment of a subscription and/or membership charge.
- (2) The job posting must be for at least 30 calendar days.
- (3) Documentation of the job posting must include evidence of the start and end dates of the ad and the text of the advertisement. Best practice would be to retain screenshots of the posting on its first and last day. Alternatively, an invoice or other correspondence provided after the last day of publication may be acceptable.
- (4) With regard to the content of the advertisements, it is imperative that the language indicate the actual minimum requirements for the position. ETA has taken the position that "preferences" listed in an advertisement are de facto requirements. Further, any request for experience should be quantified. This is true for both traditional print advertisements and those in electronic form.

**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. If your campus currently uses the Chronicle or Inside Higher Ed, there is no indication that you should change that practice.**

**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 Special Handling PERM regulations provide for an alternative procedure on behalf of a university or college teacher. An employer may opt to use the basic PERM process, which is generally used for positions other than university or college teachers. However, the basic PERM process is often more costly and all recruitment and selection of the foreign worker must be accomplished within 180 days.

### **Best Efforts**

WCU uses its "best efforts" to petition for immigrant status on behalf of international faculty members holding or offered permanent, tenure-track positions at WCU. However, no guarantee can be given that the

process will be successful since final approval comes from various offices of the federal government. The majority of applications previously filed by WCU has been successful, however the different circumstances of each case can affect a positive outcome. In the end, it is the international faculty member's personal and work track record that determines if the government grants permanent residency.

**Filing Deadlines**

Applications for permanent labor certification for college and university teachers must be filed within 18 months of the selection of the candidate (job offer), following a competitive recruitment and selection process. Under the March 2005 changes, the labor certification cannot be filed until at least 30 days after the "Notice of Filing" has been posted (see below). The timeline for PERM petitions is outlined here:

\*\*\*\*\*

**SUMMARY**

**Items that IPS needs from WCU Hiring Department**

For US Department of Labor (DOL) Permanent Employment Certification (PERM)

**Key Points:**

- ▶ Position must be tenure track teaching position & advertised nationally as such
- ▶ Search must have included at least one web-based journal ad in a national journal – see restrictions above. Submit a copy of the ad and provide the 30 day time period when it occurred in the print journal.
- ▶ Individual must meet advertised requirements by the first day of work
- ▶ Offer letter must include contingency paragraph for international hires (**Addendum #1**)
- ▶ Salary offered must meet minimum wage set by US Dept. of Labor
- ▶ **Application must be filed in PERM within 18 months of date on offer letter**
- ▶ Application process requires a wage determination from DOL and at least one additional Job Posting in the department within 6 months of filing.
- ▶ **DOL requires department to retain all applications, files, correspondence and search documentation for 6.5 years from the date on the offer letter in the event of a DOL audit.**  
(Regulations from March 28, 2005 provide for random audits).

## PROCESS OUTLINE

### submit all addendums to the IPS office

1. Job is announced and **job ad is PRINTED** in a nationally distributed web-based or print journal or newspaper.
2. Departmental Search Committee conducts nation-wide search for a candidate.
3. Department selects a tenure-track faculty member from pool who is international and who does not have a green card or U.S. citizenship.
4. Department uses Addendum I, Contingency Paragraph, in letter of job offer to international candidate.
5. Chair of Search Committee fully documents search according to PERM guidelines.
6. Chair of search committee works with dean of college, department chair and IPS director to submit proper documents for the H-1B petition in order to hire the international faculty member. *(See departmental guideline on the H-1B process)*
7. International faculty member receives H-1B document.
8. International faculty member begins work.
9. International faculty member submits first AFE documents
10. After successful AFE, department head and college dean decide if they want to petition on behalf of the international faculty member for permanent residency.
11. If the college and department want to proceed with a petition for permanent residency, the department head and chair of the original search committee meet with the director of IPS to discuss the documentation needed to proceed.
12. Head of search committee submits Addendum #2, Hiring Unit's summary of Recruitment for the Department of Labor, copy of print ad, copy of resumes for the 2-3 candidates interviewed by the search committee, Addendum #3, Addendum #4, and Addendum #7 to IPS for review.
13. IPS determines if the petition is substantial enough to warrant a PERM petition.
14. If WCU can proceed with a PERM petition for this candidate, IPS checks the date that the international faculty member signed the contract and counts 18 months to determine deadline by which the petition must be filed.
15. IPS submits a request to the Employment Security Commission (ESC) to make sure that the salary is above or equal to the prevailing wage for that position. This takes up to 2 or 3 weeks.
16. **AFTER the prevailing wage is returned from ESC**, IPS works with the Department on the posting of the job using the posting template and makes sure that it is posted in 1 place for 10 business days (See Addenda #5.1 and #5.2).
17. **After the posting is taken down**, the Department sends the original posting (Addendum #5.2) and Addendum #6 to IPS.
18. **IPS waits for 30 days after the last date of posting**, before filing the ETA 9089 form on line with the U.S. Department of Labor.
18. In the meantime, IPS sends the foreign national the file on required information to fill out form ETA 9089.
19. **After 30+ days have passed**, e.g., on day 31 but no later than day 180, IPS can submit form ETA

