

The University of Mississippi



Hiring and Hosting
International Faculty,
Staff, and Scholars

Who are they?



International Faculty, Staff, And Scholars range widely in terms of types of positions they assume, visa types, and governing regulations.

The purpose of this presentation is to help sponsoring departments better understand the processes and responsibilities associated with hiring and hosting international faculty, staff, and scholars. Before we delve into the differences between the main visa types, let's first dissect the three distinctions that have already been made.

We'll start with staff, since it's the simplest. Staff includes anyone employed by the university in a non-academic role.

Some example positions of international staff members would be IT, Academic Advisors, and sometimes Coaches.

Faculty and Scholars are a bit more difficult to distinguish from one another. For example, someone could be both faculty and

scholar. The primary distinction between lies within the definition of a scholar. A scholar, for immigration purposes, is someone that is here as a visiting scholar (J-1). A faculty member is anyone who is engaged in teaching or research at the university. Some sample faculty titles would be: Postdoctoral Researcher, Chemist, Instructional Assistant Professor, Lecturer, etc. One important note is that scholars (as J-1s) may not be in tenure-track positions.

What are the options?



The main visa types used by the university are J-1 and H-1B. There are other visa types including OPT, E-3, TN, O-1 and B that are used as well. Most of you probably have some familiarity with some (or perhaps all) of these already, but each one has unique requirements, restrictions, and processes. When choosing to hire or host an international faculty, staff, or scholar, there are several things that must be considered which will help determine their eligibility, the proper visa type, and the processes that need to be followed. Let's take a somewhat in depth look at the different visa types and their unique attributes.

J-1 (Exchange Visitor)

J-1 Types

- Research Scholar/ Professor
- Short-term Scholar
- Specialist

- Student Intern

- Student on Academic Training



J-1 Types:

Research Scholar/Professor

Short-term Scholar

Specialist

Student intern

Student on Academic Training

There are several distinguishing characteristics about each of these types. Research Scholar/Professor are generally long term J-1s lasting usually a year or more in duration. They may solely conduct research, solely teach, or some combination of both.

Short-term scholars, as the name states, generally have the same types of programs as research scholars/ professors, but they are much shorter, which I'll discuss in a couple of slides.

Specialists are recognized experts in their field.

Student interns are currently enrolled students for whom an internship is a requirement for their program.

Students on academic training are J-1 students who are in or have recently completed an academic program and for whom the training will be directly related to their program of study.

J-1 Eligibility

- ❑ Research Scholar/ Professor, Short-term Scholar, Specialist
 - ❑ Generally must have at least a bachelor's degree
- ❑ Student Intern
 - ❑ Must be currently enrolled in a degree program abroad, etc.
- ❑ Student on Academic Training
 - ❑ Must be primarily in the US to study, etc.

Cannot have immigrant intent



For research scholar/professor, short-term scholar, and specialist, the general rule is that they must have at least a bachelor's degree. This is not always the case. For example, we had a professional musician come to study blues music, but they did not have an academic degree.

Student interns we'll talk about more later.

Students on academic training can be at any academic level, but they must be primarily in the US to study, not for training (i.e. work).

One very important note is that J-1s cannot have immigrant intent.

J-1 Maximum Duration

Specialists & Student Interns



Generally, J-1s have a minimum duration of 3 weeks (though that is not the case for short-term scholars who have no minimum). The maximum durations, however, vary widely.

Short-term scholars may not exceed 6 months.

Specialists and student interns cannot exceed 1 year.

Doctoral students on academic training cannot exceed 3 years (it is shorter for bachelor's and master's students who cannot exceed 18 months or the length of their full course of study, whichever is shorter). It's important to note, too that the duration of academic training is inclusive of all levels (i.e. if you use it as an undergrad, it takes away from your maximum duration at the post-doctoral level).

Research scholars and professors may be here the longest.

They can stay for up to 5 years.

Regardless of length, funding must be shown for the duration

of the J-1 program.

