

Provost and Vice President for Academic Affairs

ADMINISTRATIVE MEMORANDUM

VPAA 23-04

September 14, 2023

Replaces VPAA 18-01

SUBJECT: Academic Affairs Policy on Support for Non-Citizen Faculty – Visa Application

DISTRIBUTION: All Faculty, Staff, and Administrators

SERVICES PROVIDED BY THE CAMPUS:

Cal Poly Humboldt does **not** provide legal advice regarding immigration matters. Faculty members who require advice regarding their individual immigration status, or a specific issue regarding their status, should consult with a licensed immigration attorney.

H-1B Visa Sponsorship

The H-1B is an employer-sponsored nonimmigrant classification which allows persons who are not citizens or permanent residents to work in the United States. When appropriate and consistent with the interest of the University, Cal Poly Humboldt will apply for an H-1B visa on behalf of a tenure-line faculty member.

Usually, an H-1B visa will allow the faculty member to work in the United States for a maximum of six (6) years. The H-1B visa is initially valid for three (3) years and can usually be extended for another three (3) years. There are some limited exceptions to the maximum six (6) year period of stay, however those exceptions are extremely limited.

At the expiration of the maximum period of time, the faculty member must leave the United States or have obtained a different status allowing the faculty member to remain employed in the United States. In general, the calculation of the maximum period of time includes only the time the faculty member actually spent within the United States while under H-1B status. The calculation of time does not include any time spent by the faculty member outside of the United States while under H-1B status.

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Applications for an H-1B visa will be processed through Academic Personnel Services. The tenure-line faculty member is responsible for providing any and all information or documentation that is required to submit the applications, including certified copies of conferred degrees and transcripts (translated into English if necessary), and visa/passport documents. A failure to timely provide any required information and/or documents to the University may delay submission of the H-1B visa application and, consequently, may negatively affect the faculty member's ability to work at Cal Poly Humboldt.

Permanent Residency

Applying for and obtaining a so-called "Green Card" is a multi-step and lengthy process. The actual processing time will vary from case to case and can take years in some instances. Delays can occur during the processing, depending on the specific facts of each case. In general, the Green Card process involves three steps.

Step No. 1: An application for a permanent labor certification must be submitted by the University and approved. This is referred to as the PERM process.

The University must submit the permanent labor certification application within 18 months after the formal written offer of employment is issued by the University official authorized to do so. **If the application is not submitted within the required 18 months, (i) a new candidate search, competitive recruitment and selection process must be conducted and (ii) a new formal written offer of employment must be made.**

Step No. 2: Once the permanent labor certification application is approved, an I-140 visa petition can be filed on behalf of the faculty member. The I-140 is filed by the faculty member's legal representative. Faculty members should contact Academic Personnel Services for further information. **The I-140 must be filed within 180 days after approval of the permanent labor certification application. If the I-140 is not filed within the required 180 days, the permanent labor certification becomes void, and Step No. 1 must be re-done.**

Step No. 3: Once the I-140 visa petition has been approved, the faculty member can file an I-485 adjustment of status application. The filing of the I-485 application is the mechanism through which one actually applies for permanent resident status and the Green Card is issued.

The University is responsible for completing Step No. 1. The faculty member is responsible for completing Step No. 2 and Step No. 3.

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COSTS:

H-1B Visa

The **hiring department or college** is responsible for paying (i) the basic filing fee for the H-1B petition (including any subsequent extension) and (ii) the Fraud Detection and Prevention Fee. The faculty member cannot be required to pay these two fees.

The basic H-1B petition filing fee is to be paid from a non-general Fund source. The Fraud Detection and Prevention Fee may be paid either from the General Fund or from a non-General Fund source.

In cases where Premium Processing is requested, the faculty member normally should pay the fee for premium processing. The **hiring department or college** should only pay this fee if premium processing is necessary to address an immediate and express business need of the University.

The cost for mailing all documents in the H-1B visa acquisition process is borne by the hiring department.

The faculty member is responsible for paying the costs of translating all required foreign documents into English, including but not limited to degrees, education credential evaluations, and transcripts.

The faculty member is responsible for paying for all attorney fees and costs incurred as a result of the faculty member seeking advice, direction, or information.

The University is required to notify the U.S. Citizenship and Immigration Services of any material change of the terms and conditions of a faculty member's approved H-1B status. In the unlikely event that the material change results in the faculty member's loss of status to remain in the U.S., the **hiring department or college** must offer to pay the cost of return transportation to the faculty member's last foreign residence.

Permanent Residency

The University is responsible for all costs and fees associated with Step No.1 of the Permanent Residency process mentioned above. That is, all the fees and costs necessary to complete the Permanent Labor Certification (PERM) process.

The faculty member is responsible for all costs and fees associated with Step No. 2 and Step No. 3. This includes all attorney fees and costs incurred in order to prepare and file the I-140 Visa Petition and I-485 Adjustment of Status Application. To ensure that the I-140 and I-485 are properly prepared, the faculty member will require a licensed immigration attorney.

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REQUIREMENT FOR THE HIRING DEPARTMENT:

Specific lawful job-related reasons why the international hire is the most qualified candidate will be required. This information is utilized during the process to gain permanent resident status at a later date. For assistance with questions regarding documentation throughout the screening and selection process for a faculty recruitment, or if you have any questions not addressed above, please contact Academic Personnel Services.