9089 on-line.

20. IPS Creates a **PERM Audit File** for the PERM petition that includes
  - a. Search documentation – curriculum vita of candidate
  - b. Chart of all candidates' credentials and decision for or against hiring
  - c. Documentation of the competitive recruitment and selection process
  - d. Copy of the web-based ad(s)
  - e. Signed contract
  - f. Letter of support from department chair (statement by hiring authority as to qualifications of candidate)
  - g. ESC Prevailing Wage statement
  - h. Copy of posting
  - i. Letter of candidate selection prepared by the Search Chair or Department Chair and signed by the Dean of the College.
21. **It may take 4 to 12 months for the ETA 9089 to be certified.**
22. After ETA 9089 petition is certified, IPS and foreign national SIGN printed copy of Form ETA 9089.
23. IPS fills out form I-140 and **the IPS director signs.** IPS submits, on behalf of the department and beneficiary, the following documents:
  - a. **Signed** Form ETA 9089 [**Signed by IPS** on page 8 and by **Foreign National** on page 9]
  - b. Completed Form I-140
  - c. Fee for I-140 paid with petitioning department funds
  - d. University financial report
  - e. Form I-485 and supporting documents, if foreign national is ready with form.
  - f. All required documents, such as copy of foreign national's diploma, transcripts, translation evaluation of foreign credentials, letter from former employer if prior experience was condition of employment as noted in the ad, etc.
24. **At this point, the foreign national has the option of filing form I-485 concurrently or later, after the I-140 has been approved.** At this point, it is wise for the foreign national to consult with an immigration lawyer about his/her options. IPS cannot advise at this point.

**Note:** Either the WCU petitioning department, or the respective college, pays the fees associated with Form ETA 9089 (if any) and Form I-140. IPS will work with the administrative assistant on getting the checks issued properly.

The foreign national pays fee for Form I-485 and supporting forms. If foreign national wishes, he/she can submit Form I-485 and supporting documents at a later date and pay the fee.

**\*\*Once these forms and documents are submitted, the beneficiary may wait anywhere from 4 months to 2 or 3 years to receive a response. Many times this depends on the foreign national's country of citizenship.**

**Addendum #1**  
**Contingency Paragraph for Offers to Non-US Citizens**  
**When hired at WCU**

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.

**International Programs and Services**

**Please copy International Programs and Services an offer letter and send photocopy with signed acceptance to:**

Lois Petrovich-Mwaniki, Director  
International Programs & Services  
Rm. 109 Cordelia Camp Building  
Western Carolina University  
Cullowhee, NC 28723

## Addendum #2

### Hiring Unit's Summary of Recruitment for Department of Labor

Name of international faculty member  
For whom Labor Certification is being filed:

Campus, College/School and Hiring Dept:

Date on offer letter:

Name of person who signed offer letter;

Email address of person who signed offer letter:

Name and contact information for faculty member who chaired the search committee:

Name:

Email address:

Campus phone number:

Name, date, and contact information for person providing search information answers to the questions below:

Name:

Email address:

Campus phone number:

Today's Date:

- 1) Was this a new position (FTE) or a vacancy being filled by the department?  
*(If a new FTE, attach request for provost approval to advertise and hire; WCU must fully document that the position was a bone fide opening and not one created to benefit the foreign national).*
- 2) Did the department advertise more than one opening?  
  
