

## UNIVERSITY RULE

### **33.99.09.M1      Employment of Foreign Nationals**

*Approved May 19, 1997*

*Revised June 27, 2008*

*Revised November 21, 2013*

*Next Scheduled Review: November 21, 2018*

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#### **Rule Statement**

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In accordance with the provision established in §1.1 of System Regulation 33.99.09, this rule applies to the employment of international faculty, researchers and staff at Texas A&M University, but does not apply to the employment of international students.

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#### **Official Rule/Responsibilities/Process**

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##### 1.      ADMINISTRATION

- 1.1      In accordance with the provision established in §1.1 of System Regulation 33.99.09, this rule applies to the employment of international faculty, researchers and staff at Texas A&M University, but does not apply to the employment of international students.
  
- 1.2      The International Faculty and Scholar Service Office (IFSS) at Texas A&M University is the designated office responsible for facilitating the employment of international faculty, researchers and staff. This responsibility extends but is not limited to reviewing supporting immigration documentation, providing administrative recommendations to employing departments, preparing, executing and filing the required immigration employment petitions (nonimmigrant and immigrant), after a contingent offer of employment has been made by the hiring department or unit.
  
- 1.3      The Director of IFSS is authorized to:
  - 1.3.1    Execute immigration outside counsel representation forms on behalf of Texas A&M University on immigration employment matters.
  
  - 1.3.2    Review, approve and route for secondary review and payment approval to the System Office of General Counsel immigration outside counsel invoices submitted as a result of any immigration employment services provided by outside counsel on behalf of Texas A&M University.

1.3.3 Prepare, sign and file, or assign the preparation, signing and filing to IFSS professional staff, the immigrant and the nonimmigrant petitions, required by the United States Citizenship and Immigration Service (USCIS) and other federal agencies respectively, for the temporary or permanent employment of international faculty, researchers, and staff at Texas A&M University.

1.3.4 Provide assistance and guidance to System members regarding immigration employment matters as established in §1.3 of System Regulation 33.99.09.

## 2. EMPLOYMENT OF FOREIGN NATIONALS AT TEXAS A&M UNIVERSITY

2.1 Employment of foreign nationals at Texas A&M University is governed by the provisions contained in §2 of System Regulation 33.99.09.

## 3. AUTHORITY TO APPROVE OFFERS OF EMPLOYMENT

3.1 At Texas A&M University the authority to approve the proposed employment of a foreign national rests within the following officials:

3.1.1 Appointments of foreign nationals to positions with all ranks of faculty are approved as established in Rule 12.99.99.M1.

3.1.2 Vice Presidents, deans, and directors of services are authorized to approve offers of employment to foreign nationals in positions that are not specifically designated for approval by the President or the Provost and Executive Vice President.

3.2 All obligations and responsibilities emanating from a proposal to employ a foreign national are governed by §3 of System Regulation 33.99.09.

## 4. VERIFICATION OF IMMIGRATION DOCUMENTATION

4.1 When a foreign national employee arrives on campus after a contingent offer of employment is made, the hiring department or similar administrative unit will ensure that the foreign national employee checks in with the IFSS office immediately. The IFSS staff will review the immigration credentials of foreign national employees. This obligation extends also to all visiting scholars hosted by the university, regardless of whether or not the visit is financially supported by Texas A&M University.

## 5. RESPONSIBILITY OF EMPLOYING DEPARTMENT OR UNIT

5.1 The head of a hiring department or similar administrative unit, is responsible for:

5.1.1 Contacting IFSS, under the provisions stated in §5 of System Regulation 33.99.09.

5.1.2 Assuring that an Employment Eligibility Verification Form (I-9) is properly completed in a timely manner by the foreign national employee and the employer in accordance with the provisions contained in the Immigration Control and Reform Act. A completed I-9 Form for a foreign national employee must be routed directly to Payroll Services. Payroll Services is the central resource unit responsible for I-9 matters and record maintenance at Texas A&M University.

5.1.3 Ensuring that extension or changes in immigration status are properly documented in a timely manner in accordance with §10 of System Regulation 33.99.09.

5.2 When the employment of a foreign national is terminated, due to voluntary or involuntary termination, the head of a hiring department or similar administrative unit is required to immediately notify IFSS of the date of termination and must complete a Departure Notification Form. Such form may be downloaded from the IFSS website at <http://ifss.tamu.edu>.

## 6. PETITIONS FOR NONIMMIGRANT EMPLOYMENT

6.1 Sponsorship of nonimmigrant employment is an employer driven process.

6.2 After a contingent offer of employment is made, the head of the hiring department or similar administrative unit proposing to sponsor a foreign national for nonimmigrant status must complete all necessary internal forms, and collect all the necessary and required supporting documentation from the foreign national employee in accordance with IFSS internal processing guidelines as published and updated from time to time on the IFSS website at <http://ifss.tamu.edu>.

