

University of Maryland Policy for Sponsoring International Faculty for Temporary-Employment and Permanent Residency

In order to ensure compliance with federal immigration laws and university hiring practices, the University of Maryland has established policies and procedures to be followed for university sponsored immigrant and non-immigrant employment petitions.

International Faculty and Scholar Services

The International Faculty and Scholar Services (ISSS) Office is the official designated liaison between the University of Maryland, Department of Homeland Security/United States Citizenship and Immigration Services, and the Department of State and, as such, is the only office on campus authorized to sign immigration documents. All immigration documents pertaining to the employment of foreign faculty and researchers must be routed through ISSS. The University of Maryland has no obligation to honor employment contracts based upon immigration documents prepared and signed by independent lawyers, faculty or department chairs unless these are also endorsed by appropriate staff members in ISSS.

Under exceptional circumstances, the Provost may make limited exceptions to this policy. Written requests for exceptions to this policy must be submitted to the Provost through the Office of International Services prior to the permanent residency request.

Employing Department or Unit

The Employing Department or Unit is responsible for initiating and requesting a temporary visa for employment purposes. If the department or unit wishes to pursue permanent residency for a foreign faculty member, the department must submit a Preliminary Information Form for Permanent Residency with Department Chair approval to ISSS. The department must be prepared to facilitate the completion of the necessary evidence and documentation to support the applications.

- The hiring department or unit should not promise permanent residency to an international employee as the process is complex, lengthy, and inherently uncertain.
- The request to pursue employment-based permanent residency must be approved by both the Department Chair and Academic Affairs.
- Departments and units may set their own criteria for support of the permanent residency process that are more stringent than the minimum university guidelines as outlined in this document.
- If outside counsel is required to assist with “Requests for Further Evidence”, the Office of International Services will contact the hiring department or unit with a cost estimate from the universities outside counsel on retainer.

Petitions for Permanent Residency

Requests to sponsor a foreign national (FN), appointed to a tenure-track or an equivalent academic position, for permanent residency based on employment must be routed through ISSS for initial review and consultation. With the approval of the Department Chair and Academic Affairs, the Office of International Services will review and determine the FN's eligibility for permanent residency and if the position meets certain minimum requirements. Employment-based petitions for a green card are complex and require a significant investment of staff time at the department level and with ISSS. ISSS staff provides comprehensive advising to departments and their employees on the permanent residency process.

The University of Maryland will support petitions for permanent residency provided the faculty position is considered permanent. A faculty position is considered permanent if there is an expectation of continued employment by the department or unit. The faculty position may not have a defined, non-renewable term; nor may the duties of the position be limited by the completion of a project or assignment. The following specific guidelines apply:

- Positions must be (1) in the series of tenured or tenure-track professorial ranks; (2) in the series of non-tenure-track research professorial ranks; or (3) senior lecturers.
 - The position must be full-time.
 - Petitions for post-doctoral or graduate fellows, faculty research assistants and research associates will not be supported.
 - Staff positions are eligible only with the support of UHR.
 - The department/unit and college must stipulate an intention to maintain the appointment for at least three years. If a position is funded by a grant, there must be an expectation of continued employment for at least three years even if the grant funding ceases.
 - ISSS only files permanent residency applications that qualify for the EB-1-2 Outstanding Professor or Researcher or the EB-2 Members of the professions holding advanced degrees (labor certification under "special handling"). Under the EB-2 category, "special handling" is used for college and university professors and benefits from a less stringent labor certification process.
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- **EB-1 Outstanding Professor or Researcher:** Applications for faculty and researchers who meet the criteria for Outstanding Professor or Researcher as defined by the Department of Homeland Security will also be processed directly by ISSS. To qualify, scholars must document that they are recognized internationally as outstanding in a specific academic area; have at least 3 years of experience in teaching and/or research; and be offered a tenured or tenure-track teaching position or a permanent research position.
 - **EB-2 Members of professions holding advanced degrees - Labor Certification under Special Handling:** Applications for faculty and researchers who meet the criteria for "special handling" of the labor certification process as defined by the US Department of Labor will be processed by ISSS. To meet these criteria, the employee's formal job responsibilities must include serving as the instructor of record in the teaching of an official university course or courses; a competitive national search for the position must have been conducted, the foreign national was considered to be better qualified than available and interested US worker applicants. In addition, the position must have been advertised in a national journal or publication. The date of the original

offer letter must have been within the last 15 months to allow ISSS to complete the required verification process in time to meet federal requirements.

Self-Petitioned Applications for Permanent Residency

ISSS is not authorized to provide faculty or staff advice with respect to family-based or self-petitioned applications for permanent residency, such as the categories of National Interest Waiver or Alien of Extraordinary Ability. Because these applications are not based on employment, the University of Maryland does not sponsor or sign these applications. FN faculty are advised to consult with an attorney. The employing unit normally will not pay for the costs of these family or self-petitioned applications. The employing unit may not hire an outside attorney to support these petitions nor sign Form G-28 to represent the university on these matters. Exceptions are made on a limited basis for employment reasons and must comply with the application procedure for exceptions to the policy.

Costs

Petitions for temporary-employment visas (H-1B, TN, O-1, etc)

- The hiring department or unit is required to pay all fees associated with the Form I-129, Petition for a Non-immigrant Worker, including Form I-907, Request for Premium Processing Services, if necessary for employment reasons.
- It is at the discretion of the Department Chair whether or not to cover the cost of the Form I-539, Application to Extend/Change Nonimmigrant Status filed by the dependents in H-4 status.

Petitions for Permanent Residency (green card)

- The hiring department or unit is required to pay fees associated with Special Handling Labor Certifications or Outstanding Professor Researcher petitions.
- The hiring department or unit is responsible for the cost of the Form I-140, Immigrant Petition for Alien Worker. If the department supports premium processing of the I-140, ISSS will file Form I-907 and the cost must be paid by the hiring department/unit.
- It is at the discretion of the Department Chair whether or not to cover the cost of the Form I-485, Adjustment of Status for the employee. The Form I-485 is considered a personal application and process.
- The cost of the I-485 for dependents must be paid by the employee.
- If outside counsel is required to assist with “Requests for Further Evidence”, ISSS will contact the hiring department or unit with a cost estimate. The hiring department or unit is responsible for all fees assessed by outside counsel.

Dual Intent

It is possible for a foreign national to enter the University States with a nonimmigrant visa (e.g. H-1), and subsequently adjust his or her status to permanent resident, if both the individual and the employer have the proper intent. DHS/USCIS recognizes that an employer and the international employee can

enter into an agreement for a temporary employment relationship and, at the same time, pursue a permanent employee-employer relationship when authorization for that relationship is approved.

Furthermore, an employer may not seek non-immigrant status simply to enable the foreigner to enter the country and remain permanently. It is UMCP policy that a non-immigrant in the United States maintain an unexpired, lawful nonimmigrant visa status until “adjustment of status” to permanent residence is approved by USCIS.

Petitions for temporary-employment visas

Visa sponsorship for temporary-employment in academic positions

FN faculty may require the sponsorship of a temporary employment visa. OIS is charged with managing and processing all petitions for temporary employment of FN faculty.

Visa sponsorship for temporary-employment in staff positions

FNs appointed to staff positions may require the sponsorship of a temporary employment visa. The Department of University Human Resources is charged with managing and processing petitions for temporary employment.