Reminders & New J-1 Regulations

Faculty & Scholar Immigration Services
HR 'Ohana Meeting
December 5, 2014

A few reminders...

- F-1 (including OPT STEM extension) questions?
  → Contact international students office for your campus (e.g. ISS for Manoa departments).

- I-9 questions?
  → Contact Class and Benefits Section at OHR (uh-benefits-l@lists.hawaii.edu).

- E-Verify questions?
  → Contact Class and Benefits Section at OHR (uh-benefits-l@lists.hawaii.edu).

- Need J-1 or H-1B/permanent residence training?
  → Contact Kathy to schedule J-1 training.
  → Contact Signe to schedule H-1B/permanent residence training.

New J-1 Regulations

The Department of State (DOS) published a final rule (Federal Register, Vol. 79, No. 193, Oct. 6, 2014) implementing several changes to the regulations governing the J-1 Exchange Visitor Program (EVP) (22 CFR 62). FSIS will update our website, forms, and other materials to reflect these changes.

Effective January 5, 2015:

- UH sponsoring dept must use an “objective measurement” to determine that a prospective J-1 scholar is “sufficiently proficient” in English before FSIS can issue a DS-2019. There are 3 options:
  1. Recognized English test;
  2. Signed certificate from an academic institution or English language school; OR
  3. Documented interview conducted by UH in person or by videoconference (or by phone if videoconference isn’t possible).
     o Interviewer cannot be the faculty sponsor who invited the scholar to UH.
     o Ideally, interviewer should be someone who is experienced in assessing ESL ability, (L11’s HELP?)
     o FSIS will develop English proficiency certification form for interview option.

→ DOS’s rationale: Adequate English skills are necessary to ensure a J-1’s success, health, safety, and welfare while participating in the program. DOS has found that too many J-1s currently lack sufficient English proficiency and cannot conduct activities, navigate daily life in the U.S., ask for assistance, and understand their responsibilities, rights, and protections.

About Us

Faculty and Scholar Immigration Services (FSIS) provides systemwide immigration services and advising for UH departments and UH-sponsored international employees and visiting scholars (e.g. J-1, H-1B, permanent residence, etc.).

See our website at www.hawaii.edu/fsis for information on different visa types, sponsorship request procedures, and forms.

<table>
<thead>
<tr>
<th>Name</th>
<th>Immigration Areas</th>
<th>Contact Information</th>
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<tbody>
<tr>
<td>Signe Nakayama, Director</td>
<td>Primarily H-1B, E-3, O-1, TN, P, J-1 as needed</td>
<td><a href="mailto:signen@hawaii.edu">signen@hawaii.edu</a> 956-0935</td>
</tr>
<tr>
<td>Isis Bataluna, Immigration Specialist</td>
<td>Primarily H-1B, E-3, O-1, TN, &amp; J-1 as needed</td>
<td><a href="mailto:isis@hawaii.edu">isis@hawaii.edu</a> 956-2224</td>
</tr>
<tr>
<td>Kathy Todoki, International Scholar Specialist</td>
<td>J-1</td>
<td><a href="mailto:todoki@hawaii.edu">todoki@hawaii.edu</a> 956-9265</td>
</tr>
<tr>
<td>Janet Zukemura, International Scholar Specialist</td>
<td>J-1</td>
<td><a href="mailto:janetyz@hawaii.edu">janetyz@hawaii.edu</a> 956-6374</td>
</tr>
<tr>
<td>Jasmine Teruya, Student Assistant</td>
<td>--</td>
<td><a href="mailto:fsis@hawaii.edu">fsis@hawaii.edu</a> 956-0934</td>
</tr>
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New J-1 Regulations

Effective January 5, 2015 (continued):

- FSIS must report email addresses for all J-2 dependents. Not clear how to handle J-2s without email addresses—we’ll check with Dept of State.
  
  → DOS’s rationale: J-2s’ emails addresses are essential emergency contact information.

- FSIS must notify Dept of State of investigations of any J-1’s site of activity or serious problems or controversies that arise on or before the next business day.
  - “Serious problems or controversies” include:
    - Death or serious injury, including sexual abuse, of an exchange visitor.
    - Potential litigation relating to the EVP, where UH or a J-1 scholar could be named.
    - Any other event that could bring the DOS, EVP, or UH into “notoriety or disrepute.”

  → DOS’s rationale: DOS must be informed immediately of major problems occurring at sponsors’ sites. “On or before the next business day” is necessary to ensure immediate notification; DOS concluded that using another term, such as “promptly,” would be too vague.

Effective May 15, 2015:

- Increased health insurance coverage requirements:
  - Medical benefits per accident/illness: Increasing to $100,000
  - Repatriation of remains: Increasing to $25,000
  - Medical evacuation to home country: Increasing to $50,000

  *UH HMSA student plan will not meet these minimums – J-1s enrolled in the student plan will need to buy separate repatriation-medical evacuation plans by May 15th.

- UH must inform J-1s and J-2s that they may be subject to ACA requirements.