J-1 Funding

- University
- Government
- Home University
- Personal Funds



J-1 Exchange Visitors may have funding from wide variety of sources including the University of Mississippi, the US or their home Government, their home institution or university, and personal funds. Any combination of these funding sources is acceptable.

212(e) The Two-year Home Residency Requirement

- PR
- Change of Status inside the US
- H-1B**
- L-1 (intracompany transferee)
- K (fiancé)



This requirement is something you've likely heard about if you've ever sponsored a J-1 EV. There are 3 ways in which an EV could be subject to the 212(e) requirement, but only 2 really apply to our situation. The first, and more difficult one to work with, is government financing. This is direct or indirect financing for the purpose of intercultural education and exchange from either the US or their home government. The second way is called the Exchange Visitor's Skills List. It is a list of high-need fields of study and countries that have indicated a need for EVs in those fields to return after their program. This is very common and not too difficult to remove via a no objection waiver application.

212(e) does not prevent a lot of things, but it does stop someone from applying for permanent residency, applying for a change of status (for example from J-1 to B-1) from

within the U.S., applying for H-1B, entering as an L-1 intracompany transferee or their dependent, or entering as a K (fiancé) visa. The one that most people care about is H-1B and is the primary reason our J scholars will apply for a waiver.

Bars on Participation

- 12 & 24 month bars

If they were here < 6 months

They may come any time as a research scholar/professor (if otherwise eligible), except for previous research scholar/professors

If they were here > 6 months

Research scholars/professors must wait **24 months***

All others must wait **12 months**



There are 2 bars on repeat participation. One is based on previous time in any J status (other than short-term scholar). This is the 12 month bar and it states that if you were not a short-term scholar and spent more than 6 months in J status, then you must wait 12 months before you can be a research scholar or professor. The 24 month bar applies only to those who participated in research scholar/professor programs and states that if they spent *any time at all* as research scholars/professors, then they must wait 24 months before they can be J-1 research scholars/professors again. This does not prevent them from being J-1 students or short-term scholars. Nor does it prevent them from being any non J visa type. The 24 month bar is frequently confused with the 2 year home residency requirement. However, the 24 month bar does not require the EV to remain in their home country for 2 years.

Special Considerations for Student Interns

- ❑ DS-7002
- ❑ Must graduate *after* the program is complete and they return to their home country
- ❑ Must work at least 32 hours a week
- ❑ All tasks must be necessary for the internship and cannot be more than 20% clerical
- ❑ Cannot fill a labor need



This is a fairly unique category and has several additional requirements. Firstly, a form DS-7002 training/internship plan must be completed in order for the DS-2019 (certificate of eligibility) to be produced. It details the location, activities, stakeholders, and even cultural activities (which are required). Student interns must graduate after they complete the internship and return to their home country. They must work at least 32 hours a week and only 20% of that can be clerical work. Student interns cannot fill a labor need. And, as stated previously, it must be a part of their degree program.

J-1 Insurance Requirements

- ❑ 100k, 50k, 25k, 500
- ❑ BCBS



All J-1s are required to have insurance that meets the Department of State standards. The short version is that they must have *at least* \$100k per accident/illness, \$50k in medical evacuation, \$25k in repatriation, and must not have a deductible which exceeds \$500 per accident/illness. The BCBS plan available through the university for benefits eligible employees only meets one of these requirements. So, if you are hosting a J-1, they will have to purchase a separate insurance plan, even if they are on the university BCBS plan. J-1s must have insurance coverage that meets these requirements for the entire duration of their program.

J-1 Application Process

- ❑ Complete the J-1 Application
 - ❑ Verify English Language Ability
- ❑ Send DS-2019 to the Exchange Visitor

- ❑ Form I/ConnectU
 - ❑ Email & ID
- ❑ Office/Work Space



As far as applying goes, J-1 Exchange Visitors are about as easy as it gets. The potential exchange visitor and the department complete the J-1 application which can be found on our website on the Forms Carousel. As part of that, the department must verify that they have sufficient English language ability to not only participate in their program, but to also interact with the local community. Cultural exchange is a required part of EV program and English language ability is necessary to facilitate that. Once the application has been submitted to and vetted by International Programs, a Form DS-2019 will be created and the department and EV will be notified. The department will send the DS-2019 and a packet of other documents to the EV. While they are applying for their visa stamp abroad (unless they're a lucky Canadian), the department needs to submit the proper form I/connectU form

in addition to preparing the documents they will need to obtain a university email and ID card. Finally, the department will need to prepare office/work space for the EV.

