



POLICY TITLE: Employment of Non-U.S. Citizen

POLICY PURPOSE: Fort Hays State University will at all times comply with laws of the United States and the State of Kansas in recruiting, interviewing, hiring and employing non-U.S. citizens.

BACKGROUND:

APPLIES TO: Employees

DEFINITIONS:

CONTENTS:

POLICY STATEMENT: Specifically, FHSU will hire non-U.S. citizens if such persons meet the required job qualifications and are the most qualified candidate for the position.

Prior to making an offer of employment to a non-U.S. citizen, General Counsel of the University shall be notified of the planned offer. No non-U.S. citizen will be given an offer of employment unless and until that person adequately shows to FHSU ability and intent to become authorized to work in the United States. All contracts issued to non-U.S. citizens shall be contingent upon such person seeking and obtaining authorization to work in the United States. FHSU will not employ any persons who cannot establish their identity and prove their lawful ability to work in the United States. FHSU will not enter into any agreements with other persons or entities to employ, on FHSU's behalf, non-U.S. citizens who are not authorized to work in the United States.

FHSU will support any visa application necessary to enable an employee to work in the United States. However, FHSU will not provide legal advice or substantive assistance to the prospective employee in obtaining work authorization, and no offer of advice or assistance shall be made to the candidate needing work authorization. The candidate should be advised to retain an experienced immigration attorney to help them obtain work authorization.

At no time shall FHSU offer to pay any cost associated with obtaining work authorization on behalf of the employee, unless approval is sought and obtained from the Dean of the College or the head of the Administrative unit involved, as the case may be. However, all departments and units should be aware that there may be costs associated with employing non-U.S. citizens, including but not limited to, filing fees and attorney's fees. Should FHSU be required to pay these fees, they will come from department/unit budgets

unless approved otherwise by the President of the University.

Permanent Residency Petitions

If an employee chooses to pursue lawful permanent residence (Green Card), he/she should consult with outside counsel to determine the best process for them to follow. The employee should be aware, however, there may be specific time frames within which permanent residence status must be sought (for example, applying for lawful permanent residence under special handling labor certification requires the labor certification application to be filed with the Department of Labor within 18 months of the employer's decision to hire the individual.)

The University is not required to sponsor any employee for permanent residence. In determining whether it will do so, the employee's department or unit will be consulted and the opinion of the head of the department or unit will primarily influence the decision of whether to sponsor the employee.

If the decision to sponsor the employee for permanent residence is made, the employee's department or unit should be aware that certain cost and fees may be incurred that the employer must pay. As with the general policy noted above, any required cost or fees will be paid by the department or unit budget unless approved otherwise by the President of the University.

The employing department or unit should be aware that in sponsoring an employee for lawful permanent residence, an employer may be required to demonstrate that the search which resulted in the hiring of the employee was conducted using print advertising in nationwide journals applicable to the discipline at issue. For this reason, the University recommends that all national searches for unclassified staff be conducted using at least one printed advertisement or announcement in a pertinent journal.

In the event that a search must be reopened as a requirement to pursuing sponsorship of an employee for permanent residence, the department or unit will be responsible for the cost and fees associated with the second search. In addition, no representations whatsoever shall be made to the employee that the reopening of the search will automatically result in the job offer being given to the employee.

EXCLUSIONS OR SPECIAL CIRCUMSTANCES:

RELATED DOCUMENTS:

Policies:

Forms:

Other:

KEYWORDS:

Non-U.S. Employee, Green Card, citizens, permanent residency

RESPONSIBLE OFFICE: General Counsel's Office

RESPONSIBLE UNIVERSITY OFFICIAL: General Counsel

ORIGINATION DATE: 10/11/06

CHANGE HISTORY: Adopted by President's Cabinet 03/05/08
Adopted by President's Cabinet 10/11/06
