

Competitive Recruitment and Hiring Guidance for Teaching Positions

Effect of Foreign National Applicants

The goal of the University's recruitment efforts are to attract the best possible candidates from as diverse a labor pool as possible. When a competitive nationwide search results in the selection of a foreign national requiring visa sponsorship, there may be special requirements to be met to enable the University to retain these faculty members through offering a pathway to lawful permanent residency. By incorporating the following elements in the recruitment process, Search Committees will successfully meet the University's EEO review and current requirements of the Office of Foreign Labor Certification of the U.S. Department of Labor, via the Special Handling PERM for University and College Teachers.¹

Key Things to know - Basic Eligibility for PERM

- This guidance relates to recruitment for permanent and tenure-track teaching positions. Additionally, some EHRA positions which have a combination of research/administrative and teaching duties may qualify.
- The PERM application, on behalf of a foreign national, must be filed within 18 months after the date the formal selection decision is made.
- A copy of at least one print version or online posting of an advertisement in a national professional journal (first and 30th days of advertising).

Writing Position Descriptions for External Competitive Recruitment

(Comments correspond to Niner Talent Fields)

- **Essential Duties and Responsibilities**
 - Description of essential duties must include reference to "teaching undergraduate/graduate university classes" (training, mentoring, lecturing are too weak for PERM)

¹ OFLC of DOL controls Prevailing Wage Determinations for all H-1B petitions, PERM Applications, and I-140 petitions based on PERM Certifications. Special Handling cases are employer sponsored labor certification applications which are limited to teaching positions at qualified educational institutions. Special Handling recruitment and advertising are unique to the reality of the traditional applicant selection process at universities and colleges. Rather than testing a local job market with advertisements in newspapers and state workforce agency job postings, Special Handling recruitment is nation-wide to ensure the best applicant for the position is selected.

- Interdisciplinary fields may result in a higher required wage.
- Duties that are defined by DOL as a “combination of fields” are problematic. The job should be defined as something that cannot be divided into two separate jobs
- **Minimum Education/ Experience Requirement** – must be clear
 - Level required- (PhD, ABD, terminal, multiple?)
 - Date by which education must be acquired (selection date, date of appointment or something else)
 - Field of study- specific, multiple, or “closely related”
 - If experience in the job offered is required, recruitment must state the minimum number of months of experience required. In evaluating experience, DOL deems any work experience requirement to be full-time, 40-hours per week (2080 hours per year).
- **Department PREFERRED Education, Skills and Training Experience**
 - **DOL considers Preferences as required!!**
 - If skill in specific technologies, softwares, etc. are named, you must be able to document. Do not include excessive skills which would discourage otherwise qualified candidates from applying, unless they are absolutely essential.
 - Hiring a foreign national who doesn't meet the preferred skills over a US worker who does have the preferred skills can result in a denial of a PERM
 - Preferences, experience, special skills, and educational level ALL affect the required wage. The offered wage must meet or exceed the Prevailing Wage as determined by the Department of Labor. (<https://www.foreignlaborcert.doleta.gov/pwscreens.cfm>)
- **Necessary Licenses/Certifications**
 - If a professional license in the field is required, name it. If not, do not include
- **Special Notes to Applicants**
 - This section of Niner Talent adequately covers things like requirements for transcripts and criminal background checks. Other items related to job duties, experience, education should be in the appropriate sections, not here.

Additional Comments /Red Flags!!

- Diversity Statements - Unless essential and unique to the position, avoid including diversity statements in the duties, skills, and preferences section. If included, be prepared to document via prior employer or reference letters.

- Examples: “applicants should have a demonstrated commitment to diversity and equal opportunity” “demonstrated commitment to pedagogy” Strong background in multicultural approaches”
- Benefits- not all job-related benefits need to be listed but some do.
 - Must list: telecommuting/work from home option
 - Not required: customary benefits such as vacation, sick days, health benefits
 - Foreign Language Requirements (except for foreign language faculty)

Advertisement Content and Placement

OFLC/DOL - recruitment for a “college or university teacher” requires at a minimum placement of the full recruitment in a **National Professional Journal**.

- Examples: The Chronicle of Higher Education or Inside Higher Ed- Qualify!!
- Must be hard copy, or;
 - If electronic posting, a screen shot of first day and 30th day must be retained for PERM documentation.
 - Actual journals websites that publish articles and have classified ad sections- qualify
 - Hybrids- journal sites that have tabs to external job sites-may qualify, but not a safe choice
 - Job boards with a few articles ex: higheredjobs.com, etc.- may qualify, but not a safe choice
 - Job Boards- Monster, Career Builder, etc.- do not qualify
 - Additional recruitment to satisfy other University efforts to meet diversity pool are welcomed but cannot replace the requirement for use of a national professional journal.

Evaluation of Candidates

DOL/OFLC standard for Special Handling permits colleges and universities to hire the most qualified applicant for the position. If a U.S. worker applicant is found to be as qualified as the alien then the PERM petition will be denied.²

Written Justification For Selection:

- Follow all procedures required by Academic Affairs and Faculty and Diversity offices.
- Explain how the selected candidate specifically meets or exceeds elements of the requirements of the posted position description
- Explain why the selected candidate is the best/better than other final candidates
- Consider how your selection language will play out if your #1 candidate withdraws and you make a subsequent selection of #2 or #3 during the same recruitment period.

Documentation of the Search

- Keep hard copy or legible electronic image of any hard recruitment. Must be able to document publication name, date, volume, page, and text of recruitment
- MANDATORY screen shots of any electronic posting required on BOTH the initial date of posting and on at least 30th day of posting/ last date of posting.- minimum 30 days
- Earliest of Date of WRITTEN offer or signed contract is key date to PERM process!
- Maintain complete records (Niner Talent does most of this) of all recruitment efforts. To the extent it becomes known whether any rejected candidates are US citizens or Permanent Residents, please document.

After An Offer Is Made To A Foreign National

- Contact the ISSO- we're here to help
- ISSO will guide the academic department on visa process and answer key questions about timing and employment eligibility
- Immigration processes and AA/ HR processes are (parallel/tandem). Sometimes AA/HR require something that ISSO doesn't and vice versa.
- ALL requirements for both must be satisfied
- Designate one person in the Academic Department as point of contact for the new hire, it makes it much less stressful for him/her.

² https://www.hooyou.com/shperm_teach/index.html

- ISSO focuses on the immigration and employment eligibility needs. Please use all other usual campus resources and channels for making a new hire welcome at UNC Charlotte and easing the transition.
- Do not promise exact salary until ISSO can verify it meets the Dept of Labor's prevailing wage.

ADDITIONAL LINKS and RESOURCES

H-1B Specialty Occupations- <https://www.uscis.gov/working-united-states/temporary-workers/h-1b-specialty-occupations-dod-cooperative-research-and-development-project-workers-and-fashion-models>

PERMANENT WORKERS- <https://www.uscis.gov/working-united-states/permanent-workers>