If yes, how many positions were listed in the print job ad?
- 3) Total number of applications received for this particular position:
- 4) Of the total received, indicate the number thought to be US citizens or US permanent residents:  
**and**  
number thought to be foreign nationals:
- 5) Total number of finalists for this particular position – generally people brought to campus (or otherwise interviewed – top candidates only):

[Note dates and methods of contact will be required for these candidates on the “DOL Employer Statement of Recruitment Results”]

- 6) Number brought to campus who were US workers (citizens or Permanent Residents):
- 7) Number brought to campus who were foreign nationals:
- 8) Total number of people hired:
- 9) Applicant Listing:  
Prepare a table (sample attached) with a complete listing of all applicants in alphabetical order that includes:
  - a) Full name of applicant
  - b) Address at the time of application
  - c) Job related reason they were not selected for interview, or if interviewed why not hired
  - d) If interviewed, job related reason why they were not hired and journal ad or web posting that prompted them to apply.

The table must be sorted into sub-groups by the reason individuals were not interviewed.

For those interviewed, fully articulate interview results and provide job related reason why the individual was not hired. This group should be listed alphabetically at the top of the spread sheet.

*For initial screening, some of the following criteria may apply. These are examples only. The department should pull from its own selection and screening criteria based on requirements for the job and the ideal candidate.*

Examples:

- a) Missing complete CV (if required in job ad)
- b) Missing official transcripts (if required in job ad)
- c) Missing recommendation letters (if required in job ad)
- d) No evidence of ability to teach undergraduate students (or graduate students where applicable)
- e) No evidence of potential to secure external funding for research
- f) No evidence of ability to produce materials acceptable for publication in peer-reviewed journals
- g) Academic standing of the Ph.D. program in which the candidate is enrolled is inferior to programs of top candidates brought in for interview
- h) Lacked the area focus in ~~XXX~~ that was sought in job ad
- i) When applicable – no evidence of valid medical licensure and/or other required certifications

### Addendum #3 Applicant Contact and Evaluation Sheet

Applicant Name	Contact Information	Analysis of applicant's qualifications
<b>INTERVIEWED</b>		
John Doe	Biostatistics Branch, MD, Nat'l Institute of Health, Bethesda, MD	Excellent presentation; strong research record with child/family connection. Position offered on X; accepted on Y.
Rocky Road	Dept. of Biostatistics, Knottrealia University, Neverland, Mars 00122	Excellent presentation; strong research record- Position offered on X; declined in lieu of offer from Duke University
Suzy Zhang	Dept of Measurement, Stats & Eval, 1230 Benjamin Bldg, Univ of Maryland, College Park, MD 20742	Interviewed – poor presentation skills – no offer made
<b>NOT INTERVIEWED</b>		
Mary Avery	4701 Staggerbrush Road, #432, Austin, TX 78749	Application not complete – no letters of recommendation
Jane Dewey	Dept. of Biostatistics and Computational Biology, Univ of Rochester Med Cntr, 601 Elmwood Ave. Box 630, Rochester, NY 14642	Application not complete – only 1 of 3 letters of recommendation and no transcripts received
Woodi Alan	199 Park Drive, Apt. 125, Boston, MA 02215	Stats work focused on obsessive compulsive & paranoia disorders – no child/family orientation
George Kooney	190 Baxgter Drive, Apt 227, Athens, GA 30606	Stats work focused on disaster relief victims, limited child/family connection evident in publications or teaching experience
Anthony Bandera	27 Cuncas St., Troonto, Canada M6P 1Y2	PhD program inferior to that of academic program of top tier candidates and those interviewed
Jane Dow	Iowa State University, Ames, IA 50010	Poor research & Publication record, no evidence of grant work & only 1 vanity press publication

**Addendum #4**  
**U.S. Department of Labor**  
**EMPLOYER'S STATEMENT OF RECRUITMENT RESULTS**

Listed below are the applicants **interviewed on campus** for the position of (enter title such as Assistant Professor of XXX) in the Department/Division of \_\_\_\_\_ in the College/School of \_\_\_\_\_ - at Western Carolina University in (enter campus). The University has attached a resume, vita, or application for each finalist who was interviewed to document his or her qualifications. Following is a detailed summary of results for the top candidates interviewed for this position. For those not hired, it includes a detailed explanation of why they were not hired.

**PLEASE READ & NOTE**

Enter standard information, then copy and paste one block for each candidate brought to campus for interview. Email the final draft of this document to [Lmwaniki@wcu.edu](mailto:Lmwaniki@wcu.edu) for review and final preparation.