H-1B



H-1B Eligibility

- ❑ Specialty Occupation
 - ❑ Generally must require at least a bachelor's degree
- ❑ Wage Requirements
 - ❑ H-1B must be paid *at least* the greater of either the prevailing or actual wage
- ❑ 212(e)?
 - ❑ N/A, waiver, or served

Dual Intent



Eligibility

What is a specialty occupation?

A "specialty occupation" for H-1B purposes is an occupation that requires "(A) theoretical and practical application of a body of highly specialized knowledge, and (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States."

Wage Requirements

The employer must pay at least the greater of either the prevailing wage or the actual wage, which we'll look at in more depth later.

212(e)

The beneficiary must not be subject to 212(e) either

because it does not apply to their immigration history, they received a waiver, or they spent 2 years in their home country after being subject to the 212(e) requirement.

Wage Determinations

Actual vs Prevailing



There are two separate but important wage determinations that must be completed in order for the university to sponsor an H-1B employee. The first is the Actual Wage Determination. This is completed by the department as part of the H-1B application process. It consists of a list of all similarly employed individuals in the department, their salary, and a legitimate reason why it differs from the prospective employee.

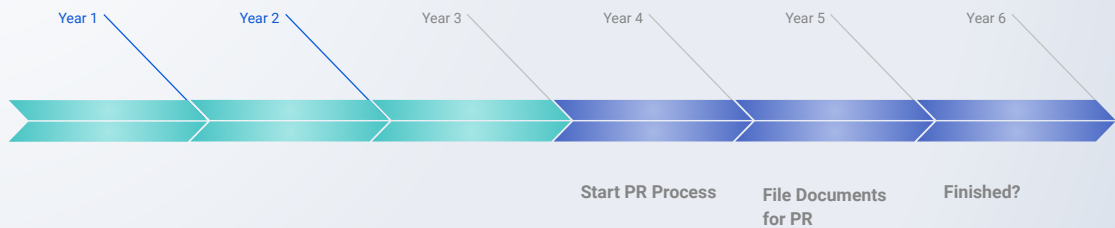
Legitimate reasons include: Experience, Qualifications, Education, Job responsibility and function, specialized knowledge, etc.

The prevailing wage determination may be conducted either by the Department of Labor (the preferred, but slow method) or by the Office of International Programs (the Forgo Safe Harbor Method). What is forgo safe harbor, you might ask?

EXPLAIN FSH

The prevailing wage determination matches the position as described to a database maintained by the Department of Labor. Then, based on the requirements for the position (such as PhD. and 2 years of experience), the position is examined against the normal requirements for that position and a wage level is assigned. Wage levels range from 1-4, with one being entry-level and 4 being senior-level positions. Prevailing wage determinations are based off of wage surveys and are limited by geographic location.

