

## Case Western Reserve University Foreign Faculty and Scholars Steps to Labor Certification

Case Western Reserve University policy determines that the office of Foreign Faculty and Scholars will assist full-time, tenure track, non-immigrant employees in the pursuit of Lawful Permanent Residence Status. The office of Foreign Faculty and Scholars has the responsibility to complete and submit applications to both the U.S. Department of Labor and the U.S. Citizenship and Immigration Service with the goal of obtaining approval of Lawful Permanent Residence Status. This certification also places requirements on those involved with the recruitment and hiring process. Government-required steps must be taken from the very beginning of the process to assure success.

The opportunity to obtain labor certification involves an 18 month window that runs from the date the position is offered (typically the date at the top of the offer letter). An Application for Labor Certification *must* be submitted and filed within that time. Missteps taken during the recruitment and hiring process can well lead to a deficiency that will make it impossible to obtain government approval. In cases where confusion exists, a timely call (216-368-4289) or e-mail to the office of Foreign Faculty and Scholars can provide the information needed to avoid problems that can delay or quash attempts to acquire government approval.

Below is an attempt to detail the steps necessary to allow for a smooth application process. Additional information is available from the office of Foreign Faculty and Scholars.

### 1. The Journal Ad

U.S. Department of Labor regulations stipulate that an application for Labor Certification must include an original sheet torn from a professional journal, containing an advertisement listing the vacant position. Such ads must run in the publication for at least one day. At the present time, ads placed online are not sufficient. Online ads may be used *in addition to* journal ads, but a journal ad *is required*.

The U.S. Department of Labor requires that an application for Labor Certification be supported by the *original* tear sheet. The tear sheet must have the name of the journal and date of the issue on it. Failing that, a cover page from the journal showing the name and date of issue must be torn from the journal and included. The ad must contain the following information:

- The title of the vacant position. Typically the title is that of Assistant Professor or Associate Professor.
- A description of the job duties. In most cases it is sufficient to state that the successful candidate will teach (subject matter) to undergraduate and/or graduate students and conduct research into (subject area). If there are additional duties that you wish to include, it may be added to the description.
- Minimum background requirements. The proper ad states the amount of education and experience needed for the position. *You will be held to those minimums by the government.* As a result, if the ad calls for a Ph.D., candidates lacking a Ph.D. *will not be approved*. Therefore, a great deal of forethought and care should be placed into this part of the ad to assure that all

desirable candidates are found acceptable. If a desirable candidate lacks the credentials required in the journal ad, that candidate will *not* be acceptable to the government.

- Requirements for the application package. The ad must advise interested parties as to the materials expected, such as curriculum vitae, names or letters of reference (and the amount of references), statement of areas of interest in teaching and/or research and the like. Copies of these documents must be included in the application package submitted to the government.
- The name and address of the individual to whom the application package must be sent. This information must be included in the journal ad. It is not acceptable to direct interested parties to another ad, whether journal or online, to obtain this information.

It is a good idea to submit the proposed ad to the office of Foreign Faculty before it is placed so that possible problems may be averted. The ad should be submitted to the office of Foreign Faculty and Scholars as soon as it is placed.

## 2. The Notice of Intent

The journal ad will also serve as the source of information for a Notice of Intent, which will be prepared by the office of Foreign Faculty and Scholars to be posted on the bulletin board outside 304 Crawford Hall. This Notice of Intent must remain in public view for ten, full business days. Therefore, the sooner it is prepared and posted, the sooner the requirement is fulfilled.

Upon completion of the ten day period, the Notice of Intent may be removed from the bulletin board, and signed by the Chairman of the search committee or, if there is no formal search committee, by the Chairman of the Department or by the Dean. The signor should also indicate how many responses the Notice of Intent generated. It is not uncommon for the Notice to fail to generate even a single response.

## 3. Candidate Interviews

Applications from interested parties should be reviewed and sorted. Department of Labor regulations require that all qualified, interested parties having a right to work in the United States be considered. Applicants who are not U.S. citizens, lawful permanent residents or holders of a work visa are not eligible to work.