\*\*\*\*\*

Candidate A:

Name of Applicant:

Address of Applicant

Date of Initial Contact with Employer:

Dates of all Employer Contacts with Applicant:

Methods of Contact:

Date of Employer Interview with Applicant:

Name and Job Title of Person Who Contacted/Interviewed Applicant: NAME, Ph.D., - Professor and Search Committee Chair, WCU Department of (enter department name).

Date Applicant Hired:

Employer's Lawful Job-Related Reason for Not Hiring Applicant (Interview Results):

Source of Recruitment: Name and date of Journal or web site posting of job ad *to which this applicant was responding*; in short, DOL is tracking how widely the position was advertised and how the applicant learned about the opening.

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Example:

Candidate A:

Name of Applicant: John Smith

Address of Applicant: 101 Main St., State, Zip USA

Date of Initial Contact with Employer: 11/01/05

Dates of all Employer Contacts with Applicant: 11/3/05; 12/10/05; 1/4/06; 1/15/06, etc.

Methods of Contact: Contact was by mail, email and telephone. (edit preceding appropriate to situation)

Date of Employer Interview with Applicant: 1/4/06 – 1/7/06

Name and Job Title of Person Who Contacted/Interviewed Applicant: Dr. John D. Professor, Search Committee Chair, WCU Department of (name of department)

Date Applicant Hired: [enter date] if no offer was made, enter not applicable and explain why below; if offer was made, enter date on offer letter, attach copy and note results.

Results of Interview: During the course of the interview, this candidate proved not to be a good fit for our program. His area of expertise was X, rather than Y and his research presentation was poorly organized and not well received by students. Our need is for someone with expertise in XX who has a talent for teaching. [IF OFFER WAS MADE, but declined, provide the date of offer and note when offer was declined. If person accepted a position at another university, it is helpful to note where they accepted a position.]

Source of Recruitment: This applicant responded to the ad in the *Chronicle of Higher Education*, October 2001 issue [MUST BE A PRINT PUBLICATION].

(continue on with Candidate B – same information as above)

## Addendum 5.1 EXAMPLE Internal Posting Notice of Job Opportunity

Instructions for federally-mandated internal posting:

1. Post this notice in one conspicuous location at the job site for 10 business days. Below is a sample. Use Addendum 5.2 for the job your department is advertising.
2. **After posting period is over, attach the original posting notice (Addendum 5.2) to the Confirmation of posting page (Addendum 6) and return to International Programs and Services Office.**

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**Job Title:** Senior Systems Engineer (position located in Baltimore Maryland) Job

**Description:** Develop and implement algorithms for multi-spectral and multi-sensor image processing data for video, infrared & polarization sensors, to be included into HyperView software package. Utilize formal geometric & statistical mathematical principles to achieve different image processing criteria incorporating lens optical modeling for distortion & blurring. Oversee software system development by software engineers, interfacing with potential customers, such as researchers and image analysts working with multi-spectral datasets and researchers using multi-sensor fusion. Identify opportunities for sublicensing.

**Requirements:** MS in Mathematics, Software Engineering or related field; knowledge of image processing algorithms.

40 hrs per week. Annual salary: \$65,000.

If interested, submit resume or curriculum vitae to:

Larry Wolff, National Research University, Department of Imaging Physics, New York, NY 10019

This notice is being posted as a result of the filing of an application for permanent alien labor certification for the job described above.

Any person may provide documentary evidence bearing on this application to the Certifying Officer, US DOL, Employment and Training Administration, Harris Tower, 233 Peachtree St., Suite 410, Atlanta, GA 30303, Tel. 404-893-0101, Fax 404-893-4692.

**Addendum 5.2 POSTING  
NOTICE OF THE FILING OF THE APPLICATION  
FOR PERMANENT EMPLOYMENT CERTIFICATION**

**TITLE:**

**DUTIES:**

**REQUIREMENTS:**

**CONTACT:**

**This notice is being provided as a result of the filing of an application for permanent alien labor certification for the relevant job opportunity.**

**Any person may provide documentary evidence bearing on the application to the regional Certifying Officer of the Department of Labor at the following address:**

**Certifying Officer  
U.S. Department of Labor  
Employment & Training Administration  
Harris Tower  
233 Peachtree Street, Suite 410  
Atlanta, GA 30303**

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Post 1 copy in the department for 10 business days. Return with Addendum 6 to International Programs & Services.