6.3 The necessary supporting documentation pertaining to the employment must be submitted to IFSS by the head of a hiring department or similar administrative unit preferably six (6) months in advance of the start date of the service for which the foreign national has been hired but no later than four (4) months in advance of such start date of service.

6.4 Upon review of all the required documentation IFSS will provide the appropriate administrative recommendations and service regarding immigration employment matters, and will prepare, execute and file the required nonimmigrant forms if appropriate.

6.5 Foreign national employees cannot commence employment at Texas A&M University until:

6.5.1 An approved nonimmigrant status notice (I-797A) is issued by the United

States Citizenship and Immigration Service (USCIS) and the approval has been actually received by IFSS, or the foreign national has a valid visa based on an approved status filed by and received by IFSS, and the foreign national has been inspected and admitted to the United States by Customs and Border Protection ;

- 6.5.2 J-1 Exchange Visitors have checked in with IFSS and their status has been validated by IFSS in the federal Student Exchange Information System (SEVIS)
- 6.5.3 F-1 Optional Practical Training students have checked in with IFSS and have presented a valid Employment Authorization Card and an offer of employment within their field of study and appropriate to the level of degree earned; and
- 6.5.4 Section 1 of the I-9 Form has been completed and signed by the employee the date the employee begins work (Note: the employer must complete the I-9 within three business days of the commencement of the employment by the foreign national); foreign national employees on H-1B, TN and O-1 status extending their employment at Texas A&M University and whose nonimmigrant status is pending with USCIS as a result of an extension timely filed by IFSS may continue their employment provided the head of the hiring department or similar administrative unit re-verifies the I-9 Form of the foreign national employee.
- 6.6 J-1 Exchange Visitors extending the duration of their program at Texas A&M University may continue their employment at Texas A&M University provided (i) the head of the hiring department or similar administrative unit provides a justification letter for the extension, (ii) the extension is requested prior to the conclusion of the Program (iii) a Form 5VS (Visiting Scholar) has been submitted to the Vice President for Research and approved thereof, (iv) IFSS approves such extension, (v) evidence of insurance covering the requested extension period is provided, and (vi) IFSS has not received notification from the Department of State recommending to USCIS that a waiver be granted to the J-1 .

## 7. PETITIONS FOR PERMANENT RESIDENCY

- 7.1 The requirements for sponsorship for permanent residency are governed by §7 of System Regulation 33.99.09. Sponsorship is an employer driven process. Therefore, it is the responsibility of the hiring department to initiate the request if the position is eligible for such sponsorship and it is clearly demonstrated to be in the best interest of the employing department.
- 7.2 All written justifications for permanent residence sponsorship must be approved by the normal reporting chain up to and including the appropriate vice-president. Written

justifications submitted for approval should be attached to the Department's Sponsorship for Permanent Residence Request Form which may be downloaded from the IFSS website at <http://ifss.tamu.edu>. IFSS will review the written justification and will recommend approval if the justification complies with the requirements of §7.3 of System Regulation 33.99.09 or §7.5 of System Regulation 33.99.09, in case of a staff position. Upon approval, the written justification and Department's Sponsorship for Permanent Residence Request Form must be sent to IFSS.

- 7.3 Upon receipt and review of the documentation indicated in subparagraph 7.2 of this rule, IFSS in accordance with §7.3.5 of System Regulation 33.99.09 will issue an administrative recommendation to the head of the hiring department or similar administrative unit regarding the immigrant process to be pursued.
- 7.4 In cases in which the immigrant process recommended by IFSS requires contacting and engaging the services of outside counsel, the head of the hiring department or similar administrative unit must contact the IFSS Director to arrange for outside counsel services.
- 7.5 The preparation, filing and payment of fees and costs for adjustment of status (I-485) and related applications are solely the responsibility of the foreign national employee and not the employer. Accordingly, IFSS cannot provide to the foreign national, hiring department or similar administrative unit any type of administrative recommendation or support in the adjustment of status (I-485) stage of the permanent residence process since this is not Texas A&M University's responsibility.
- 7.6 Senior lecturer positions or equivalent may be considered for sponsorship only in exceptional cases which are expected to be rare and will require additional justification beyond that required in §7.3.2 of System Regulation 33.99.09.

## 8. INTERPRETATION OF THIS RULE

- 8.1 This rule is intended to supplement System Regulation 33.99.09 which governs the employment of foreign nationals.

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### Related Statutes, Policies, or Requirements

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[System Regulation 33.99.09, Employment of Foreign Nationals](#)

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### Contact Office

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Contact [International Faculty & Scholar Services](#) for rule clarification and interpretation.