

University Policy: Visa Sponsorship Policy

Policy Category: Personnel

Subject: University-Sponsored Immigration Status Eligibility

Responsible Executive: Chief of Staff to the President

Office(s) Responsible for Review of this Policy: Office of the President

Supplemental Documents: N/A

Related University Policies: N/A

I. SCOPE

This policy addresses the eligibility requirements for University immigration sponsorship and applies to full-time employees in all departments.

II. POLICY STATEMENT

American University considers immigration sponsorship an important part of its efforts to recruit, hire, and retain a skilled work force with critical skills and knowledge. Sponsorship will be considered on a case-by-case basis. This policy sets out American University's immigration sponsorship policy, including who is responsible for decisions about immigration sponsorship, who may be sponsored, what types of immigration filings will be considered, how filings for dependent family members will be handled, and how the costs of immigration will be handled.

III. DEFINITIONS

Beneficiary – the foreign national for whom American University is seeking an employment-based work authorization.

USCIS – United States Citizenship and Immigration Services, the agency that processes immigration petitions.

H-1B – a nonimmigrant visa category available to workers offered employment in a specialty occupation. H-1B status gives a temporary right to live in the U.S. and to work in the specialty occupation.

Specialty Occupation – a job position requiring (1) the application of a highly specialized body of knowledge and (2) a minimum education requirement of a bachelor's degree or its equivalent in a field related to the position/occupation to perform the duties of the job. Examples of specialty

occupations include professional occupations in the following fields: education (e.g., university professors), architecture, engineering, accounting, and law. Jobs that require a bachelor's degree without a specified specialty field do not qualify.

Lawful Permanent Resident (LPR) – an immigration status which confers the right to work and live in the U.S. on a permanent basis.

IV. POLICY

A. General Information

American University retains the right to make decisions about immigration sponsorship that support American University's business needs. Sponsorship does not alter the at-will employment relationship with sponsored employees and does not guarantee employment in any position or employment for any length of time. This means that the employee's employment may be terminated at any time in accordance with applicable University policies.

American University will make reasonable efforts in the immigration sponsorship process but cannot guarantee any result. American University retains the right to end an immigration process at any point before or during the process. University attorneys who file an employer-based immigration petition solely represent American University.

Requests for University sponsorship are made by the Dean, Provost, or Vice President in charge of the unit to the Office of General Counsel ("OGC"). Requests for eligible professional staff positions must be submitted to Human Resources for review. However, all final decisions about whether to approve immigration sponsorship will be made by Human Resources (for staff) or the Provost's Office (for faculty), in accordance with U.S. immigration law and policy, and based on the University's best interests.

B. Eligibility Criteria for Visa Sponsorship

1. **Nonimmigrant Visa Category** – There are several nonimmigrant visa categories available for University sponsorship. Human Resources, in consultation with OGC and the hiring department, makes the final decision regarding the appropriate category.
2. **H-1B – Specialty Occupations.** The H-1B visa category is the most frequently used nonimmigrant visa category for University employment. Categories of employees considered for H-1B sponsorship are:
 - a. Tenure-line faculty
 - b. Full-time term faculty
 - c. Full-time staff members who hold specialty occupation positions who need work authorization to continue AU employment. Decisions regarding what constitutes a specialty occupation will be made by Human Resources, in consultation with the Office of General Counsel based on the essential functions and minimum requirements of the relevant position. The determination by Human Resources is final and may not be appealed.

3. Other Nonimmigrant Visa Categories. Other temporary visa categories occasionally sponsored by the University include the TN and O1 visa categories. These are primarily used for full-time faculty positions.

4. Lawful Permanent Resident.

- a. Positions considered for LPR sponsorship are:
 - i. Tenure-line faculty. New tenure-line faculty should contact the Office of General Counsel as soon as possible to initiate the LPR process. The University must initiate the LPR process within 18 months of the job offer to sponsor the faculty member for LPR under a special handling labor certification process.
 - ii. Other full-time teaching positions that are permanent in nature may be considered on a case-by-case basis. To be considered, the faculty member must meet the following threshold criteria: (1) have at least 3 consecutive years of full-time service, and (2) currently serving on a renewable multi-year faculty contract of at least 3 years in duration. Factors the University will consider include, but are not limited to (1) the position must be available for indefinite employment of a lasting and continuous nature, (2) the extent to which permanent residency is essential for the faculty member's continued employment, (3) the faculty member's job performance, (4) the potential consequences to the department or unit if the faculty member is not sponsored, and (5) other relevant factors. Requests for eligible term faculty positions must be submitted to the Provost's Office for review and approval.
 - iii. Staff positions classified as regular, full-time positions may be considered on a case-by-case basis. Part-time or temporary staff positions will not be considered. Factors the University will consider include but are not limited to (1) the position must be available for indefinite employment of a lasting and continuous nature, (2) the extent to which permanent residency is essential for the staff member's continued employment, (3) the staff member's job performance, (4) the potential consequences to the University if the staff member is not sponsored, (5) other relevant factors. Requests for eligible professional staff positions must be submitted to Human Resources for review and approval.

b. Other important LPR information:

There are three stages to the LPR process: (1) labor certification application, (2) I-140 Petition for Immigration Worker, and (3) I-485 for Adjustment of Status (and related forms). The University will handle the first two steps. The

employee is responsible for step 3.

C. Beneficiary's Personal Immigration Applications.

1. **Dependent Immigration Applications.** The University does not apply for immigration benefits for an employee's dependents. That is the sole responsibility of the employee.
2. **J-1 Home Residency Requirement.** The University does not apply for waivers of an employee's personal obligation to comply with the two-year home residency requirement that an employee may have incurred in connection with a prior J-1 visa. The two-year home residency requirement generally prevents a foreign national from obtaining LPR or be in H-1B status (and other nonimmigrant statuses) until the home residency requirement is satisfied or waived by the U.S. Department of State.

D. Costs and Expenses for Immigration Petition Process

1. American University will pay the following expenses for H-1B and LPR petitions:
 - a. Attorneys' fees for preparing any immigration petition or application related to American University's immigration sponsorship.
 - b. USCIS employer-petition filing fees.
 - c. Premium processing application fees, when available and selected by American University.
2. The Beneficiary will pay the following expenses:
 - a. Any fees for a personal attorney retained by the employee for advice on immigration matters.
 - b. Premium processing fees when elected by the Beneficiary for their convenience.
 - c. Fees and expenses related to immigration status or benefits for the Beneficiary's family dependent members.
 - d. Fees and expenses related to the Beneficiary and his or her dependents for obtaining a U.S. visa at a U.S. consular post abroad.
 - e. Fees and expenses related to immigration applications or petitions filed by the Beneficiary (e.g., I-485 adjustment of status, employment authorization document, advance parole).

E. Authorized Signatories of Petitions: Immigration sponsorship requires American University to make certifications to USCIS under penalty of perjury. Attestations made on petitions regarding hiring, recruitment, or business requirements may only be made by the President, Provost, Vice Presidents, and academic unit Deans for faculty and staff positions within their units.

V. EFFECTIVE DATE AND REVISIONS:

This Policy is effective as of July 1, 2019.

This Policy was reviewed or revised June 11, 2019.