3.3.3 Immigration Law Compliance

All offers of employment are contingent on verification of an individual’s eligibility to work in the United States in accordance with the Immigration Reform Control Act (IRCA). If at any time an individual cannot verify his/her right to work in the United States, KCTCS may be obligated to terminate his/her employment.

The IRCA requires that all employees hired in the United States after November 6, 1986, complete an I-9 document establishing identity and employment eligibility. The I-9 document shall be completed on or prior to the employee's first day of work. After a separation of employment of one year or more, employees returning to employment shall be required to complete an I-9 document.

Designated officials at the college or in the KCTCS Human Resources System office shall be responsible for certifying I-9 documents.

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3.3.3.1 Immigration Sponsorship

Foreign nationals are required to obtain a visa and status before they may enter the United States. A visa is stamped in the passport. Status is indicated on the I-94 card, which should be connected to the passport. Essentially, a visa grants permission to enter the country. However, a visa alone does not permit entry. Foreign nationals must also obtain status. Status is basically the classification given to a foreign national when he or she is admitted to the country. Status controls the specific purpose and duration of one’s stay.

3.3.3.1.1 Employment By KCTCS

All references to KCTCS below refer to the applicable, employer-college designated administration.

KCTCS will consider sponsoring existing employees, and prospective employees who have accepted KCTCS’s employment offer, for nonimmigrant and immigrant visa and status in accordance with the Immigration Nationality Act, the Immigration Reform and Control Act, 1986 (“IRCA”), Civil Rights Act of 1964 (“Title VII”), and any other applicable treaties, and federal and state laws.

Any nondiscriminatory qualifications are permissible as long as they are practical. Requirements shall not be used to discriminate in favor of or against a specific group or groups of prospective or current employees. Requirements that are not intended to discriminate but result in discrimination may not be enforced. However, qualifications or requirements that are reasonable, bona fide, and necessary are permissible.

As to visa and status sponsorship for prospective employees, KCTCS will consider such sponsorship upon receipt of the prospective employee’s request for such sponsorship. Such request by an Applicant shall be in writing; such request by the hiring official shall be submitted upon the acceptance of KCTCS’s job offer. Written Request Forms may be obtained from the college Human Resources Department. Completed applications must be returned to the college Human Resources Department.

KCTCS will consider providing support for its existing employee’s visa or status if the employee has demonstrated his or her ability to accomplish his or her tasks assigned by KCTCS for at least one year, obtained recommendations of KCTCS’s support for his or her visa or status from the college President and his or her direct supervisor at the time of request or upon performance review, and is approved by the college regarding such support.

A. Choice of Visa and Status

KCTCS will decide whether it will support its employees’ visa or status and which visa or status it will support. Sponsorship will be considered upon receipt of an employee’s
written request. New hires may submit such request along with their acceptance of a job offer.

The decision to provide sponsorship will be made upon a nondiscriminatory basis, such as employee evaluations, reasonable business necessities, and the feasibility of specific deadlines.

KCTCS may request any additional information or documentation needed solely for sponsorship.

KCTCS may change the start date of employment to enable verification of work authorization.

KCTCS’s sponsorship for any type of employment-based nonimmigrant or immigrant visa or status does not guarantee the employee of obtaining such status. KCTCS will not be responsible for any failure or delay in obtaining such status by the applicant, including but not limited to, denial by the relevant governmental agencies involved.

The employee must provide true and accurate information and documentation when applying for nonimmigrant and immigrant visas. KCTCS may refuse to file an application or petition on behalf of an employee if KCTCS becomes aware of inaccurate or false information or information that could lead to denial of visa. KCTCS may terminate employment or rescind an offer for employment, and shall notify the applicable authorities as required by law, if it finds or is notified by the authorities of misleading or intentionally inaccurate information provided by the employee for any application or petition for employment authorization.

**B. Choice of Law Firm**

KCTCS may choose to retain the attorney of its choice for the analysis, preparation, review, and filing of employment based nonimmigrant petitions and applications with any governmental agency as required, including but not limited to the Department of State, Department of Labor, and the USCIS.

When sponsoring an immigrant visa (green card) KCTCS may choose to retain its attorney of choice for the analysis, preparation, review, and filing of the Labor Certification Application, the I-140 Petition for Immigrant Worker, and the I-485 Application to Adjust Status or DS-230 Application, whichever is applicable.

KCTCS must keep control over cases even if employees have the ultimate choice to select a law firm. KCTCS retains control in order to avoid confusion of company’s information, purpose of employment, or the job and its description.

KCTCS reserves the right to select the law firms to retain when any conflict of interests situation arises between KCTCS and its employees.
C. Filing Fees and Legal Fees

KCTCS is required to pay all fees that immigration and labor regulations recognize as the employer’s responsibility. KCTCS is not required to pay and so does not pay any costs associated with application filed by the dependents of the non-immigrant applicant.

KCTCS requires that an employee who has achieved permanent residency and immigrant status through sponsorship by KCTCS sign a commitment to remain under employment with KCTCS for three years. If the employee does not stay for the prescribed period or does not give satisfactory job performance as reflected on the Performance Planning and Evaluation (PPE) Form, the employee must reimburse KCTCS for all fees paid on their behalf during the application for permanent residency process. The amount the employee will reimburse will equal the total costs incurred by KCTCS including: relocation expenses, employment placement fee, transportation costs, lodging costs, legal fees and costs associated with filing I-140 petition. KCTCS will not charge interest on amounts to be reimbursed by employee. A portion of the costs incurred will be forgiven each year (12 months), as follows:

- Year 1-30%
- Year 2-60%
- Year 3-100%

Upon a qualifying termination, Employee will execute an authorization for KCTCS to offset any amount employee must reimburse from his or her earned but unpaid wages or salary. KCTCS may, in its sole discretion, forgive any amount employee is required to reimburse in exchange for employee’s execution of a Release and Severance Agreement waiving or releasing any alleged claims made by employee. The forms of any authorization of Release and Severance Agreement shall be determined by KCTCS.