

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 is not authorized to assist you with applications for Permanent Residence (a green card). You will need to consult an immigration attorney.

Most Common Pathways to a Green Card:

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

www.uscis.gov/green-card

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>

www.uscis.gov/green-card/green-card-eligibility/green-card-through-the-diversity-immigrant-visa-program

Green Card Through Family

www.uscis.gov/green-card/green-card-eligibility-categories

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.

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/Advanced Parole]
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)

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 until they have obtained their “green card.” ISSS recommends that you follow the advice of your immigration attorney. The information below is for general knowledge only.

- 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.

Employment-based (EB) lawful permanent residency categories

The Immigration and Nationality Act establishes five employment-based (EB) "preference immigrant" categories, including:

- **First** preference (EB-1) - priority workers
 - Individuals with extraordinary ability in the sciences, arts, education, business, or athletics;
 - Outstanding professors and researchers; or
 - Certain multinational managers and executives.
- **Second** preference (EB-2) - individuals who are members of the professions holding advanced degrees or who have exceptional ability (this includes **National Interest Waivers**)
- **Third** preference (EB-3) - skilled workers, professionals, or other workers.
- **Fourth** preference (EB-4) - Special immigrants, including:
 - Religious workers;
 - Special Immigrant Juveniles;
 - Certain broadcasters;
 - Certain retired officers or employees of a G-4 international organization or NATO-6 civilian employees and their family members;
 - Certain employees of the U.S. government who are abroad and their family members;
 - Members of the U.S. armed forces;
 - Panama Canal company or Canal Zone government employees;
 - Certain physicians licensed and practicing medicine in a U.S. state as of Jan. 9, 1978; and,
 - Noncitizens who have supplied information concerning a criminal organization or enterprise or a terrorist organization, enterprise, or operation.
- **Fifth** preference (EB-5) – Job-creating investors

The procedures involved in employment-based (EB) lawful permanent residency (LPR) categories can be divided into two main types:

1. Those that require an employer to obtain an "alien labor certification" from the Department of Labor and those that do not require such certification; and
2. Those that require a U.S. employer to offer a permanent, full-time job and file a petition on the alien's behalf, and those that do not.

Green Card Through a Job Offer / 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"; 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.**

EB-11 Extraordinary Ability

Individual who is one of that small percentage who have risen to the very top of the field of endeavor, as shown by sustained national or international acclaim and recognized achievements. *Job offer requirement:* None; individual can self-petition. Alien must prove, however, that he or she will continue to work in the area of expertise. *Labor certification requirement:* None

EB-12 Outstanding Professor or Researcher

Professor or researcher who is recognized internationally as outstanding in the academic field, and who has at least 3 years of teaching or research experience in the field. *Job offer requirement:* Must have offer of a tenured or tenure-track teaching or permanent research position. *Labor certification requirement:* None

EB-21 Advanced degree holder

An individual holding a degree above a bachelor's degree, which is required for the job offered. *Job offer requirement:* Must have offer of a permanent full-time position which requires an advanced degree or equivalent. *Labor certification requirement:* Standard labor certification required; special handling procedures available to college teachers. **With National Interest Waiver...No job offer or labor certification is required if it is established that an exemption from those requirements would be in the national interest**

EB-22 Exceptional Ability in the Science, Arts, or Business

An individual with at least 10 years of experience in the field, with expertise significantly above that ordinarily encountered in the sciences, arts or business. *Job offer requirement:* Must have offer of a permanent full-time position. *Labor certification requirement:* Standard labor certification required. **With National Interest Waiver...No job offer or labor certification is required if it is established that an exemption from those requirements would be in the national interest**

EB-3 Professional or skilled worker

An individual with at least a bachelor's degree in a specific field of endeavor (professional) or with at least two years of specific education, training or experience (skilled worker). *Job offer requirement:* Must have offer of a permanent full-time position which requires either a specific bachelor's degree or two years of specific training or experience. *Labor certification requirement:* Standard labor certification required; special recruitment option theoretically available for college teachers, although most such positions require an advanced degree

EB-2 or 3 Schedule A Group I

An individual who is trained and licensed either as a physical therapist or a professional nurse. *Job offer requirement:* Must have offer of a permanent position as a physical therapist or professional nurse. *Labor certification requirement:* No labor certification required, but must include completed ETA 9089 with USCIS (uncertified by DOL)

EB-2 or 3 Schedule A Group II

An individual of exceptional ability in the sciences or arts with widespread acclaim and international recognition, who has been practicing his or her science or art for at least one year prior to application. *Job offer requirement:* Must have an offer of permanent employment which requires an individual of exceptional ability in addition to the normal EB-2 or EB-3 minimum education, training, and experience requirements. *Labor certification requirement:* No labor certification required, but must include completed ETA 9089 with USCIS (uncertified by DOL)

Priority dates, waiting lists, and the Visa Bulletin

There is frequently more demand for employment-based immigrant visa slots than there is availability. A preference category can become *oversubscribed* in two ways: either the total category availability has been reached, or the per-country limit for that category has been reached.

When a category becomes oversubscribed either in its entirety or for a particular country, a waiting list develops. **A person's place on the waiting list is determined by his or her "priority date," which is the date that a labor certification application was first filed on their behalf with the Department of Labor, or, for those categories exempt from the labor certification requirement, the date on which a preference petition was filed on their behalf with USCIS.**

The Department of State issues a monthly public report called the **Visa Bulletin**, which contains the "cut-off" dates for any particular category. See

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

The Visa Bulletin contains two charts that reflect these "cut-off" dates in the employment-based categories:

1. A **Final Action Dates** chart (which reflects the actual availability of an immigrant visa number and the date on which an application for adjustment of status or an immigrant visa could actually be *approved*); and
2. A **Dates for Filing** chart (which reflects dates when an applicant for an immigrant visa abroad may assemble and submit required documents to the Department of State's National Visa Center, following receipt of notification from the National Visa Center).

Generally, adjustment of status applicants must use the **Final Action Dates** chart to determine their eligibility to file an adjustment of status application, unless USCIS indicates on their Adjustment of Status Filing Charts from the Visa Bulletin page that an applicant may instead use the dates in the **Dates for Filing** chart to determine their eligibility to file. Applicants must therefore always check this USCIS page before filing. www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/adjustment-of-status-filing-charts-from-the-visa-bulletin

Visa Bulletin charts show three indicators:

1. "C" means "current," i.e., an immigrant visa number is "currently authorized" and that applications may be filed (or approved, depending on the chart) in that category that month regardless of the applicant's priority date.;
2. "U" means an immigrant visa number is currently "unauthorized" for the month in question, and that no applications may be filed (or approved, depending on the chart) in that category that month;
3. A specific date means that applications may be filed (or approved, depending on the chart) in that category if the prospective applicant's priority date falls *before* the date referenced.

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) in Human Resources at 215-204-3317 or 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 iss.temple.edu/beyond-immigration/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.

Firm	Address	Telephone Number
Green and Spiegel	1524 Delancey St, 4th Fl Phila PA 19102	215-395-8959
Klasko Immigration Law Partners, LLP	1601 Market St, Ste 2600 Phila, PA 19103	215-825-8600

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 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

Foreign nationals seeking sponsorship with Temple University should be aware that the US Department of Labor requires employers to pay the fees/costs relating to the Alien Labor Certification (PERM) portion of the Permanent Residence Application Process. Any and all other fees and costs are the responsibility of the foreign national 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.