Hiring International Scholars into Tenure-Track Faculty Positions
“Frequently Asked Questions”
(International Scholars are not U.S. citizens or lawful permanent residents)

The following FAQs are related to appointing international scholars into tenure-track faculty positions at SDSU. The information listed below is and brief and may not address all situations involved in assisting an individual in obtaining the legal right for employment at SDSU. The Provost and Senior Vice President is the designated authority for approving international faculty appointments. On behalf of the Provost, the Associate Vice President for Faculty Advancement, in consultation with off-site immigration counsel, assists in reviewing, processing, and approving/signing documents for international scholars.

Q1. A finalist for the position indicates that he or she is an international scholar; what needs to happen next?

A. If a finalist is an international scholar, he or she is referred to Faculty Advancement. Faculty Advancement acts as a liaison between the international scholar and an immigration attorney to prepare the necessary paperwork for work authorization at SDSU. The most common approach is for the University to assist the international scholar with work authorization by petitioning for H-1B status, on his or her behalf.

Q2. What is H-1B status and what is involved in obtaining it?

A. H-1B status permits temporary employment for international scholars in “specialty occupations.” H-1B status may be approved for an initial period of three years. Extensions of stay may be obtained for an additional three years, for a total maximum period of six years.

There are two steps involved in obtaining H-1B status:

- SDSU must submit a Labor Condition Application (LCA) to the United States Department of Labor (DOL), attesting, among other conditions, that the international scholar will receive the same benefits and be paid within the same salary range as any other faculty member.

- SDSU must submit an H-1B petition, with supporting documents, to the United States Citizenship and Immigration Services (USCIS), which is part of the Department of Homeland Security (DHS).
Q3. Are there any fees associated with the H-1B petition?

A. There is a $325 petition filing fee and a $500 “Fraud Prevention and Detection” fee which must also be submitted with the H-1B petition. The $500 fee applies to employers filing either an initial petition for an H-1B or for a change of status or change of employer petition.

These fees are required in the form of two separate checks:

Paid to the Order of: U.S. Department of Homeland Security (no address)

These fees do not include the attorney’s fee to prepare the H-1B.

Q4. What happens next to the H-1B petition paperwork?

A. When the final H-1B petition paperwork has been completed by the immigration attorney, it is reviewed and signed by Dr. Joanna Brooks, Associate Vice President for Faculty Advancement, who is the only person authorized to sign the petition, on behalf of SDSU.

The immigration attorney sends the entire H-1B petition packet to USCIS for review.

Please note that USCIS may take from 45-90 days to process an H-1B petition. It is possible to use “premium processing” to expedite the process. Premium processing requires an additional fee of $1,225, and USCIS guarantees adjudication of the H-1B petition within 15 days.

Upon approval of the H-1B status, the international scholar is eligible for employment at SDSU. SDSU will receive a copy of the approval notice and will notify the department/school/college. The original approval notice is sent directly to the immigration attorney. The international scholar needs to present the notice to The Center for Human Resources to be placed on active SDSU payroll.

Q5. What if the international scholar indicates that they are already in H-1B status?

A. H-1B status is “employer specific.” The international scholar may already be in the U.S. in H-1B status, but if he or she accepts a position at SDSU, the university, as the new employer, must apply for H-1B status, on his or her behalf. International scholars who have grant funding, via SDSURF, should work with their college/department/school regarding using the appropriate class code to convey grant-related income on the ATF.
If an international scholar has been in the U.S. in H-1B status, prior to employment at SDSU, USCIS calculates the time (6 years maximum) in that status, regardless of the employer. For example, if an international scholar has been employed in H-1B status somewhere else for two years, he/she would have four years left in H-1B status, for employment at SDSU.

If the international scholar did have H-1B status, prior to working at SDSU, he or she is allowed to work for the new employer (SDSU) as soon as USCIS sends a notice to SDSU, acknowledging receipt of the H-1B petition package. The international scholar should take the receipt notice directly to The Center for Human Resources for verification. This is called portability which allows the employed H-1B worker to enter into employment with a new employer (i.e. SDSU).

Q6. If an international scholar is working somewhere else in H-1B status, and indicates that his or her employment will end before the full-time appointment at SDSU begins, what happens?

A. The international scholar must be employed and maintain legal status in the U.S. at all times. If his or her employment ends prior to the beginning of their full-time appointment at SDSU, USCIS views the period between employers as a “gap in employment.”

If there will be a gap in employment, the international scholar (and family members) must leave the U.S. and may not re-enter until 10 days prior to the full-time appointment at SDSU. Please contact Faculty Advancement for more information regarding “filling in the gap.”

Q7. What’s the next step after the H-1B?

The international scholar (upon approval from the department/school and college) begins the process of applying for U.S. permanent residency.

The first step in this process is to submit a “Labor Certification Application” to the Department of Labor (DOL) within 18 months of the date of the job offer, via an immigration attorney. This step involves gathering information that states why the international scholar was the most qualified applicant for the position. Adjustment to U.S. permanent residency is available only to college teaching faculty holding a tenured or tenure-track position.

*PLEASE NOTE: The Labor Certification Application process requires the assistance and expertise of an immigration attorney who will invoice the college for services rendered.
Q8. What happens when the Department of Labor approves the Labor Certification Application:

A. Upon approval of the Labor Certification Application (from DOL), SDSU will submit a petition (I-140 Immigrant Visa Petition) to USCIS within 180 days, on behalf of the international scholar, showing that he or she does in fact meet the requirements of the position. This is the next step after certification from DOL. The I-140 petition paperwork is reviewed and signed by the Associate Vice President for Faculty Advancement. Processing times may vary. Please check with an immigration attorney for more details.

Q9. What is the final step in the process?

A. The international scholar submits an Application for Adjustment of Status to lawful permanent residence (Form I-485). Upon approval from USCIS, he or she may be subject to interviews and background checks (including biometric processing, if required). This process is called Alien Documentation, Identification and Telecommunication (ADIT). If ADIT processing is required, the international scholar will receive an I-551 stamp in his or her passport, until the actual green card (plastic Permanent Resident card) is issued. The green card is sent directly to the permanent resident’s home address. Again, processing times can vary. Upon receipt of the card, he or she must go directly to The Center for Human Resources to update his or her employment records.

Q10. What kind of records need to be kept by SDSU?

A. When an international scholar is selected for a tenure-track faculty position at SDSU, all records for the search must be kept for five years, from the date of the actual filing of the Labor Certification Application, in the event of an audit.

Faculty Advancement keeps the official “Labor Certification Application” file for the five years. This file contains the signed notice from the CFA President, the job ad, the recruitment summary, any additional supporting documents, and the completed and approved Labor Certification Application from DOL.

The department/school or college is responsible for keeping all applications for any position involving an international scholar hired into a position, from the time of selection, for a period of five years, following approval of the Labor Certification Application. Please direct any questions about the retention of applications for international scholars to Faculty Advancement.
Q12. Is there any type of visa status that might be problematic for an international scholar who applies for a tenure-track position?

A. According to Federal Regulations, an international scholar on a J-1 visa may **not** be hired into a tenure-track position. If a candidate for a tenure-track position indicates that they are in J-1 visa status, please contact the Office of Faculty Advancement immediately for further information.

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