

Sponsorship of Foreign Nationals for U. S. Lawful Permanent Residence

This policy is intended to provide guidance to applicants for employment, employees and hiring departments regarding the application for and sponsorship of foreign nationals by Temple University.

Under Federal law, there are strict requirements applicable to Permanent Residence status for foreign nationals who intend to reside in the United States permanently. There are several bases on which a foreign national may apply for Lawful Permanent Residence status. The Human Resources Department is responsible for processing all applications for Lawful Permanent Residence based on employment and can only do so when it is appropriate for the University to function as the sponsor/petitioner.

The process is lengthy and complex, potentially involving various government agencies. Sponsorship includes filing ETA Form 9089, Application for Permanent Employment Certification, with the Department of Labor, and Form I-140, Immigrant Petition for Alien Worker, with the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), and fulfilling the requirements as mandated by Department of Labor and immigration regulations in employment-based cases. Questions concerning the application of the policy to a particular employee should be directed to the Associate Vice President of Human Resources Operations or his/her designee.

Who Will Temple Sponsor?

Temple University will typically sponsor foreign nationals who are full-time, regular employees in tenure and tenure-track academic job classifications provided the department chairperson agrees to support the application. These positions include professor, associate professor and assistant professor. A department may request an exception if unique circumstances justify the sponsorship of a particular employee as outlined below.

Temple University normally does not sponsor foreign employees in the following position classifications:

- non-tenure track academic positions such as lecturers, research professors and/or clinician educators;
- post-doctoral fellow/researcher positions; and
- non-academic staff positions such as programmer-analyst, technical support specialist, software developer or laboratory technician are also not normally sponsored for permanent residence.

A department may request an exception if *unique* circumstances justify the sponsorship

of a particular employee as outlined below.

The Sponsorship Process

1. Tenured and Tenure Track Faculty

Before Temple University will sponsor a tenured or tenured track foreign faculty member, the faculty member must have the support of his or her Department Chair. The Department Chair must provide written notice to the Human Resources Department that he/she supports the application. The Human Resources Department will then contact the foreign faculty member directly with more detailed information concerning the sponsorship process.

2. Non-Tenure Track Academic Positions, Post Doctorial Fellow/Research Positions and Administrative Staff

As previously noted, Temple University does not normally sponsor foreign nationals who do not hold a tenured or tenured track position. A department may request an exception to this policy if it can demonstrate that it is otherwise unable to recruit qualified applicants for the position. Prior to submitting the request, the hiring department must obtain approval from the appropriate Vice President/Provost/Dean (i.e., for non-academic staff positions the Vice President/Provost to which the department ultimately reports, for lecturer /non-tenure track faculty positions and post-doctoral fellow/researcher positions the Dean).

Any Department that believes an exception is appropriate for a particular employee must forward a written request for an exception with an attached job description and basis for seeking the extension to The Associate Vice President of Human Resources Operations. The Human Resources Department will determine whether the University will grant the exception and begin the process of determining whether it can sponsor a particular foreign national for lawful permanent residency based on its determination that the hiring department may be unable to recruit qualified applicants already eligible to work lawfully in this region.

The Human Resources Department will then contact the Vice President or Provost or Dean to confirm approval. Thereafter, the Human Resources Department will contact the Department directly with more detailed instructions on the exception request process. The University must still follow its regular recruitment process with respect to the hiring of an applicant for the position.

A foreign staff member, post-doctoral fellow/researcher or lecturer who is not eligible for sponsorship by the University remains eligible to explore with an immigration attorney the possibility of self-sponsorship for permanent residence under the "national interest waiver" or "alien of extraordinary ability" provisions available under U.S. immigration law. More information on these options is available on the USCIS website: www.uscis.gov. The Office of International Services maintains a list of area

immigration attorneys for the convenience of Temple University students and staff.

Designated Attorneys and the Filing of Required Immigration Forms

Any foreign national sponsored by Temple University for Lawful Permanent Residence must use the services of a **designated** immigration attorney to prepare and file the applicable immigration forms with the Department of Labor and USCIS. The Human Resources Department maintains a list of such designated immigration attorneys. Although only designated immigration attorneys may prepare and file the legal documents necessary for sponsorship by the University, the foreign national may retain his/her own counsel to consult with the attorney retained by the University at his or her own cost.

Although Temple University cannot guarantee Permanent Residency will be granted in each of the applications it supports, it is committed to assisting the designated attorney in filing the necessary paperwork.

The foreign national must work with the appropriate designated immigration attorney and instruct him/her to send a letter to the Human Resources Department on the firm's stationery indicating they are representing the foreign national for permanent residency, the employment-based preference category they are applying under, and any requests for specific information they will need.

The Human Resources Department will share a copy of the "official" Position Description or appointment letter with the designated attorney of record. All recruitment activities must be based on contents in the "official" position description or appointment letter.

The designated attorney must coordinate any required advertising/recruitment efforts with the Human Resources Department. The Human Resources Department will circulate appropriate resumes for the position to the Department Chair for faculty and post-doctoral fellow/researcher positions, and the cognizant Vice President or Provost for non-academic positions. The Department Chair or other appropriate hiring authority will be responsible for documenting the reason(s) for rejecting any applicants and summarizing in writing the entire recruitment process.

The ETA form 9089 prepared by the designated attorney filing the application must be co-signed by the both the Human Resources Department and the foreign national as well as the Department Chair (for tenured and/or tenure track faculty positions), the Department Chair and the Dean (for lecturer/non-tenure track positions and post-doctoral fellow/researcher positions), the cognizant Vice President or Provost (for non-academic staff positions).

Payment of Costs and Fees Associated with Sponsorship

For planning purposes, foreign nationals seeking sponsorship with Temple University should be aware that Temple University will only pay the fees or costs the Department of Labor *requires* sponsoring employers to pay at the time the application is submitted. Any and all other fees and costs (attorney's fees, U.S. CIS filing fees, including but not limited to fees for Form I-140, Immigrant Petition for Alien Worker and Form I-485, Application to Register Permanent Residence or Adjust Status, medical examinations, photographs, etc.) are the responsibility of the foreign faculty member applying for permanent resident status. The Human Resources Department will notify the foreign national which fees and costs will be borne by Temple University at the time the application is being prepared.