

## **EASY GUIDE TO HIRING FOREIGN GRADUATES**

**Do not let fear of the simple visa process prevent you from hiring the best and brightest graduates available.** U. S. law provides several ways for employers to hire foreign college graduates. For example, CIS (formerly INS) issues tens of thousands of H-1B work visas each year. In addition, graduates of U.S. institutions on F-1 and J-1 visas are eligible for “practical training” and are hired regularly by U.S. employers.

The two most common mechanisms for hiring foreign graduates are:

I. **PRACTICAL TRAINING:** For graduates in F-1 student visa status, Option Practical Training allows up to twelve months of employment after graduation. The student must obtain permission from the university foreign student advisor, and a work authorization card from the CIS (formerly INS). Some students (on J visas) may be eligible for up to 18 months of training without even getting a work authorization card from CIS. The university can provide additional information.

**Timing:** F-1 Graduates can begin working immediately upon receipt of the work authorization card.

**Cost:** No cost to employer. Student pays a nominal filing fee to CIS to get card.

**Employer Obligations:** Treat employees on practical training just like other U.S. employees in terms of pay, discipline, termination, etc.

II. **H-1B VISAS:** This is an extremely popular work visa. It is available to foreign nationals who (a) have at least a U.S. Bachelor's Degree or foreign equivalent and (b) will be working in a job that requires at least a Bachelor's Degree. The employer must submit a visa petition to the CIS. **Approvals can take as little as fifteen (15) days.**

**Employer Obligations:** The employer must:

- Post a notice for ten days at the worksite stating that you are hiring an H-1B worker, providing information about the job. Maintain public access file.
- Pay the same wage and benefits provided to U.S. workers in similar jobs. Pay return transportation in some circumstances.
- There is no need to advertise the position, and no need to determine if U.S. workers are available to fill the position.

**Timing:** Normal processing times can vary depending on the work location. However, CIS has special “premium processing” which guarantees processing in 15 days. Premium Processing requires an extra \$1,000 filing fee.

**Cost:** CIS' normal filing fee for private employers is \$ 320, plus a \$1,500 “training fee”, plus a “fraud prevention” fee of \$ 500. (NOTE: University employers, primary/secondary schools and certain governmental and non-profit research organizations do not pay the “training fee”. Employers with 25 or fewer employees pay only at \$750 “training fee”). Premium processing (15 day processing) carries an additional \$1,000 filing fee to CIS.

**H-B Cap:** CIS issues 65,000 new H-1B approvals each year (CIS year – October 1 through September 30). CIS accepts cases beginning April 1 for Oct. 1 H1Bs. Exceptions to the cap: University jobs; non-profits affiliated with universities; non-profit research organizations; H-1B extension with same employer; H-1B transfer to new employer. Graduates with U.S. advanced degrees have special allocation of 20,000 H-1Bs above the 65,000. Citizens of Chile and Singapore have a special allocation of H-1B's.

Other visa options may be available (for example TN for Canadian's or Mexicans working in certain jobs; E-3 visa for Australians in professional positions, and other possible options)

**Questions:** Contact McCandlish Holton Immigration Practice Group – Mark Rhoads ([mrhoads@lawmh.com](mailto:mrhoads@lawmh.com)) 804-775-3824; Helen L. Konrad ([hkonrad@lawmh.com](mailto:hkonrad@lawmh.com)) 804-775-3825. 1111 East Main Street, Suite 1500, Richmond, VA 23219.