J-1 Research Scholars, Short Term Scholars, H1B process, and other international hires

What will we cover today?

- Types of visas that allow individuals to work at Mines
- How to process an international hire
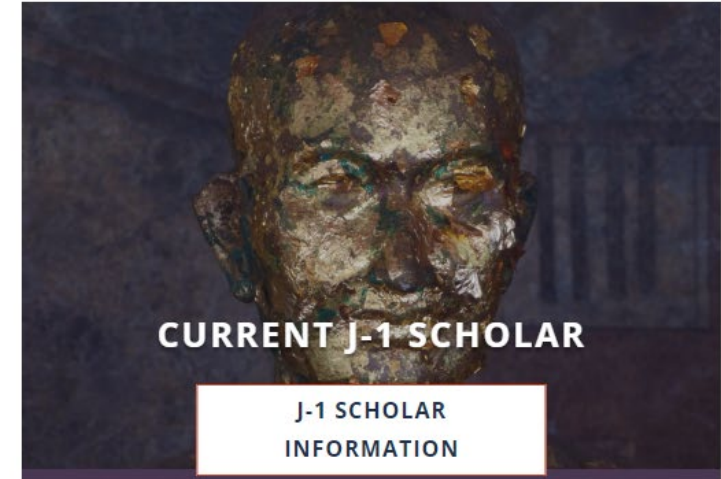- Timeline and workflow for international hires

OVERVIEW OF J-1 SCHOLAR, BUSINESS VISITOR, AND H1-B VISAS

Visa Type	Description
J1 Research Scholar	• The J-1 visa is a temporary, non-immigrant visa intended for highly educated foreign professionals to collaborate, research, observe, consult, teach and train in specialty roles on the Mines campus. • Examples of positions that utilize the J-1 Research Scholar category are Post-Doctoral Researchers, Visiting Lecturer, Visiting Scholar, Research Associates and Research Fellows. Note for the Professor category: Tenure-Track positions are not permissible in J-1 status.
J1 Short-Term Scholar	• The J-1 visa is a temporary, non-immigrant visa intended for highly educated foreign professionals to collaborate, research, observe, consult, teach and train in specialty roles on the Mines campus. • Activities at Mines may include "lecturing, observing, consulting and/or participating in seminars, workshops, conferences, study tours, professional meetings or similar types of educational and professional activities."
H1B	• The H-1B is a temporary (non-immigrant) visa intended for highly educated international professionals to work in specialty occupations requiring at least a bachelor's degree or the equivalent. The H-1B visa sponsorship of a potential international employee must be petitioned for by the host employer. • H-1B is often an appropriate visa classification for full-time salaried academic personnel
B1/B2 Visitor	• The B-1/B-2 Visitor Visa and/or ESTA program are strictly for short-term visits where an individual will not receive any form of payment or taxable goods from Mines (i.e. flight reimbursement, free meals, free accommodations, etc.). Departments who wish to have an international visitor see the Mines campus, meet on campus for business related meetings, or visit the town of Golden to determine if they wish to conduct research here, are welcome to invite international visitors using the B-1/B-2 visa or through ESTA (if eligible). • However, if Mines is benefiting from the visit, if equipment and facilities used are owned or operated by Mines, the contents of the visit and/or research activity undertaken might result in the form of published work, patent or discovery at a later date, and/or the visitor is involved in a formally structured program, use of B1/B2/WB/WT visa will contradict U.S. Department of State guidelines.

Resources

https://www.mines.edu/global/international-scholar-services/

Contact:
meganabbey@mines.edu

INVITE J-1 SCHOLAR
APPLICATION PROCESS FOR HOST
DEPARTMENTS AND POTENTIAL
SCHOLARS

J-1 APPLICATION
PROCESS

CURRENT J-1 SCHOLAR

J-1 SCHOLAR
INFORMATION

Overview of J-1 Scholar, Business Visitor, and H1-B Visas

J-1 Exchange Visitor Categories   ⊕

B-1/B-2 Visitor Visas and ESTA   ⊕

H1-B Visa Overview   ⊕

H1-B Visa Application   ⊕

Employer-sponsored Visas

H-1B's

Employer-sponsored visas

- The Office of General Counsel (OGC) facilitates the employer-sponsored visa process in coordination with outside immigration counsel.