## Addendum #6 Confirmation of Posting

Return this page **with the original posting notice** to International Programs and Services Office

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COMPLETE THIS SECTION AFTER THE TEN-DAY POSTING PERIOD HAS ENDED:

**DATE POSTED:** \_\_\_\_\_

**DATE REMOVED:** \_\_\_\_\_

**Location of Posting:**

1. \_\_\_\_\_

**Employer (Department Head) Signature:**

\_\_\_\_\_

**Employer (Department Head) Name Printed:**

\_\_\_\_\_

**Date:** \_\_\_\_\_

## **Addendum #7**

### **Template for Letter written by Department Head in support of Foreign National**

November 6, 2009  
For U.S. Department of Labor  
Re: PERM Application for Dr. C

To Whom It May Concern:

This letter is written to support the University's application for Permanent Employment Certification of Dr. C as an Assistant Professor in the Department of Basic Pharmaceutical Sciences at Western Carolina University College of Pharmacy in Cullowhee, North Carolina. In strict accordance with WCU academic salary scales in the WCU College of Pharmacy, Dr. C receives a current salary of \$72,500 for the nine-month academic year.

The following is a detailed explanation of the process by which Dr. C was selected as the candidate best qualified to fill an opening in the Department of Basic Pharmaceutical Sciences in the area of medicinal chemistry. It includes the specific, lawful, job-related reasons why applicants other than Dr. C were not hired. This letter more fully explains and supplements the application for Permanent Alien Employment Certification.

The duties of this position are: to teach medicinal chemistry courses to professional and graduate pharmacy students; advise undergraduates, supervise students who are writing theses and dissertations at the master's and doctoral levels; participate in curriculum development; establish a strong externally funded research program and collaborate with faculty on multi-disciplinary research projects in pharmaceutical sciences or other biomedical science areas; and actively serve the department, university and the profession. The position requires a PhD degree in Medicinal Chemistry or a closely related discipline with expertise in computational chemistry/molecular modeling and an overall record that demonstrates potential for outstanding accomplishments in research and a strong interest in teaching. Duties require a talent for teaching, the ability to produce high quality publications, to secure external funding for research and to work well with people.

During the Spring and Fall of 2005, the department initiated a national search to fill one faculty position in the Department of Basic Pharmaceutical Sciences. The department established a search committee co-chaired by Professor JK. The position was widely publicized and consisted of a national advertising campaign in addition to verbal and written communication with personal contacts that our faculty have with colleagues at other institutions. Advertisements were placed in:

*Chemical and Engineering (C&E) News*, March 14, 2005 Issue

*Journal of Medicinal Chemistry*, April 7, 2005 Issue

*Bioorganic & Medicinal Chemistry*, March 17, 2005 Issue

Academic Keys for Pharmacy website, February 2005

A total of 20 applications were received. The search committee evaluated these applications with the assistance, advice and expertise of departmental faculty as a whole. Of those who applied 3 applicants were thought to be qualified U.S. workers and 17 appeared to be foreign nationals. During an initial review, a number of applicants were rejected because they did not meet one or more of the following requirements:

1 candidate withdrew his application;  
1 candidate lacked teaching experience and his command of the English language would have impeded successful teaching;  
3 candidates' command of English language (through telephone interview) were judged to be inadequate and a probable impediment to successful teaching;

5 candidates lacked molecular modeling experience as required by advertisement;  
2 candidates lacked molecular modeling experience and had insufficient publishing records  
1 candidate lacked required educational and research expertise in medicinal Chemical Synthesis  
1 candidate lacked any research experience after Ph.D  
1 candidate lacked research experience and did not have a Ph.D at time of interviews  
1 candidate had an insufficient publication record  
1 applicant lacked current research activity

Three candidates were thus identified for more serious consideration and campus interviews. Of these finalists, 1 was thought to be a qualified US worker and 2 were foreign nationals. The applicants met and interviewed with members of the search committee, other faculty members and students. The candidates gave a research-based seminar which was open to students and faculty. Candidates were also judged on their potential as classroom instructors, their leadership skills and the potential for research collaboration. Following is a detailed review of the three candidates interviewed for the position.

Candidate A (Dr. A): Overview of interview and results.

Candidate B (Dr. B): Overview of interview and results.

