

Policy on Hiring Outside Counsel for Immigration Matters

A number of campus unit administrators and principal investigators have signed off on forms supplied by immigration attorneys relating to a foreign citizen employee seeking to become a lawful permanent resident ("green card" holder) of the United States. Units and P.I.'s have also signed off with regard to the H-1B (Temporary Worker in a Specialty Occupation) visa. In virtually all of these instances, since the attorneys' fees were being paid by the individual employee, it may have INCORRECTLY been assumed that the unit was merely helping the individual.

Immigration law establishes several employment-related paths to permanent residence. With rare exceptions, these paths start with the submission of a petition (application) by the employer. Petitions for the H-1B visa may only be submitted on behalf of an employer. It is critical to understand that in such instances the University is the petitioning entity even though it may not be paying the attorney. Therefore, signing a petition has the legal effect of binding the attorney to represent the University. This is not permissible.

A unit may not sign off to have outside counsel represent the institution in immigration matters without the approval of the Office of the University General Counsel. Neither may it sign a petition or application prepared by an outside attorney on behalf of a foreign employee or prospective employee. To repeat, a hiring unit may *not* sign an immigration petition for either temporary or permanent employment of a foreign worker nor may it sign a Form G-28 or G-28i which authorizes an attorney to represent the employer in immigration matters.

At UNL all immigration matters related to foreign faculty, professional staff, and students are handled by the International Students and Scholars Office (ISSO), located at 201 Seaton Hall, 68588-0639, voice: 402-472-0324, <http://isso.unl.edu>. ISSO has prepared materials to guide campus units and it works closely with them to submit petitions that are consistent not only with good immigration law practice but also with institutional guidelines. ISSO must be consulted when considering hiring a foreign employee and ISSO will provide free assistance with any matters involving the United States Citizenship and Immigration Service (USCIS) agency.

The University assumes a significant responsibility in undertaking visa sponsorship. Sponsorship must be consistent with institutional policies and with applicable laws and regulations. Failure to comply may result in serious problems for the University, including federal criminal penalties and the loss of the privilege to sponsor foreign students. *University policy requires that units process all immigration forms and petitions relating to foreign faculty and staff as well as foreign students and visiting scholars) through ISSO. A unit may not relinquish UNL legal control of visa sponsorship to an outside attorney, even if an employee or prospective employee offers to pay for such services.*