- The decision to support an employer-sponsored visa rests with the department.
  - Requires support of hiring manager/supervisor, DH and Dean

Employer-sponsored visas

- H-1B's are typically utilized for long-term (T/TT) positions.

- Funding is the responsibility of the manager/department.
  - AA may choose to assist with funding for T/TT faculty

- H-1B's are typically sought for 3 years; can be extended for an additional 3 years
  - Cost to withdraw H-1B if employee leaves before expiration.

- H-1B employee's salary must meet DOL prevailing wage requirement.

Employer-sponsored visas

- Approximate cost of an H-1B is $5,000-$6,000
- H-1B's typically take a few months
  - Dependent upon employee's specific situation.
- H-1B's are <u>not</u> part of the hiring process.
  - Workday serves as a last chance to "catch" an H-1B request; it is not meant to be the starting point.

Employer-sponsored visas

- Workflow for the H-1B is different than what appears in Workday.
  - Department contacts OGC for guidance and required information.
  - OGC's Visa Petition Intake Questionnaire must be completed by the hiring manager/department.
  - OGC works with Export Control directly for the export control review.
  - Before OGC can engage outside immigration counsel, there must be a formal offer <u>and</u> acceptance.

Employer-sponsored visas

- Any change to an H-1B holder's position should be checked with OGC <u>before</u> proceeding.
    - An Amended Petition may be required <u>before</u> the change occurs.
    - Examples of changes include adding/subtracting duties, work location changes.
- H-1B holders should not be placed on non-remunerative status.
- Penalties for failing to maintain compliance for both the University and the visa holder(s).

Employer-sponsored visas

- Main take-away: Contact OGC early and as often as necessary.

Thanks!

Office of General Counsel

Contact: Kylie Matthews

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J-1 Research Scholars and Short Term Scholars

What is a J1 Research Scholar vs. Short Term Scholar?

- Research Scholar:
  - <u>Cannot</u> be a candidate for tenure track position
  - 5 yr maximum duration of program
  - Not an option if previously in the US on a J visa the past 12 months. (some exceptions)
  - After program, bar to return as Research Scholar for 24 months

What is a J1 Research Scholar vs. Short Term Scholar?

- Short Term Scholar
    - 6-month maximum program
    - No impact on future ability to return to US as scholar
    - Great for short appointments or repeat visits

International Office Review

3-6 months BEFORE start date

- Verifying eligibility

- Collecting previous visas, passport, financial documents

- Reviewing what activities scholar will do at Mines and length of visit to determine category

- Setting up record to create the DS 2019 based on contract dates

- Funding source declaration from department is important
  - Must determine amount of federal $ given to scholar.

When to reach out:

- Questions about an international hire

- Any changes to the program
  - Extension
  - Activities
  - Termination
  - Leaving the US for part of the program

- We are required to update the immigration records for our international scholars when there are changes.