Candidate C (Dr. C): This applicant was contacted by mail, email and telephone and interviewed on campus April 29, 2005. He met with faculty members Dr. SB, Dr. JK, Dr. JC, Dean JP, Dean FS, and the Medicinal Chemistry Faculty. The candidate has many years of industrial experience with a pharmaceutical research company in cancer research, which is complimentary to the department's mission in cancer chemoprevention and cancer therapy. His primary responsibilities have included molecular modeling, a skill that will be complimentary to the research of faculty on the Cullowhee and UNC-A campuses. Dr. C also impressed us with his excellent verbal skills and good organization of materials during presentation which alluded to adaptability to teaching in the professional program. An offer of employment was made to this candidate on November 3, 2005. He accepted and became a member of our faculty on June 16, 2006 but began his tenure track appointment on August 16, 2006.

Dr. C studied at the University of Edinburgh, UK, where he earned a Ph.D in Organic Chemistry. From 1986-1987 he was employed at Eli Lilly in Ontario, Canada and was responsible for assaying pharmaceutical products for potency, purity and stability. After receiving his doctorate he was employed in the Department of Biochemistry in the University of Alberta in Canada as a post-doctoral fellow in the protein engineering network of Centers of Excellence, and at Emisphere Technologies, Inc. in New York as a computational chemist. His most recent employment has been at Cyclacel, Ltd. in Scotland as head of the structure based design group directing computational chemists, NMR spectroscopists, and X-ray crystallographers to design novel enzyme inhibitors as anti-cancer agents. He has also authored 30 refereed papers in prestigious journals. His previous industry and postdoctoral experience are of particular importance to our department. We expect excellent ability to secure research funds from this candidate, especially in collaborative research with other faculty.

In summary, the Department of Basic Pharmaceutical Sciences received 20 applications for one position. Dr. C was one of the top three candidates for this position and the only one who fulfilled departmental needs for teaching potential and research abilities in the area of medicinal chemistry and

molecular modeling. Thus, after extensive recruitment efforts and careful consideration of many applicants, Dr. C was selected as the candidate best qualified to meet the needs of the Department of Basic Pharmaceutical Sciences in the area of medicinal chemistry and molecular modeling. We hope that the Department of Labor will concur with our findings so that Western Carolina University's College of Pharmacy may continue to benefit from the services of this scholar.

Under penalty of perjury and by my signature below, I, Professor RR, Head of Western Carolina's Department of Basic Pharmaceutical Sciences, in consultation with the Search Committee Chair, Dr. JK of Western Carolina University, attest to the following:

- 1) The information provided in this letter and on the attached reports prepared from Search Committee documentation in the Department of Basic Pharmaceutical Sciences is true and accurate to the best of my knowledge and belief.
- 2) The original offered wage of \$72,500 for the nine-month academic year exceeds the recently issued DOL prevailing wage of \$53,230.
- 3) The wage is not based on commissions, bonuses or other incentives. The WCU Department of Basic Pharmaceutical Sciences guarantees a wage paid on a semi-monthly basis during the nine-month academic year that equals or exceeds the prevailing wage. Note that payment on a nine month basis is standard university business practice for faculty positions throughout the U.S.
- 4) The WCU Department of Basic Pharmaceutical Sciences has adequate funds available to pay the wage or salary offered the alien.
- 5) The alien was placed on payroll consistent with the tenure-track start date in the offer letter;
- 6) The job opportunity involves no unlawful discrimination by race, creed, color, national origin, age, sex, religion, handicap, or citizenship.
- 7) The job opportunity is *not*;
  - a) vacant because the former occupant is on strike or is being locked out in the course of a labor dispute involving a work stoppage; or
  - b) at issue in a labor dispute involving a work stoppage.
- 8) The job opportunity's terms, conditions, and occupational environment are compliant with federal, state and local laws.
- 9) The job opportunity has been and is clearly open to any U.S. worker when available;
- 10) The U.S. workers who applied for the job opportunity were rejected for lawful job-related reasons as outlined in this document.
- 11) The job opportunity is for full-time, permanent employment in the WCU College of Pharmacy, Department of Basic Pharmaceutical Studies at Western Carolina University in Cullowhee, an employer other than the alien.

**By my signature below, I designate Lois Petrovich-Mwaniki, Director of International Programs and Services at WCU to represent the College for the purpose of this Permanent Employment (Labor) Certification. Further, I accept full responsibility for the accuracy of information provided and for representations made on our behalf by IPS with respect to the position of Assistant Professor in the Department of Basic Pharmaceutical Sciences at Western Carolina University.**

Respectfully submitted,

RR, Pharm.D., Head, Department of Basic Pharmaceutical Sciences  
WCU College of Pharmacy, Cullowhee campus

C: Dean, College of Pharmacy  
International Programs and Services