H-1B Duration

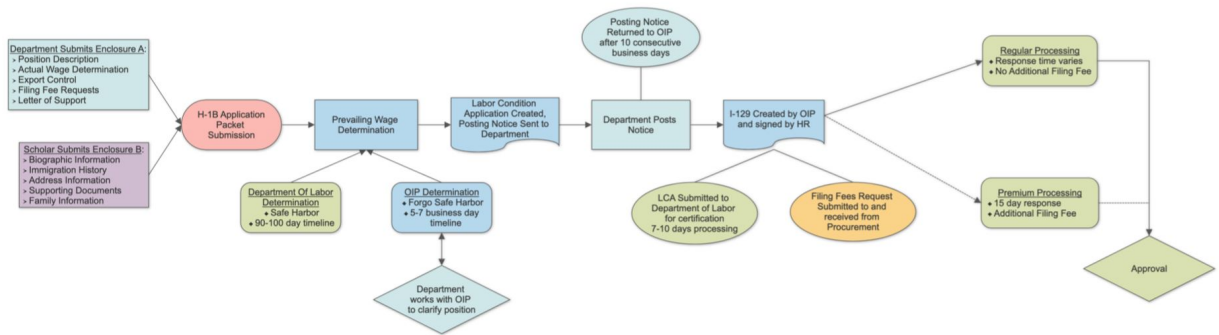


H-1Bs may be requested for a maximum of six years in up-to 3 year increments. After the six year maximum has been reached, the H-1B must reside outside the US for a full year before they can be an H-1B again. However, if they have already begun the permanent residency process and have reached certain stages in that process, they can request either 1 year or up to 3 year extensions beyond the standard six year maximum while their permanent residency cases are being adjudicated by USCIS.

We recommend starting the PR process during the 4th year at the latest. This ensures that there *should be* enough time to file the necessary PR documents before the end of the 5th year to allow the university to request time beyond the six year maximum.

H-1B Application Process

H-1B Process (simplified overview)

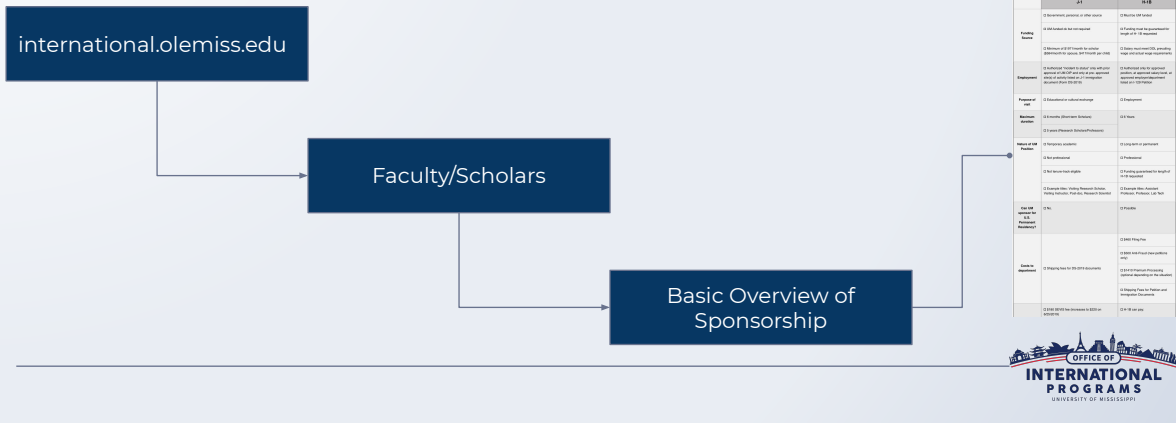


I have already covered a good bit of the H-1B application process, but there are more items that get too deep into the details for this session. I've created this handy flowchart that shows each step of the process, what is happening, who is responsible, and how long it takes. This is the very first page of the H-1B application packet available on our website. One of the key items that people frequently ask about is premium processing, but before we can talk about that we need to understand what happens before that.

EXPLAIN after determinations, then LCA, then PP.

J-1 vs H-1B

<https://international.olemiss.edu/basic-overview-of-sponsorship/>



I've also created another handy chart detailing the differences between the J-1 and H-1B visa types to help you understand which one is the most appropriate for your incoming faculty, staff, or scholar. It's easy to find on our website. Just go to international.olemiss.edu, select faculty/scholars from the drop down menu, and click Basic Overview of Sponsorship.

Other



For these other visa options, I won't get into the nitty gritty, since they are not as common. For each, I'll focus briefly on who it is for, what time limits there are, and what the university's role is in processing the application.

OPT



OPT or Optional Practical Training is a benefit that is granted by USCIS to F-1 degree seeking students. This is the typical visa type for international students. This program can be taken advantage of either during a program of study (less common) or after a program of study (which is referred to as post-completion OPT). Most international students apply for and use OPT.

