

US Legal Permanent Residency



This publication was designed to provide Temple University's International Community with general information about Legal Permanent Residence in the United States.

International Student and Scholar Services cannot assist you with any application for Legal Permanent Residence (a green card).

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The information in this brochure is for informational purposes only and is not intended to constitute legal advice or to create an attorney-client relationship. While we make every effort to provide accurate information regarding immigration policies and procedures, the laws and procedures can change and inaccuracies may happen, despite our best efforts. Please do not rely upon the information contained in this brochure without independent legal counsel.

H-1B to Permanent Residence

In most cases, it is recommended that H-1Bs and H-4 family members maintain their H status throughout the entire permanent residence process and have obtained their “green card.” ISSS recommends that you follow the advice of your immigration attorney. The information below is for general knowledge only.

KEY POINTS:

- It is both possible and recommended to maintain your H-1B status throughout the permanent residence process until it is completed and you have your “green card”.
- When an immigrant petition (I-140) has been filed (pending and approved), you may still maintain your H-1B status, travel abroad and apply for an H-1B visa for re-entry.
- When you file an Adjustment of Status petition (I-485) you have the option to apply for Advance Parole (I-131) and an Employment Authorization Document (I-765) concurrently with the I-485 or later after you have received the I-485 receipt.
- When an Adjustment of Status petition (I-485) has been filed and is pending:
- You may maintain your H-1B status while in the U.S.
- When traveling abroad and re-entering the U.S. you have the choice of entering in H-1B status (with a valid H-1B visa and required documents) or as a “parolee” by using the Advance Parole document (I-512).
- Use of the Employment Authorization Document (EAD) could result in abandonment of H-1B status.



Consult an immigration attorney before using Advance Parole or the EAD. H-1Bs do not affect their status in any way by simply applying for or receiving the advance parole travel document and the employment authorization document (EAD). It is using the travel document or the EAD that gives rise to questions and confusion.

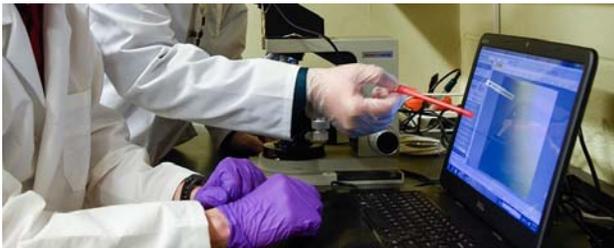
ISSS will need copies of any documents you have related to a green card application when we are preparing an H-1B Petition for you.

<http://www.temple.edu/iss/international/HTravelwithEAD.htm>

Sponsorship of Foreign Nationals for US Lawful Permanent Residence

International Student and Scholar Services does not assist with Legal Permanent Resident (Green Card) applications. For questions regarding TU Sponsorship of International Employees and Faculty, Deans/ Department Heads should contact Karen Ward (University Positions) in Human Resources at 215-204-3317 or Janine Woodard (Hospital Positions) in TUHS Human Resources at 215-707-3135.

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 ways in 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.

[www.temple.edu/hr/managers/documents/
TUSponsorshipofForeignNationalsforPermanentResidency.pdf](http://www.temple.edu/hr/managers/documents/TUSponsorshipofForeignNationalsforPermanentResidency.pdf)

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. Contact Human Resources (Karen Ward or Janine Woodard) for more information.

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 Human Resources that he/she supports the application. Human Resources will then contact the foreign faculty member directly with more detailed information concerning the sponsorship process.



Non-Tenure Track Academic Positions, Post Doctoral 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, this would be 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.

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.

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 (PERM) to pay at the time the application is submitted. Any and all other fees and costs 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.



Employment-Based Green Cards

Green Card Through a Job Offer

You may be eligible to become a permanent resident based on an offer of permanent employment in the US. Most categories require an employer to obtain a labor certification (PERM) and then file a Form I-140, Immigrant Petition for Alien Worker, for you. The final step is filing an I-485, Application to Register Permanent Residence or Adjust Status. Please see page XX for Temple University's Policy on Sponsorship for Legal Permanent Residence.

