H-1B and Permanent Residency Sponsorship for International Faculty and Staff

Georgia College recognizes the unique contribution international faculty and staff make to our dynamic university community. It is important that units in which these individuals are employed are aware of university procedures for processing employment visa and permanent resident petitions.

This tip sheet contains basic information regarding H-1B and Permanent Residency sponsorship for Faculty and Staff. For more information, including sponsorship policies and forms, email visas@gesu.edu.

H-1B Basics:
H-1B non-immigrant status is designed for individuals coming temporarily to the U.S. to perform services in a specialty occupation, defined as “an occupation that requires theoretical and practical application of a body of highly specialized knowledge, and attainment of a bachelor’s or higher degree in a specific specialty as a minimum for entry into the occupation in the United States.” INA 214(i).

- Georgia College will not petition for an individual whose occupation does not meet this standard.
- The determination of whether a Bachelor’s Degree is necessary for the occupation is based on the federal government’s job classification standards, not those of Georgia College.
- United States citizenship and Immigration Service (USCIS) makes the final decision on whether or not an individual qualifies for H-1B classification.

An H-1B may be initially requested for a maximum of 3 years. The H-1B can be extended, but the maximum amount of time an individual may hold H-1B status is 6 years. An H-1B visa can only be extended beyond 6 years in limited circumstances.

Time:
The non-immigrant petition process is a detailed and lengthy process, requiring authorization from both the Department of Labor and USCIS. Generally, it takes between two to six months to process an H-1B non-immigrant visa petition. If your department is considering hiring a full-time international faculty or staff member, please keep in mind that a timely consultation with the Office of Legal Affairs can help avoid costly delays in visa processing. Please note:
• An H-1B visa is “employer specific.” Thus, the H-1B visa of all international employees must specify Georgia College as the employer. An H-1B visa issued for a different employer is not valid for employment at GC.

• A foreign national already in H-1B status may only work for the employer that sponsored his/her H-1B petition.

• Employment with Georgia College may only begin:
  o After a new GC-sponsored petition has been filed on the employee’s behalf, AND
  o The ‘Receipt Notice’ has been received.

Cost:
Federal law requires that Georgia College bear responsibility for the fees associated with H-1B petitions. Current fees include:
• $325 I-129 Petition for a Non-immigrant Worker (required for all H-1B petitions)
• $500 Fraud Prevention Fee (for initial H-1B petitions only)
• $1225 Premium Processing which guarantees expedited 15-day processing of H-1B petitions—available at the discretion of the Provost. Please note: the 15-day clock will stop if USCIS requests additional evidence.

Documentation:
The hiring department and employee must submit the required H-1B Sponsorship Application with supporting documentation in order for the H-1B visa process to begin. A delay in submitting the H-1B Sponsorship Application will mean a delay in the submission of the non-immigrant petition to USCIS and, ultimately, a delay in its processing. Please email visas@gcsu.edu regarding the appropriate H-1B Sponsorship Application.

Changes in/Termination of Employment
• Federal law requires that USCIS be notified if any changes occur in the employment of an H-1B non-immigrant. The hiring department must notify the Office of Legal Affairs prior to any changes such as job title, job duties, salary, full or part time status, or location. An amended H-1B may be required under certain circumstances.
• If an H-1B employee resigns or is terminated please contact the Office of Legal Affairs immediately. The underlying Labor Condition Application and H-1B petition will need to be withdrawn.
• Should your department wish to terminate an H-1B employee before the expiration of his/her visa, federal law requires Georgia College to pay the reasonable cost associated with returning the employee (not dependents or property) to his/her home country.

Permanent Residency:
H-1B visas, unlike other categories, allow for “dual intent.” Dual intent allows a temporary H-1B visa holder to enter the country with the intention of obtaining permanent residency (green card status) in the future.
• The decision whether to sponsor an international faculty member for permanent residency is solely a decision of the university, not the employee. Georgia College is under absolutely no obligation to sponsor an individual for permanent residency. Only the Office of Legal Affairs can determine whether an individual and his/her position qualifies for GC permanent residency sponsorship. Any commitment made by departments or persons other
than the Office of Legal Affairs regarding permanent residency sponsorship are considered non-binding.

- The department and international employee’s submission of the Permanent Residency Sponsorship Application including uploading all requested supporting documentation to the application must occur before the PR process can begin.
- In order to take advantage of special rules regarding permanent residency sponsorship of professors, the permanent residency process should begin no later than 12 months after the date on the employment offer letter.

**Outside Counsel:**
Departments as well as international employees are prohibited from seeking outside immigration counsel to file non-immigrant (H-1B) or employment-based immigrant (green card) petitions on Georgia College’s behalf. All employment-based visas petitions and employment-based permanent residency sponsorships must originate with the Office of Legal Affairs.

Please email visas@gcsu.edu for additional information regarding employment-based visas or employment-based permanent residency sponsorship.