



## Immigration Protocol

### Scope

This Protocol applies to the handling of immigration matters by John Carroll University with respect to sponsoring a foreign national for employment. The Vice President of Academic Affairs Office, the Office of Legal Affairs and Human Resources can assist departments with their immigration needs.

### General Information

1. University hiring involves finding the most qualified candidates for the position.
2. Consideration of hiring qualified foreign national candidates can be important and may increase the overall diversity of the University workforce.
3. When candidates are foreign nationals, those involved in the interviewing and hiring process need to consider whether a candidate requires sponsorship to work in the United States, as the process:
  - a. may require certain actions by the University consistent with applicable law;
  - b. may require time to petition for the candidate's visa or immigration status; and
  - c. may entail some expenditure of funds to handle the paperwork necessary for Visa petitions, employment authorization and work-related travel.

### Procedures When Interviewing Candidates

1. Always consider who is the most qualified candidate for a position.
2. Ask all candidates the following questions:
  - a. Are you authorized to work in the United States?
  - b. Would you require University sponsorship to be authorized to work in the United States?

**Note:** When the PeopleAdmin system is used to submit and screen applications, these questions are among the questions already included on the standard on-line application.
3. It is generally not a best practice to ask in interviews if the candidate is a citizen of the United States or to ask their country of citizenship. It may entail the risk of eliminating qualified candidates or lead to claims of discrimination based on national origin.
4. It is not acceptable to ask a candidate what their ethnicity, race or national origin is in pre-employment situations. (As necessary, Human Resources may ask the candidate about their country of origin to assist with necessary immigration work authorization).
5. Generally, discussing immigration sponsorship issues is not as critical in reviewing first-round candidates.

6. In determining second-round candidates, it is appropriate to ask what kind of sponsorship the candidate would require and explore any timing issues related to any necessary sponsorship. Departments should seek assistance from Human Resources or Legal Affairs when asking such questions.
7. Before selecting a final candidate and presenting an offer of employment, it is important to know two things:
  - a. If the candidate is authorized to work in the United States without sponsorship, and
  - b. If the candidate has ever been on a J exchange visitor visa (as prior J visa status requires the candidate to meet certain home residency requirements that may affect continuous employment).

### **Procedures When a Candidate Has Been Selected**

1. The offer letter must indicate that the offer is contingent upon the candidate obtaining proper work authorization to work in the United States, as well as meeting other JCU pre-employment requirements.
2. Work with Human Resources and/or the Vice President of Academic Affairs Office, in consultation with the Legal Affairs Office, to determine the candidate's current immigration status and visa needs. Determinations about the granting of immigration status or visas are made by the United States governmental offices, not JCU. Potential visa categories include:
  - a. H1-B employment-based visa: Possible for up to two 3-year terms. This visa is valid only for the particular employer sponsoring the employee. John Carroll University must pay for all H1-B and H1-B transfer fees. (Special rules apply for H1-B transfers that may permit work to proceed prior to the transfer being granted.)
  - b. O-1 visa: For individuals with extraordinary ability or achievement in sciences, arts, education, business or athletics
  - c. TN visa: For NAFTA professionals who are residents of Canada or Mexico holding a job with a U.S. employer
  - d. Permanent residency: Petitions seeking permanent residency and work authorization for those who meet these requirements. Generally, this is started for faculty as soon as practicable and within a reasonable time following the securing of the H1-B employment-based visa and the faculty member's start date at JCU. Exceptions to this practice may occur if it is not possible to begin the process promptly due to specific circumstances involving the individual's immigration status or as otherwise determined in the discretion of the Vice President of Academic Affairs. The University's established process includes the University paying for a significant portion of permanent resident application fees and the employee committing to payment of a set portion of fees, agreed-upon at the start of the permanent residency process. Only tenure-track or tenured faculty members will be sponsored for Permanent Resident status by JCU.

3. Legal Affairs and Human Resources, in collaboration with the Office of Vice President of Academic Affairs, will work with outside immigration counsel to assist with petitions for employment-based authorization.
4. Consider the desired start date for a candidate who requires sponsorship to work in the United States, as sufficient time is needed to gather documents, post notices, file petitions, and obtain a decision from U.S. Citizenship and Immigration Services. JCU cannot control the outcome or the timing of governmental approvals or delays in immigration and visa filings.

Contact Legal Affairs or Human Resources for any employment-related immigration questions.

**Effective Date: August 1, 2024**