<https://www.uscis.gov/green-card/green-card-through-job>

Special Handling



Department of Labor regulations allow for universities to use a special Labor certification process for Faculty and those who teach called “**Special Handling**”. **With Special Handling, the recruitment and selection process that must be undertaken and documented by the University is much less onerous. Cases may be processed by the Department of Labor faster than other labor certification applications.**

To qualify, the University must demonstrate that the scholar performs classroom teaching and that the scholar was more qualified than any of the U.S. workers who were available, able, and willing to do the job after a competitive recruitment process was conducted for the position.

Applications filed for college and university teachers under “Special Handling” must be filed within 18 months after a selection is made pursuant to a competitive recruitment and selection process.

Green Card Through Self Petition:

In two classifications of immigrant workers, the workers are not required to have a job offer and may self-petition (the worker does not need an employer to sponsor them). These categories include:

- Individuals of extraordinary ability in the sciences, arts, education, business or athletics, (E11)
- Individuals who were granted a National Interest Waiver (NIW), (E21)

Individuals of extraordinary ability are considered to be the best of the best in their field and it is an eligibility category that applies to very few individuals. Examples of who may be considered an E11 immigrant include Nobel Prize winners, notable athletes, and others who have achieved great successes in their field.

Aliens seeking a national interest waiver are requesting that the Labor Certification be waived because it is in the interest of the United States. National interest waivers are usually granted to those who have exceptional ability and whose employment in the US would greatly benefit the nation. Those seeking a national interest waiver may self-petition (they do not need an employer to sponsor them) and may file their labor certification directly with USCIS along with their Form I-140, Petition for Alien Worker.

<https://www.uscis.gov/green-card/green-card-through-job/green-card-through-self-petition>

Green Card Through Special Categories of Jobs

Some specialized jobs may allow you to get a green card based on a past or current job, most notable a Physician National Interest Waiver . For EB-2s a job offer and a labor certification is generally required. This requirement can be waived if the petitioner demonstrates that granting the EB-2 petition would be in the national interest of the United States. One reason USCIS may grant the national interest waiver is because a physician agrees to work for a period of time in a designated underserved area.



Eligibility Criteria

- You must agree to work full-time in a clinical practice. For most physician NIW cases, the required period of service is 5 years
- You must work in a primary care (such as a general practitioner, family practice petitioner, general internist, pediatrician, obstetrician/gynecologist, or psychiatrist) or be a specialty physician
- You must serve either in a Health Professional Shortage Area (HPSA), Mental Health Professional Area (MHPSA – for psychiatrists only), a Medically Underserved Area (MUA), or a Veterans Affairs facility, or for specialists in a Physician Scarcity Area (PSA)
- You must obtain a statement from a federal agency or a state department of health that has knowledge of your qualifications as a physician and that states your work is in the public interest (This statement is known as an attestation).

<https://www.uscis.gov/green-card/other-ways-get-green-card/green-card-through-physician-national-interest-waiver-niw>



Green Card Through Investment:

Entrepreneurs who make an investment in a commercial enterprise in the US and who plan to create or preserve ten permanent full time jobs for qualified US workers, are eligible to apply for a green card . Up to 10,000 visas may be authorized each fiscal year for eligible entrepreneurs. You must invest \$1,000,000, or at least \$500,000 in a targeted employment area (high unemployment or rural area). In return, USCIS may grant conditional permanent residence to the individual.

<https://www.uscis.gov/green-card/green-card-through-job/green-card-through-investment>

Employment-Based Categories

Employment First Preference (E1)

Priority Workers

A First Preference applicant must be the beneficiary of an approved Immigrant Petition for Foreign Worker, Form I-140, filed with USCIS. Labor certification is not required for any of the Priority Worker subgroups. Priority Workers receive 28.6 percent of the yearly worldwide limit of employment-based immigrant visas.

