



TEXAS TECH UNIVERSITY™

Operating Policy and Procedure

OP 70.38: Employment-based Permanent Residency Petitions

DATE: April 7, 2017

PURPOSE: This Operating Policy and Procedure (OP) sets forth the policy and procedures for sponsorship of a current foreign national employee of the university for an employment-based permanent residency petition in support of the teaching and research mission of the University

REVIEW: This OP will be reviewed in April of each year by the Vice Provost for International Affairs and the Assistant Vice President of Human Resources with substantive revisions forwarded to the Senior Vice Provost and the Chief of Staff to the President.

POLICY

Texas Tech University will maintain a system for review and approval of employer applications to be filed with the U.S. Department of Labor and the U.S. Citizenship and Immigration Services concerning employment-based permanent residency petitions for current foreign national employees of the university.

1. Definitions

a. Lawful Permanent Resident:

A foreign national who is lawfully admitted to the U.S. as an immigrant. Other common terms for this status include permanent resident, resident alien, and green card holder.

b. Foreign National:

A person who was born outside the jurisdiction of the United States, is a citizen of a foreign country, and has not become a naturalized U.S. citizen under U.S. law.

c. Employment-based Permanent Residency Petition:

Petitions requiring sponsorship by a U.S. employer based on an offer of **full-time, permanent employment**.

d. Nonimmigrant:

One who does not have the intent of remaining permanently in the U.S. and can overcome the statutory presumption that he/she is an immigrant.

e. Dual Intent:

Persons who hold both a short-term intent to enter the U.S. in nonimmigrant status and a long-term intent to remain permanently. Presently, only those persons holding the following statuses are allowed to enter and remain as non-immigrants while pursuing permanent residency: H-1B and O

- f. **Office of International Affairs (OIA):** OIA is the office responsible for all employment-based permanent residency petitions for Texas Tech University. More information is available on the OIA website.

2. Petition for Permanent Residency

Sponsorship for permanent residency is not an entitlement and it is an employer-driven process. A department will only consider sponsoring positions for permanent residency if the positions are eligible for such sponsorship and it is clearly demonstrated to be in the best interest of the department to do so. Each department will determine in its sole discretion whether or not to sponsor a foreign national.

- a. Prior to commencing an employment-based permanent residency petition for a foreign national employee, the Office of International Affairs (OIA) will confirm that the foreign national employee holds nonimmigrant status that allows for dual intent. If the foreign national employee's status does not allow for dual intent, OIA will attempt to change the foreign national employee's status to one that will permit a permanent residency filing.
- b. TTU OIA has sole authority and responsibility for directly handling only the permanent residency related forms listed below:
 - (1) I-140, Immigrant Petition for Alien Worker
 - (2) ETA 9089, Application for Alien Labor Certification (PERM)/Special Handling
 - (3) Any letters on institution letterhead relating to immigration sponsorship

Any other form not listed above, such as I-539, I-485, I-864, DS-160, N-400 is the sole legal responsibility of the individual signing the form.

- c. Employment-based permanent residency petitions for foreign nationals at TTU will generally be limited to specific **tenure/tenure-track faculty, research positions and staff IT positions**. See below for TTU job titles eligible for sponsorship.

	TTU Job Title	PR Timeline
Teaching:	Tenure-Track Assistant, Associate or Professor	1st Semester of employment
	Professor of Practice	1st Semester of employment
Research:	Research Associate	1 year*
	Senior Research Associate	1 year*

	Research Assistant, Associate or Professor	1 year*
	Research Scientist	1 year*
Librarian & Archivists:	Tenure-Track Librarian Tenure-Track Archivist	1st Semester of employment
Staff IT positions:	Programmer Analyst, Enterprise positions	2 years**

*Department may request sponsorship after a foreign national has been employed full-time at TTU for 1 year and there is a reasonable expectation that funding for the position will continue for the foreseeable future.

**Department may request sponsorship after foreign national has been employed full-time at TTU for 2 years in position.

- d. Positions that TTU will **not** sponsor for permanent residency because they are temporary include Postdoctoral Research Associates, Instructors, Researchers with fixed-term appointments, appointments ending with funding, exchange visitors, temporary employees and visiting appointments. A staff position may be considered for sponsorship only in very exceptional cases. Such cases, however, are expected to require additional justification and approval.
- e. Employment-based Permanent Residency Petitions Sponsored by TTU include the following:
 - (1) EB-1 Outstanding Professor/Researcher
 - (2) EB-2 Professionals holding advanced degrees
 - (3) EB-3 Professionals/Skilled
- f. A foreign national employee may elect to seek permanent residency status on his/her own and pursue self-sponsorship at his/her own cost provided that TTU is not named as a petitioning employer.

PROCEDURES

1. Texas Tech departments and employing units should contact the OIA to initiate a request. A request form should be completed and forwarded to the dean and provost and senior vice president or the appropriate department head and vice president for approval. The form then should be filed with the OIA.

2. The OIA will coordinate the collection of information and supporting documents and the preparation of applications and petitions related to the immigrant application process.
 - a. The OIA will coordinate with the employing department and the prospective immigrant the determination of the most appropriate procedures for the immigrant application process.
 - b. If appropriate, the Department of Labor form ETA 9089, *Application for Permanent Employment Certification*, will be produced for labor certification. The OIA has signature authority for form ETA 9089.
 - c. The OIA will prepare and sign form I-140, *Immigrant Petition for Alien Worker*. The employing department is responsible for payment of required immigration fees.
3. Preparation of labor certifications and immigrant applications based on employment are the responsibility of the employer. Although an immigration attorney representing the employee may cooperate in the preparation of applications by providing assistance and advice to the employee, university representatives **must not sign** a *Notice of Entry of Appearance as Attorney or Representative*, form G-28, authorizing the employee's attorney to act for the university.
4. These policies and procedures do not relieve foreign national employees of their responsibilities in maintaining their immigration status, nor do they limit the employee's right to be represented by competent legal counsel.
5. Authoritative Reference
20 Code of Federal Regulation 655 Subpart H & I
6. **RIGHT TO CHANGE POLICY**
Texas Tech University reserves the right to interpret, change, modify, amend or rescind this policy, in whole or in part, at any time without consent of the employees.