

Hiring Nonimmigrant Faculty to Tenure-Track or Tenured Positions: Considerations for Search Committees

Who are nonimmigrants?

Anyone who is not a U.S. permanent resident, immigrant, “green card” holder, resident alien or U.S. citizen is a nonimmigrant and only permitted to remain temporarily in this country. Work permission for nonimmigrants must be granted by the U.S. Citizenship and Immigration Services (USCIS). Such permission is usually employer-specific and always temporary. Nonimmigrants do not have the right to live or work permanently in the U.S.

Search committees and departments must keep in mind that each new professor’s situation is unique and depends on the individual’s study or work history in the U.S. and on nationality. This may significantly affect the time needed to gain employment authorization for a position at UCSC.

What does this mean for UCSC in the faculty search process?

Nonimmigrants who apply for faculty positions may already have permission to work in the U.S. but their work permission is temporary and usually employer-specific. It does not normally extend to employment by others (exceptions may be F-1 students on practical training). Applicants often assume erroneously that they have permission to work for UCSC.

UCSC is responsible for upholding regulations and institutional policies and procedures mandated by the university, state and federal governments regarding employment of nonimmigrants. We must petition USCIS to sponsor employment for new professors from other countries. This process is overseen for the campus by the International Education Office.

Why does it take so long to obtain employment authorization for new nonimmigrant professors?

When selected for a faculty position at UCSC, the new faculty member and the department often underestimate the time needed to petition for employment authorization. UCSC must follow a two-step process. First, we must obtain wage information from the U.S. Department of Labor (DOL) National Prevailing Wage Center. Then, we must, apply to the DOL for a labor condition approval, and petition USCIS for temporary employment for the new professor as an H-1B nonimmigrant worker. Faculty may not work until permission to work is received from the USCIS, and approval may take up to 6 months, or even longer if additional evidence is requested by the USCIS. Time must be allowed for new faculty who are outside the U.S. to apply for a visa appointment and obtain a visa from the U.S. consulate in their home country. For faculty who qualify for UCSC sponsorship of permanent residence, we must also petition USCIS for permanent employment authorization. The table on page 2 describes the process in more detail.

Where is more information available?

Questions regarding individual applicants should be addressed to Anne Butler, Director, International Scholar and Student Services, at 831-459-4214 or abutler@ucsc.edu.

Information on applying for H-1 status is available at the ISSS website: <http://oie.ucsc.edu/is3/staff.shtml>

The UCSC visa policy and procedures document is available at:
http://apo.ucsc.edu/academic_policies_and_procedures/cappm/102530rev.htm

Steps to employment and time involved for new nonimmigrant faculty:

1) Initial employment authorization for UCSC:	Government agencies involved	Typical time needed to gain initial employment authorization	Limit on employment
H-1B Nonimmigrant Worker Petition to USCIS	USCIS, DOL	6-8 months*	6 years**
F-1 Optional Practical Training (applied for by student nearing completion of degree-- may be for more than one employer)	USCIS	3-4 months*	12 months**
2) Permanent Employment at UCSC either A or B below:	Government agencies	Time needed to complete	Limit on employment
A. Permanent Labor Certification followed by UCSC Immigrant Petition for Advanced Degree Professional (EB-2)	DOL, DOS, USCIS	18 months to 2 years for approval of petition; plus up to 9 years for green card issuance depending on scholar's country of origin	Permanent
B. UCSC Immigrant Petition for Outstanding Professor (EB-1)	USCIS	18 months to 3 years	Permanent

*This may vary due to unforeseen changes in processing times on the campus and at USCIS, DOS, and DOL.

**Maximum allowed by USCIS - may be less for those with prior H-1B or practical training authorization.