There are three sub-groups within this category:

- **Persons with extraordinary ability** in the sciences, arts, education, business, or athletics. Applicants in this category must have extensive documentation showing sustained national or international acclaim and recognition in their fields of expertise. Such applicants do not have to have specific job offers, so long as they are entering the U.S. to continue work in the fields in which they have extraordinary ability. Such applicants can file their own Immigrant Petitions for Alien Worker, Form I-140, with the USCIS.
- **Outstanding professors and researchers** with at least three years experience in teaching or research, who are recognized internationally. Applicants in this category must be coming to the U.S. to pursue tenure, tenure track teaching, or a comparable research position at a university or other institution of higher education. The prospective employer must provide a job offer and file an Immigrant Petition for Alien Worker, Form I-140, with the USCIS.
- **Multinational managers or executives** who have been employed for at least one of the three preceding years by the overseas affiliate, parent, subsidiary, or branch of the U.S. employer.

Employment Second Preference (E2):

Professionals Holding Advanced Degrees and Persons of Exceptional Ability

A Second Preference applicant must generally have a labor certification approved by the Department of Labor. A job offer is required and the U.S. employer must file an Immigrant Petition for Alien Worker, Form I-140, on behalf of the applicant. Applicants may apply for an exemption, known as a National Interest Waiver, from the job offer and labor certification if the exemption would be in the national interest. In this case, the applicant may self-petition by filing the Immigrant Petition for Alien Worker, Form I-140, along with evidence of the national interest. Professionals Holding Advanced Degrees and Persons of Exceptional Ability receive 28.6 percent of the yearly worldwide limit of employment-based immigrant visas, plus any unused visas from the Employment First Preference category.



There are two subgroups within this category:

1. **Professionals holding an advanced degree** (beyond a baccalaureate degree), or a baccalaureate degree and at least five years progressive experience in the profession.
2. **Persons with exceptional ability** in the sciences, arts, or business. Exceptional ability means having a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business.

Employment Third Preference (E3):

Skilled Workers, Professionals, and Unskilled Workers (Other Workers)

A Third Preference applicant must have an approved Immigrant Petition for Alien Worker, Form I-140, filed by the prospective employer. All such workers generally require labor certification approved by the Department of Labor. Skilled Workers, Professionals, and Unskilled Workers (Other Workers) receive 28.6 percent of the yearly worldwide limit of employment-based immigrant visas, plus any unused visas from the Employment First Preference and Second Preference categories.

There are three subgroups within this category:

1. **Skilled workers** are persons whose jobs require a minimum of 2 years training or work experience that are not temporary or seasonal.
2. **Professionals** are members of the professions whose jobs require at least a baccalaureate degree from a U.S. university or college or its foreign equivalent degree.
3. **Unskilled workers (Other workers)** are persons capable of filling positions that require less than two years training or experience that are not temporary or seasonal.

See <https://travel.state.gov/content/visas/en/immigrate/employment.html#first> for information for information on Fourth and Fifth Preferences



Numerical Limitations

All categories of employment-based immigrant visas are issued in the chronological order in which the petitions were filed until the annual numerical limit for the category is reached. **The filing date of a petition becomes the applicant's priority date.** Immigrant visas cannot be issued until an applicant's priority date is reached. In certain heavily oversubscribed categories, there may be a waiting period of several years before a priority date is reached.

Check the Visa Bulletin for the latest priority dates
<https://travel.state.gov/content/visas/en/law-and-policy/bulletin.html>

Permanent Labor Certification

A permanent labor certification issued by the Department of Labor (DOL) allows an employer to hire a foreign worker to work permanently in the United States. In most instances, before the U.S. employer can submit an immigration petition to the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS), the employer must obtain a certified labor certification application from the DOL's Employment and Training Administration (ETA). The DOL must certify to the USCIS that there are not sufficient U.S. workers able, willing, qualified and available to accept the job opportunity in the area of intended employment and that employment of the foreign worker will not adversely affect the wages and working conditions of similarly employed U.S. workers.