OPT has an initial approval period of one year, but for designated stem fields, there is an optional STEM Extension that can grant an additional 2 years of work authorization. In order to apply for OPT and the STEM extension, the F-1 students must work with the international office of the university they are attending or have graduated from. That office will give them an OPT recommendation and assist them with filing the Form I-765.

If it is a STEM extension, there is a Form I-983 training plan that must be completed with the hiring department.

Apart from this, the university has no role in the application process for OPT or the STEM extension. Typically, all costs associated with the application materials are borne by the students themselves.

E-3



E-3 is pretty unique in that it is for Australians only. Apart from that, it is rather similar to an H-1B. Like an H-1B, it must be a specialty occupation. Unlike the H, however, it can only be requested in up to two-year increments and there's no maximum limit on the number of extensions that can be requested.

The university's role depends on where the beneficiary currently is and how it will be processed. If they are outside the US, then the university needs to provide a Labor Condition Application (which is the same document we file with the Department of Labor for H-1B cases) and a job offer letter detailing the position and how it is a specialty occupation. If they are within the US and applying for the E-3 from another visa type or as an extension, the process is identical to that of the H-1B. One downside is that premium processing is not

available for E-3s.

TN



Like the E-3, the TN visa is limited in who can receive it based on country. TN stands for Treaty NAFTA and is only available for Canadian and Mexican citizens. TN visas are only available in designated fields and TNs may be admitted for up to 3 years. There is no limit on the number of extensions, provided that they intend to only remain temporarily within the US. In order to apply for a TN from outside the US, the University needs to provide a job offer letter detailing the position, the need for that particular employee, and show that it is one of the qualifying occupations. Canadians will use that (and their supporting documents--i.e. Credentials and a statement that their entry to the US is temporary) to enter at the border. Mexicans, however, must apply for a visa at the consulate before attempting to enter the US. If they are within the US, the process is nearly identical to that

of an H-1B.

O-1



O-1 is for workers of Extraordinary ability. It must be demonstrated to USCIS that the beneficiary has achieved and sustained national or international acclaim for extraordinary ability in the sciences, arts, education, business, athletics, or in the motion picture and television industries. As you can imagine, this is a fairly high bar. We currently have just one O-1 at the University of Mississippi. Not because of lack of extraordinary employees, but because it is often not needed. O-1 is not limited by the 212(e) two year home residency requirement, so it is sometimes used in place of an H-1B. When H-1B is available, we always recommend that instead. O-1s may be approved for up to 3 years for the initial activity. Extensions can be approved in up to 1 year increments. There is no limit on the number of extensions that can be applied for. The O-1 application process is virtually identical to that of an

H-1B, but with additional requirements on the types and amount of evidence that needs to be provided. Unlike the H-1B, there is no wage determination that must be done.

To B or not to B



The B visa (including visa waiver and ESTA) may only be used for temporary tourist visits for the purpose of scientific, educational, professional, or business conventions, conferences, or seminars; or to undertake independent research.

B visa holders may not receive a salary and reimbursement for expenses incidental to the stay may not exceed “reasonable expenses” including meals, lodging, laundry, etc. Bs may accept honorarium for academic activities *if*: the activity does not last longer than 9 days at any single institution, the honorarium is for services conducted for the benefit of the institution, and if they have not accepted more than 5 honorariums in the previous six months.

Generally, this visa type is reserved for one-time lecturers, very short-term visiting researchers (who will not be in the

university system), and job interview candidates.

It is highly recommended that before anyone invites a foreign national to come on a tourist visa, they come to speak with us in International Programs. Misuse of the B visa is carefully monitored and taken very seriously.

PR



Permanent Residents are extremely easy hires from an administrative standpoint. PR cards (greencards) are approved for either 2 or 10 years depending on the situation and employees may work while their renewal is pending. There is no additional cost associated with this type of employee.

Spouses/ Dependents

Who may work?

Haves	Have nots*
J-2	TD
E-3D	O-3
	H-4

Who may work?

The haves and the have nots.

The haves: J-2, and E-3D.

