

## **Processing Permanent Resident Applications for LSU Employees**

US permanent resident status enables international employees to work and live permanently in the United States; travel internationally and return to the US without visa restrictions; compete for research grants that require proof of US citizenship or permanent residence; and enables dependent family members to work and study without visa restrictions. In many cases, the responsibility for initiating and compiling the required supporting documents for permanent residence petitions falls on the hiring department; the International Services provides guidance to the hiring department and compiles the actual immigration petitions and files them with the appropriate federal agencies.

Some permanent resident processes (such as the PERM or labor certification process for teaching faculty) require strict adherence to deadlines and procedures. For such processes, a missed deadline or other omission can be costly for the department; it may mean that they have to re-advertise the position and conduct a new search for US immigration purposes. Missed deadlines can also cause delays in obtaining the green card for the foreign national, which can be stressful and problematic for the employee, and frustrating for the department. Departments who hire international faculty must be aware of their responsibilities so that such costly mistakes can be prevented, enabling our international employees to make the transition to permanent residency as smoothly as possible.

The government takes a year or longer to process US permanent resident paperwork.

### **A. TEACHING FACULTY POSITIONS**

#### *Who is responsible for permanent resident processing?*

Foreign nationals hired in tenure-track positions typically come to LSU with a work permit known as the OPT (Optional Practical Training) card, valid for one year. The hiring department should immediately initiate the process for change of status to H-1B. If the faculty member starts employment in August, we hope that by December they should be in H-1B status. The hiring department is then responsible for initiating the permanent residence (green card) process on behalf of the faculty member. We hope that the permanent residence process can start in January, or shortly after the individual obtains H-1B status.

#### *What are the ways to get permanent resident status and who is responsible for assembling the documents?*

LSU generally uses one of two ways to sponsor foreign faculty for permanent residence status: the Program Electronic Review Management system (PERM); or “Outstanding Professor/Researcher.” PERM requires us to document that the employing department has conducted recruitment efforts in keeping with the U.S. Department of Labor (DOL) regulations. The Outstanding Professor/ Researcher category requires us to document ways in which the individual meets “outstanding” eligibility requirements as set by the U.S. Citizenship and Immigration Services (USCIS) regulations. A department representative (usually the HR

contact) is responsible for working very closely with the International Services (Loveness Schafer) to process a PERM case.

For Outstanding Professor / Researcher cases, the faculty member themselves will work directly with the International Services (Loveness Schafer) to process this application. As most recent graduates do not meet the "Outstanding Professor/Researcher" criteria at the time they are initially hired into tenure-track positions, LSU almost always uses the PERM option to process permanent residence for new faculty. Outstanding Professor/Researcher guidelines can be found on the ISO website at:

[http://www.oip.lsu.edu/iso/pdfs/new/Guidelines\\_for\\_Outstanding\\_Professor\\_or\\_Researcher\\_Petitions.pdf](http://www.oip.lsu.edu/iso/pdfs/new/Guidelines_for_Outstanding_Professor_or_Researcher_Petitions.pdf).

*What are the PERM requirements? What must the department do?*

1) At least one advertisement for the position must have been placed in a national professional journal in accordance with Department of Labor guidelines. The ad must include at least the following information: job title, job duties, and job requirements for the position.

Job duties may be described generally, e.g., "teaching and research in Physics," Degree requirements, on the other hand, must be very specific. The foreign national must meet the specified degree requirements *by the date on their offer letter* in order to be sponsored for a PERM-based green card. For example, if the advertisement states "PhD required" and the department hires a foreign national in ABD (All But Dissertation) status, he or she will not be eligible for PERM-based green card sponsorship, unless the ad also stated that ABDs will be considered. The department would then have to re-advertise the position and conduct a new search, if planning to sponsor the foreign national for a PERM based green card; or wait several years for green card sponsorship until the individual could meet eligibility criteria for "Outstanding Professor or Researcher."

(3) The PERM application must be submitted to the Department of Labor within 18 months of the faculty's "selection" date, ie, the date on their job offer letter. Faculty members typically join the university about five months after the offer; and there are additional deadlines that the International Services must meet at least 45 days prior to filing the PERM application. You are therefore strongly encouraged to work with the International Services to start the PERM process by the end of the faculty member's first semester at LSU.

(4) Compiled documentation must prove that a competitive recruitment and selection process took place and the sponsored foreign national emerged as more qualified than any of the US workers (US citizens and permanent residents) who applied for the position. The documentation must also establish that all procedural actions required by the Department of Labor were followed. The International Services will review the Checklist with you and go over all the tasks you need to do to meet the Department of Labor requirements. DOL's PERM recruitment requirements for faculty positions are posted on the website of the International Services at:

<http://www.oip.lsu.edu/iso/permanent%20residency.htm>. If you have further questions, please contact Loveness Schafer at the International Services at [lschaf2@lsu.edu](mailto:lschaf2@lsu.edu).

## **B. NON TEACHING POSITIONS**

### *How can we sponsor non-teaching staff for permanent resident status?*

LSU employees who are not in tenure track positions are sponsored for permanent residence status on a case by case basis. They must work for LSU for at least one year; their position must be “permanent” in nature; and funding must be guaranteed for at least 3 years. The criteria for sponsorship are in PM-26, and the International Services website provides an overview of the sponsorship process. The International Services takes into consideration additional factors in deciding when and whether to process a permanent resident application for a particular employee. Only a few employees meet the criteria for sponsorship.

### *What are the ways to get permanent resident status for non teaching international staff?*

LSU generally uses one of two ways to sponsor staff for permanent residence status: the Program Electronic Review Management system (PERM); or “Outstanding Researcher.” The PERM process for non teaching staff is significantly different from the PERM process for teaching faculty. The process for non teaching positions is more complex and time consuming. The Department of Labor closely scrutinizes these applications and the chance of audit or denial is greater.

### *What are the PERM documentary requirements?*

In this process, we must prove that there are no available U.S. workers (U.S. citizens and U.S. permanent residents) who meet the requirements for the position. We must also compile proof of extensive recruitment efforts that meet Department of Labor standards. All US workers (US citizens and legal permanent residents) who appear to meet the minimum requirements of the position should be given serious consideration. US applicants may be eliminated only for lawful, job related reason. The Department of Labor will deny the application if any U.S. worker who applied for the position meets the minimum requirements. The Department of Labor is not concerned that the foreign national may be more qualified and a better employee than any U.S. worker applicant. The hiring department is responsible for compiling the documents, with guidance from the International Services. It is against Department of Labor rules for the sponsored foreign national to be involved in this process. The department must advertize the position in 5 different media. Recruitment efforts on the part of the department take about 3 months to complete, and the application must be prepared and filed by the International Services with the department of labor within 6 months of the first advertisement. The International Services will review the Checklist with you and go over all the tasks you need to do to meet the Department of Labor requirements.

*What are the documentary requirements for the Outstanding Researcher application?*

In the Outstanding Researcher category, the foreign national works closely with the International Services. The international Services explains USCIS criteria for the category and provides guidance to the foreign national on what documents the foreign national should compile, which prove eligibility for the category. The International Services prepares the petition and files it with the USCIS. Outstanding Professor/Researcher guidelines can be found on the ISO website at: [http://www.oip.lsu.edu/iso/pdfs/new/Guidelines\\_for\\_Outstanding\\_Professor\\_or\\_Researcher\\_Petitions.pdf](http://www.oip.lsu.edu/iso/pdfs/new/Guidelines_for_Outstanding_Professor_or_Researcher_Petitions.pdf)

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