



State University of New York

Memorandum to Presidents

Date: October 1, 1991

Vol. 91 No. 5

From: Office of University Counsel and
Vice Chancellor for Legal Affairs

Subject: Immigration Act of 1990

To: Presidents, State-Operated Campuses
Presidents, Community Colleges

The Immigration Act of 1990 (effective October 1, 1991) will require SUNY campus administrators involved in the selection and hiring of foreign faculty or staff to become familiar with new immigrant and non-immigrant visa categories. This major restructuring of the immigration law brings about changes in requirements by which aliens obtain authorization to work in the United States.

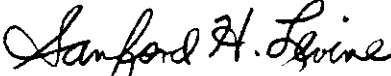
The significant features of the 1990 Act impacting on SUNY campuses are:

- restructuring of the former "preference" groups for immigration into expanded immigrant categories: (1) family-sponsored, (2) employment-based, and (3) "diversity" immigrants;
- elimination of the labor certification requirement for employment-based immigrants in the new "priority worker" category;
- establishment of a numerical limit on recipients of the employment-based, non-immigrant visa, which is most commonly used by institutions of higher education;
- addition of several new categories of non-immigrant visas, including the "O" visa for "aliens of extraordinary ability in the sciences, arts, education, business or athletics";
- changes in requirements for obtaining certain employment-based non-immigrant visas, particularly the H-1 visa for which a new "labor attestation" filing requirement has been added;

- elimination of the prohibition on patient care by alien graduates of foreign medical schools holding the H-1 visa;
- authorization for aliens working in the U.S. on temporary non-immigrant visas to apply for immigrant status without jeopardizing their temporary visas;
- establishment of new requirements for notice to collective bargaining representatives of intent to employ temporary and immigrant alien workers.

Proposed regulations implementing the changes made by the 1990 Act have been issued by the Immigration and Naturalization Service. Final regulations will be distributed to SUNY Personnel Directors when they are promulgated. For your information, a summary of changes in immigrant and non-immigrant visa categories is attached.

Questions about the interpretation of these changes in the immigration law may be addressed to Office of University Counsel at (518) 443-5400.


Sanford H. Levine

Attachment

cc: Personnel Directors, State-
Operated Campuses

Copies for information only to:
Deans, Statutory Colleges
President Coll
Provost Nesheim

IMMIGRATION ACT OF 1990
EMPLOYMENT-BASED VISA CATEGORIES
AFFECTING INSTITUTIONS OF HIGHER EDUCATION

IMMIGRANT

Prior Law

"3d Preference"

After October 1, 1991

- (1) Priority Workers
 - a) Aliens with extraordinary ability
 - b) Outstanding professors and researchers
 - c) Multinational executives and managers
- (2) Alien Members of the Professions holding advanced degrees and aliens of exceptional ability in the sciences, arts or business.
- (3) Skilled workers, professionals and other (unskilled) workers.

NON-IMMIGRANT

Prior Law

F-1 - students engaged in practical training.

J-1 - Exchange visitors

H-1 - aliens of distinguished merit and ability.

After October 1, 1991

F-1 - also permits unrelated, off-campus work authorization after 1 year in F (student) status.

J-1

H-1A - nurses

H-1B - aliens in "specialty" occupations.

O - aliens with extraordinary ability in the sciences, arts, education, business and athletics.

P - athletes and entertainers

Q - participants in an international cultural exchange program.