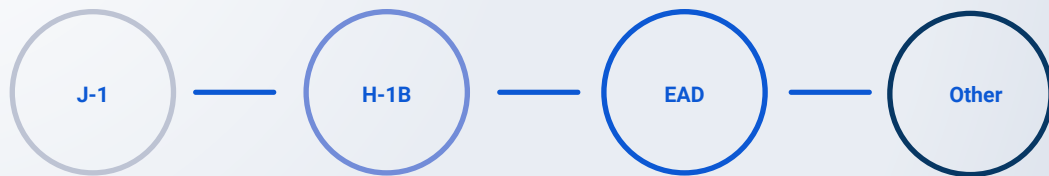
The have nots*: TD (TN dependents), O-3 (O-1 dependents), and H-4.

Keen observers like you probably noticed the little asterisk on “nots”. That is there because when a foreign national is in the permanent residency process and has reached a certain stage, they may apply for work authorization even if they typically would not be eligible to work.

Just like for those applying for OPT, work authorizations are processed through form I-765 applications. There is typically no cost associated with these for the university. However, it

should be noted that these are dependent visas statuses. If the principal visa holder loses or ends their status, then the dependents do as well.

Onboarding



There are a wide variety of visa types....

Other:

Permanent Resident

F-1 Students on OPT/STEM OPT

TN

E-3

O-1

All of these are unique and have unique processes. Some are more similar than others (for example, H-1B and O-1s have a similar process), but all of them have different legal requirements and challenges. The first step is acquiring a visa or work authorization.

Visa/Authorization Acquired



Departments and incoming faculty, staff, scholars will have to work closely with the Office of International Programs to determine the appropriate visa type and application process. This will vary depending on the person's qualifications, country of origin, and visa history. It is important to start the process as early as possible. Acquiring certain visa types can take up to half a year (or sometimes longer).

Pre-arrival



What is needed?

- HR Forms for Employment
 - eForm 1 vs ConnectU
- Housing Information
- Insurance Information
- Tax Information
- Climate Overview
- Driver's License Requirements
- Transportation Options



Most of this is self-explanatory. One of the more confusing elements is which form for employment is needed. It's fairly simple. If someone will be paid by the university, then you must use ConnectU. If they are self-sponsored or sponsored by an outside organization (such as their country's embassy) as is the case with many J-1 Exchange Visitors, then you will complete an eForm 1.

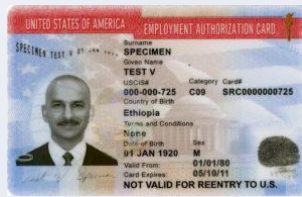
For the rest of this information, the Office of International Programs sends this as part of the welcome packet, however, incoming faculty, staff, and scholars will be looking to their new departments for guidance.

OIP Arrival Orientation



What is needed?

- Passport
- DS-2019/I-797/EAD
- Visa*
- I-94 Arrival Record




Canadians are exempt from the visa requirements.

The I-94 arrival record is available through the internet on the Customs and Border Protection website: <https://i94.cbp.dhs.gov/I94/>

What OIP will provide*

- Maps
- Immigration Information
- Healthcare Overview
- Overview of Oxford
- Driver's License Requirements
- Transportation Options
- Social Security Information



Much of this information is sent digitally to incoming faculty, staff, and scholars during the pre-arrival process. We provide physical copies when they come to our office for their mandatory orientation.

HR Onboarding



Generally, HR will not complete their onboarding process until they have been notified by International Programs that we have completed our orientation. So please help ensure that the new faculty, staff, or scholar does not forget to schedule their arrival orientation with OIP prior to arrival. Failure to do so can lead to unnecessary delays.

What happens and is needed?

- Needed:
 - Onboarding email (pre-arrival)
 - I-9 Documents*
 - Transcripts**
 - Direct Deposit Information
 - Tax Forms
 - SSN*
- Provided:
 - Email
 - Paperwork for ID and Parking



AND OF COURSE THE FORM FOR EMPLOYMENT!