  → DOS’s rationale: Minimum coverage requirements were last updated about 20 years ago. Health care costs have risen significantly since then, so coverage amounts had to be revised accordingly.
Overview of policies, procedures, rules, laws, & regulations

Prepared by the System Office of Human Resources
December 5, 2014

What is out there?
- Board of Regents Policies (RP)
- Executive Policies (EP)
- Administrative Procedures (AP/APM)
- Administrative Rules
- Statutory Laws
- Code of Federal Regulations (CFR)
- DHRD Policies & Procedures
- Campus Policies
- Etc.

The four basics:
1) Regent Policies (RP) – Definition?
2) Executive Policies (EP) – Definition?
3) Administrative Procedures (AP) – Definition?
4) Administrative Rules – Definition?

Note: RP’s, EP’s, & AP’s are collectively known as System Policies.

System Policies Categorized
1) General Provisions
2) Administration
3) Organization
4) Planning
5) Academic Affairs
6) Tuition, Financial Assistance, and Fees
7) Student Affairs
8) Business and Finance
9) Personnel
10) Land and Physical Facilities
11) Miscellaneous
12) Research
Administrative Rules

• There are twenty (20) different administrative rules for the Executive Branch.
• The UH is listed under Title 20.
• There are 39 Chapters under Title 20.

Statutory Laws

• Chapter 304A, Hawaii Revised Statutes
• Chapters 76-89, Hawaii Revised Statutes
• Chapter 92F, Hawaii Revised Statutes
• Chapter 26, Hawaii Revised Statutes

Code of Federal Regulations

• The CFR is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government.
• It is divided into 50 titles that represent broad areas subject to Federal regulation.
• The 50 subject matter titles contain one or more individual volumes.
• Each title is divided into chapters, which usually bear the name of the issuing agency. Each chapter is further subdivided into parts that cover specific regulatory areas.

DHRD Policies and Procedures

1. Administration of Policies
2. Classification and Compensation
3. Staffing
4. Training and Development
5. Employee Relations and Benefits
6. Equal Employment Opportunity
7. Personnel Information, Records, & Reporting
8. Health and Safety
9. Workers Compensation and Temporary Disability
10. Exempt and Appointed Employees
APT Priority Status 2.0

& Employee Return Rights

Office of Human Resources
December 2014

APT Priority Status 2.0

- First, let’s review Article 9 – Employment Security
  - APTs serve a 3-year probationary period
  - Probationary APTs may be terminated with 30 days notice or by non-renewal
  - After 3-year probation, APTs gain “employment security” and “reemployment rights” under Article 10A

APT Priority Status

- Article 10A - Three types:
  - Priority 1 – When a temporary APT with employment security is given notice of termination (up to 90 days prior to COB)
  - Priority 2 – After termination of appointment (maximum duration 18 months)
  - Priority 3 – All members of Unit 8 (permanent and probationary appointees)
- Excluded APTs (BU 78) have similar priority for excluded positions (BORP, Chapter 9)

APT Priority Status

- Temporary APTs with reemployment rights being terminated shall...
  - Upon request, be provided information on vacancies (work@uh)
  - Be afforded priority status when applying for vacancies 60-days prior to termination date
  - Be provided written notice of termination, which shall include…
APT Priority Status

- Written notice shall include:
  - Effective date of the termination (COB)
  - Notice of Priority 1 status
  - Notice of when Priority 2 status begins
  - Instructions on applying for vacancies and self-identifying as a priority candidate
  - Offer to meet with the APT to explain

APT Priority Status Cont’d…

- Priority candidates must meet MQs
- Priority 1 and 2 status applies to positions in the same or lower pay band (not valid for positions in higher bands)
- APTs selected through Priority placement serve a new 6-month probationary period, which may be extended an additional 6 months; can run concurrent with 3 yr initial probation

APT Priority Status Cont’d…

- If a Priority 2 candidate declines an offer of reemployment, they forfeit any further reemployment rights
  - May check with EEO Office regarding prior offers – subject to accurate info in the ADS
  - Do not consider withdrawn applications
- For Priority 1 and 2 status - to be determined as of the ad closing date
- For Priority 3 status – confirm at the time of offer

APT Option to Return

- During first 30 days in a new position, serving new probation, APTs with employment security may request to return to former permanent position
- Not “return rights”
- Request is subject to approval – in writing
APT Return Rights for E/M

- E/M employees with APT employment security have return rights to former APT position for 3 years. Salary to be reconstructed upon return.
- After 3 years, E/M may be assigned to former position (if available), or a position in same or lower band at reconstructed salary. No guarantees...
- See Article 12

Civil Service Return Rights

- CBAs allow regular CS members to accept appointed positions as director, deputy director, or private secretary, with return rights for 4 years
- After 4 years, may request extension of return rights
  - Subject to approval – no guarantees
  - May be returned to former or a comparable position

CS Return Rights…cont’d

- Other ways to return:
  - Regular CS member serving a new probationary appointment, may request to return to former permanent position. Requires written approval of both programs
  - Regular CS member serving a new probationary appointment shall be returned to former position if they do not successfully complete new probationary period

Questions?