Each application must be evaluated to determine if the individual has the minimum requirements for the job. At this point, the search committee must determine if qualifications are equivalent to those required in the journal ad. All those with the minimum requirements must be considered. Only those with at least the minimum requirements may be considered. Notes should be kept to document the reasons that applications were deemed insufficient and to document how qualifications were deemed to be “equivalent” to those specified in the journal ad.

The applications should be sorted into three groups:

- Those who clearly do not meet the minimum requirements;
- Those who appear to meet or exceed the minimum requirements;

- Those who might meet the minimum requirements, but from whom more information is needed.

The law requires that applicants who appear to be “overqualified” must be considered for the position.

Qualified applicants should be offered interviews and notes should be taken during the interview and kept to corroborate decisions made as to the disposition of each application.

Where the application is ambiguous, the applicant may be contacted for additional information. Typically, if the applicant fails to mention a qualification, it is considered reasonable to assume that the applicant lacks the qualification. The applicant should be contacted if the experience or education indicated could encompass the missing credential. Contacting applicants when there is no need can create problems and should be avoided.

Interviews should be scheduled as soon as possible so that qualified applicants do not accept other positions before they are contacted. Labor Certification may be denied if there is undo delay in scheduling interviews.

A log should be created detailing the name of each applicant, whether the applicant was offered an interview, whether such an interview took place and the reasons that rejected applicants were not offered the position. Completion of the Case Equal Employment Opportunity Log often satisfies this requirement.

#### 4. Recruitment Report

The Recruitment Report is required as a supporting document to be submitted with the Application for Labor Certification. The process begins with a cover letter on departmental letterhead and typically takes the following form:

Departmental Letterhead

To Whom It May Concern:

Detailed below is the recruitment effort to fill a faculty position in the Department of \_\_\_\_\_ at Case Western Reserve University. A total of applications were generated from all sources, including \_\_\_\_\_ applications from U.S. workers. There were \_\_\_\_\_ applicant(s) given serious consideration.

(Summarize job duties and minimum requirements. Indicate that after review the candidate was deemed more qualified than all U.S. workers who applied because of <Lawful Job Related Reason>). List each applicant by name and indicate reason for rejection and whether applicant was contacted by phone or in-person interview.

Include faculty names and titles of selection committee members.

The department advertised in the following journal(s) \_\_\_\_\_, dated \_\_\_\_\_.

Additionally, the vacancy was posted from (dates to follow) \_\_\_\_\_ to \_\_\_\_\_ in the Case Employment office in 304 Crawford Hall.

The cover letter is attached to the above-described chart.

## 5. Curriculum Vitae

The curriculum vitae included with the Application for Labor Certification is different from the standard, résumé-type normally submitted. It must appear under departmental letterhead (on page one). At the end, on the last page, an attestation must be included as follows:

Please be advised that this curriculum vitae accurately reflects the educational and academic achievements, as well as the professional qualifications of \_\_\_\_\_.

\_\_\_\_\_ Chairman  
Department of \_\_\_\_\_, Case Western Reserve University

Please note that the Chairman of the Department or the Dean of the College must sign the attestation.

## 6. Supporting Documents

The Application for Labor Certification must include the following documents:

- Letters of Recommendation (if required by the journal ad);
- Offer letter (must include the job title, start date and salary. Contact the office of Foreign Faculty at (216) 368-4289 as we might already have the letter on file.
- The applicant's letter of application for the position;
- Relevant diplomas and certificates supporting the applicant's claim of qualifications needed for the position.

All of these documents must be submitted to the office of Foreign Faculty and Scholars for inclusion with the Application for Labor Certification. Please understand that all delays in relaying needed documents to the office of Foreign Faculty and Scholars will result in needless delay before the Application is filed. Government processing and turnaround times are ponderous and delays prior to filing only serve to increase the long processing time.

Any time a question develops over the process or the sufficiency of a document, please feel free to call the office of Foreign Faculty and Scholars at (216) 368-4289 to avoid delay and wasted effort.