I-9

List A

- Permanent Residency Card
- EAD
- Passport + I-94
 - DS-2019 / I-20

List B

- U.S. Driver's License*

List C

- Social Security Card
- I-94
- I-797



List A: Identity and Employment Authorization

List B: Identity

List C: Employment Authorization

Special exception for Canadian DL

Social Security



Obtaining a new social security card is not the simplest task. As there is no office in Oxford, the departments may need to assist new faculty, staff, and scholars in transportation to and from Tupelo. While the Office of International Programs *does* offer a free shuttle approximately every two weeks during the normal school term, this can unnecessarily delay new employees in receiving their paychecks. Another consideration is that USCIS and the Social Security Administration recommend that new arrivals wait 9 days prior to applying for a social security number. This means that new arrivals will not be able to fully complete their HR onboarding until they have their card. HR will temporarily complete the onboarding with a social security application receipt (which they will get upon applying at the office) but they will need to go back and show their social security card once they have it. If possible and feasible, departments should encourage new arrivals to come to the US a week or to prior to their start date (keep in mind H-1Bs may only arrive 10 days prior) so that they can apply for their social security card and complete their HR onboarding as soon as possible.

Important Considerations

Housing

Dependents

Insurance

/'iNG(g)liSH/



That departments will likely need to help with or advise on Housing, Dependents, Insurance, English, and Finances.

As many of you understand, housing in Oxford can be difficult to find and expensive. Many new faculty, staff, and scholars will stay in a hotel or airbnb when they first arrive. The university does not have temporary faculty housing nor do we have the capacity to arrange for housing for incoming faculty or staff. Of course, the incoming faculty or staff are responsible for their own housing, but given the difficulty and expense, generally they will need assistance. Indeed, some apartments will require guarantors. This can and has caused trouble, when someone had to leave their program early. The departments are the main point of contact and support for incoming faculty and staff.

As for dependents, typically, they will not be able to work when they come to the US. They may be rather isolated. There are some support systems in place at the university, such as the Cultural Connections Club and Cook Eat Share that is open to the dependents of our faculty and staff. It can be especially helpful for departments to arrange a welcome for incoming faculty, staff, and their dependents, where the dependents (including children) can become acquainted with other people within the community and build connections.

Insurance in the US is incredibly complicated and expensive--much more so than in other places. International members of our community will frequently need assistance navigating what may seem like very basic aspects of the insurance and healthcare system. For instance, in many places, it is common to go to the hospital for non-emergency healthcare needs. While we do cover this and other important healthcare topics during orientation, it is impossible to cover everything and even

what is covered may not be absorbed--since they are still adjusting to their arrival and the sheer volume of information we go over. In addition, for J-1 exchange visitors employed by the university, though they are eligible for (and likely should enroll in) the university health care plan through Blue Cross, they (and their dependants) will have to have additional supplemental insurance that meets the Department of State requirements. The university plan does not meet the requirements of the department of state, so when making offers to incoming J-1s who will be employed, the department must be clear in that they will have to have additional insurance, should they wish to enroll in the university sponsored plan.

Though the J-1 Exchange Visitor program requires English language proficiency in order for the scholar to be eligible, not all incoming faculty and staff will be as proficient as they would like to be. Moreover, their dependents do not have any such language requirement. As such, faculty, staff, and their dependents may need additional support (and patience) as they acclimate to their new role and country. They may also seek your assistance in finding English language instruction. The university Intensive English Program offers free casual conversational English lessons through their Community ESL program. There are also some local organizations and churches that offer English language classes. If they are looking for something more structured, it is generally allowable for faculty, staff, and scholars to enroll in English language classes at the IEP, so long as it in now way interferes with their program objectives.

Lastly, there is the issue of money. In the department's communication with incoming faculty, staff, and scholars, it must be made clear that they will need a significant amount of funds available at the start of their program. Paying security deposits for housing and utilities, rent, food, transportation, etc. is rather expensive. They will need to have sufficient funds to cover all of these costs. Additionally, if they do not have a social security card, they will not be paid until they have both the card and a US bank account. Depending on when they start employment, it could be approximately one month before they receive their first paycheck.

Questions?

