

US Legal Permanent Residency (LPR)



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 applications for Permanent Residence (a green card).

Most Common Pathways to a Green Card:

- Diversity Lottery
- Family-Based Petitions
- Employment-Based Petitions including Investment

General Steps in the Green Card Process

1. Labor Certification (also known as PERM...only Employer Sponsored EB 2 and EB3)
2. Employment-Based: Form I-140 Immigrant Petition for Alien Workers; Family-Based: Form I-130 Petition for Alien Relative
3. Form I-485 Application to Register Permanent Residence or Adjust Status; I-131 [Travel Document]; I-765 [Employment Authorization Document (EAD)]
4. I-485 Supplement J | Confirmation of Bona Fide Job Offer or Request for Job Portability Under INA Section 204(j)

Visa Bulletin

USCIS, in coordination with Department of State (DOS), is revising the procedures for determining visa availability for applicants waiting to file for employment-based or family-sponsored preference adjustment of status. The revised process will better align with procedures DOS uses for foreign nationals who seek to become U.S. permanent residents by applying for immigrant visas at U.S. consulates and embassies abroad.

<https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>

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.

Maintaining H-1B Status During the Green Card Process

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 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) to engage in employment outside of the position listed in your current H-1B petition will likely result in abandonment of H-1B status.



ISSS will need copies of any documents you receive during the green card process so that we may accurately advise you.

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.

Diversity (DV) Lottery

The Diversity Immigrant Visa Program (DV Program) makes up to 50,000 immigrant visas available annually, drawn from random selection among all entries to individuals who are from countries with low rates of immigration to the United States. The DV Program is administered by the U.S. Department of State (DOS). See below for information on the DV Lottery.

<https://travel.state.gov/content/travel/en/us-visas/immigrate/diversity-visa-program-entry/diversity-visa-instructions.html>

<https://www.uscis.gov/green-card/green-card-eligibility/green-card-through-the-diversity-immigrant-visa-program>

Green Card Through Family

You may be eligible to apply as a...	If you are a...
Immediate relative of a U.S. citizen	<ul style="list-style-type: none">• Spouse of a U.S. citizen• Unmarried child under the age of 21 of a U.S. citizen• Parent of a U.S. citizen who is at least 21 years old
Other relative of a U.S. citizen or relative of a lawful permanent resident under the family-based preference categories	Family member of a U.S. citizen, meaning you are the: <ul style="list-style-type: none">• Unmarried son or daughter of a U.S. citizen and you are 21 years old or older• Married son or daughter of a U.S. citizen• Brother or sister of a U.S. citizen who is at least 21 years old• Family member of a lawful permanent resident, meaning you are the:<ul style="list-style-type: none">• Spouse of a lawful permanent resident• Unmarried child under the age of 21 of a lawful permanent resident• Unmarried son or daughter of a lawful permanent resident 21 years old or older
Fiancé(e) of a U.S. citizen or the fiancé(e)'s child	<ul style="list-style-type: none">• Person admitted to the U.S. as a fiancé(e) of a U.S. citizen (K-1 nonimmigrant)• Person admitted to the U.S. as the child of a fiancé(e) of a U.S. citizen (K-2 nonimmigrant)
Widow(er) of a U.S. citizen	Widow or widower of a U.S. citizen and you were married to your U.S. citizen spouse at the time your spouse died
VAWA self-petitioner– victim of battery or extreme cruelty	<ul style="list-style-type: none">• Abused spouse of a U.S. citizen or lawful permanent resident• Abused child (unmarried and under 21 years old) of a U.S. citizen or lawful permanent resident• Abused parent of a U.S. citizen

<https://www.uscis.gov/green-card/green-card-eligibility-categories>

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.

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-eligibility-categories>

Employment-Based Petitions

You may be eligible to apply as a...	If you...
Immigrant worker	<ul style="list-style-type: none"> • Are a first preference immigrant worker, meaning you: <ul style="list-style-type: none"> ○ Have extraordinary ability in the sciences, arts, education, business or athletics, or ○ Are an outstanding professor or researcher, or ○ Are a multinational manager or executive who meets certain criteria • Are a second preference immigrant worker, meaning you: <ul style="list-style-type: none"> ○ Are a member of a profession that requires an advanced degree, or ○ Have exceptional ability in the sciences, arts, or business, or ○ Are seeking a national interest waiver • Are a third preference immigrant worker, meaning you are: <ul style="list-style-type: none"> ○ A skilled worker (meaning your job requires a minimum of 2 years training or work experience), or ○ A professional (meaning your job requires at least a U.S. bachelor's degree or a foreign equivalent and you are a member of the profession), or ○ An unskilled worker (meaning you will perform unskilled labor requiring less than 2 years training or experience)
Physician National Interest Waiver	Are a physician who agrees to work full-time in clinical practice in a designated underserved area for a set period of time and also meets other eligibility requirements
Immigrant investor	Have invested or are actively in the process of investing at least \$1 million (or \$500,000 in a targeted employment area) in a new commercial enterprise in the U.S. which will create full-time positions for at least 10 qualifying employees

<https://www.uscis.gov/green-card/green-card-eligibility-categories>

Temple University Sponsorship of Foreign Nationals for US Permanent Residence

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 Temple University-Sponsored 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.

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 John Gehrs (Hospital Positions) in TUHS Human Resources at 215-707- 7194.

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

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.

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.

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 Student and Scholar Services maintains a list of area immigration attorneys for the convenience of Temple University students and staff at <https://iss.temple.edu/about-iss/working-immigration-attorney>

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.