The actual process for permanent labor certification varies depending upon the program being used. The filing of applications is the responsibility of the employer, not the employee. In general, the DOL works to ensure that the admission of foreign workers to work in the U.S. will not adversely affect the job opportunities, wages and working conditions of U.S. workers. Once a permanent labor certification application has been approved by the DOL, the employer will need to seek the immigration authorization from USCIS.

<https://www.foreignlaborcert.doleta.gov/perm.cfm>

Non Employment-Based Green Cards

Green Card for an Immediate Relative of a U.S. Citizen

To promote family unity, immigration law allows U.S. citizens to petition for certain qualified relatives to come and live permanently in the United States. Eligible immediate relatives include the U.S. citizen's:

- Spouse
- Unmarried child under the age of 21
- Parent (if the U.S. citizen is over the age of 21)

Immediate relatives have special immigration priority and do not have to wait in line for a visa number to become available for them to immigrate because there are an unlimited number of visas for their particular categories.

<https://www.uscis.gov/green-card/green-card-through-family/green-card-immediate-relative-us-citizen>

See www.temple.edu/isss/international/marriage-and-residence.html for general Information on obtaining a green card through marriage.



Green Card for a Family Member of a Permanent Resident

To promote family unity, immigration law allows permanent residents of the United States (green card holders) to petition for certain eligible relatives to come and live permanently in the United States. A permanent resident may petition for his/her spouse and unmarried child(ren) of any age to immigrate to the United States. Congress has limited the number of relatives who may immigrate under these categories each year so there is generally a waiting period before an immigrant visa number becomes available.

<https://www.uscis.gov/green-card/green-card-through-family/green-card-family-member-permanent-resident>



Diversity Visa (DV) Lottery

The DV Lottery provides a way for someone to obtain LPR status without relying on family or employers to file petitions. More information on the DV lottery is available at <https://www.dvlottery.state.gov/>

Immigration Attorneys

Temple University has established relationships with the following immigration law firms for processing Temple-sponsored, employment-based permanent residency. In all cases, University approval must be granted before an individual may contact one of these law firms about employment-based permanent residency.

GOLDBLUM & POLLINS PC

Jenkintown Plaza
101 Greenwood Avenue
Suite 380
Jenkintown, PA 19046
Phone: (215) 885-3600
Fax: (215) 885-4595
www.goldblumfirm.com

KLASKO IMMIGRATION LAW PARTNERS, LLP

1601 Market Street, Suite
2600
Philadelphia, PA 19103
Phone: (215) 825-8600
Fax: (215) 825-8699
www.klaskolaw.com

EMILY M. COHEN, Esq. STEEL, DOEBLEY & GLASSMAN, P.C.

1608 Walnut St., Suite 1500
Philadelphia, PA 19103
Main Office: (215) 486-4200
Direct Dial: (215) 486-4178
ecohen@sdglawgroup.com
www.sdglawgroup.com

Recognizing that international students and scholars may wish to retain immigration attorneys for other issues, ISSS offers the following list of immigration law firms which have been referred to Temple by former and current international students and scholars:

GREEN AND SPIEGEL

Jonathan A. Grode
1524 Delancey Street, 4th Floor
Philadelphia PA 19102
56 Pine Street Providence RI
02903
215-395-8959
www.gands.com/en-us/home

LANDAU, HESS, SIMON & CHOI

190 N. Independence Mall West, Suite 602
Philadelphia, PA 19106
Phone: (215) 925-0705
Fax: (215) 925-5105
www.LHSCimmigration.com

MATTHEW I HIRSH

150 Strafford Avenue, Suite 110
Philadelphia, PA 19087
Phone: (610) 964-6100
Fax: (610) 964-6106
www.hirschlaw.com

ORLOW, KAPLAN & HOHENSTEIN, LLP

620 Chestnut Street Suite 656
Philadelphia, PA 19106
Phone: (215) 922-1183
Fax: (215) 922-0516
www.orlow.com

By including firms on this list, International Student and Scholar Services is not endorsing or otherwise recommending one firm over another. Individuals are advised to engage in as much research as possible before selecting a specific firm. Additional information on seeking immigration law advice is available through the website of the American Immigration Lawyers Association at www.ailawyer.com/