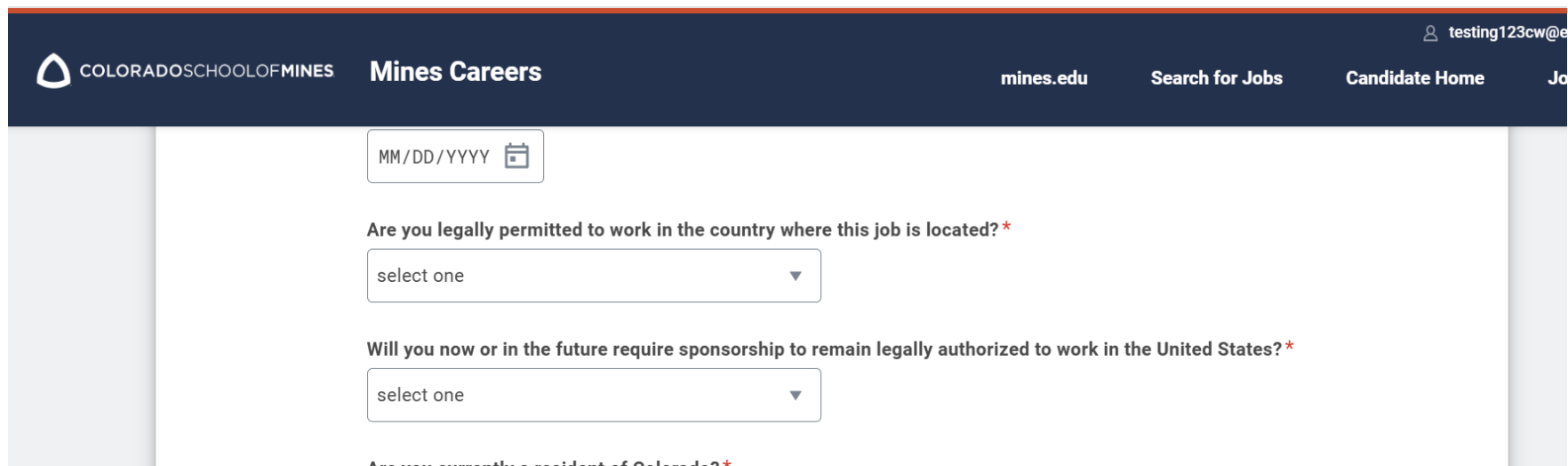- Reach out BEFORE making any changes to a program.

Hiring Paid and Non-Paid Faculty or Staff requiring visa assistance

- Work with the International Office and/or Legal early and often

- Workday should not be the first step when hiring someone you know will require visa assistance

- Candidates are asked if they will require visa assistance now or in the future at the point of application, as shown here:

Hiring Paid and Non-Paid Faculty or Staff requiring visa assistance

- Once a candidate correctly indicates that they require visa assistance now or in the future, the revised approval process begins at the Offer step

- When Offer Approval is started, the Legal and RTT Security Groups are included in your normal approval workflow

- The approval process takes 6-10 days on average, so plan ahead!

RTT Review – Scot Allen &
Ralph Brown, Erin McCaffrey

Export Controls Review

- Key document from PI/Department: Export Control Questionnaire

- Identify federal support for student

- In our review, we consider:
  - Restrictions on the scholar's research
  - Screening of previous univ. & scholar
  - Restricted research in PI's lab
  - Restricted research in host department

- Potential outcomes: federal license, technology control plan, no license req.

- Required by law, e.g. Arms Export Control Act and International Traffic in Arms Regulations

Workday Process for paid J1 Postdocs/Visiting Scholars

- Key document from PI/Department: Export Control Questionnaire (send by e-mail to exportcontrols@mines.edu at beginning of process).

- Make sure to identify any direct federal support of student on the ECQ. Does not mean that they are merely paid on a federal grant. The support has to be directly for the student.

- RTT will perform an Export Control Review and contact PI with any questions or concerns.

- RTT will upload the export Control Questionnaire and Export Control Review to Workday.

- RTT will approve in Workday for paid positions.

- https://helpcenter.mines.edu/TDClient/2657/maps/KB/ArticleDet?ID=146504

Process for non-remunerated Visiting Scholars

- Key document from PI/Department: Export Control Questionnaire (send by e-mail to exportcontrols@mines.edu at beginning of process).

- Make sure to identify any direct federal support of student on the ECQ. Does not mean that they are merely paid on a federal grant. The support has to be directly for the student.

- RTT will perform an Export Control Review and contact PI with any questions or concerns.

- RTT will upload the export Control Questionnaire and Export Control Review to Workday.

- RTT will approve in Workday for Contingent and Connected Workers.

- https://helpcenter.mines.edu/TDClient/2657/maps/KB/ArticleDet?ID=146738

Thank You!

Please reach out with questions ~ We are happy to help!