

SPONSORSHIP OF EMPLOYEES SEEKING PERMANENT RESIDENCY STATUS POLICY

Responsible Office:
Office of International Education

POLICY STATEMENT AND PURPOSE

This policy outlines the conditions under which a foreign national employee may obtain university sponsorship for U.S. Permanent Residency during employment at Virginia Commonwealth University (VCU). University sponsorship involves a process that includes approval from each of several levels of university administration.

WHO SHOULD READ THIS POLICY

VCU departments hiring or intending to hire foreign nationals.

RELATED DOCUMENTS

- “Approval Form for Employment-Based Immigrant Petitions”
- “Reimbursement Agreement for Permanent Residency Petition Fees”

CONTACTS

VCU Office of International Education officially interprets this policy and shall revise or eliminate any or all parts as necessary to meet the changing needs of Virginia Commonwealth University. Please direct policy questions to the Office of International Education-Immigration Services.

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DEFINITIONS

I-140

Form used to petition U.S. Citizenship and Immigration Services (USCIS) for an immigrant visa based on employment.

I-485

Form used by a person who is in the United States to apply to U.S. Citizenship and Immigration Services (USCIS) to adjust to permanent resident status or register for permanent residence.

Labor Certification

A permanent labor certification issued by the Department of Labor (DOL) allows an employer to hire a foreign worker to work permanently in the United States. In most instances, before the U.S. employer can submit an immigration petition to the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS), the employer must obtain an approved labor certification request from the DOL's Employment and Training Administration (ETA).

PROCEDURES

Federal laws and regulations require a multi-step process for the foreign national to become an immigrant based on employment. The U.S. employer must complete a labor certification request through the U.S. Department of Labor's Employment and Training Administration. In addition, forms must be submitted to the U.S. Department of Homeland Security's division of Citizenship and Immigration Services (USCIS): a petition for an alien worker to become a permanent resident in the United States (I-140) and, for a person living in the U.S., an application to adjust to permanent resident status or register for permanent residence (I-485).

A. Requirements for University Sponsorship:

University sponsorship for U.S. Permanent Residency during employment at VCU requires all the following conditions must be met:

1. The position must be a permanent, regular appointment
2. The position is full time
3. The position is significant:
 - a. Teaching/Research Faculty, Administrative/Professional Faculty or certain classified positions
 - b. Excludes Post doctoral Associates (Postdoctoral Appointments are limited to four years, hence not appropriate for employer-sponsored permanent residency)
4. The department wishes to retain the employee in the position indefinitely, and is willing to absorb the Labor Certification costs.
5. The employee intends to remain at the university and executes the “Reimbursement Agreement for Permanent Residency Petition Fees”. The agreement provides that if the employee leaves the University within a period of three years beyond the date of the application for permanent residency, he/she will agree to reimburse the University such legal services fees paid over and above those related to the Labor Certification, and any other fees and costs paid on their behalf for the Permanent Residency Petition.
6. The university’s providing the service is in the university’s and Commonwealth’s best interest.

B. Request Permanent Residency Petition:

The VCU hiring department completes the form “Approval Form for Employment-Based Immigrant Petitions” and obtains approvals from the department head and the dean of the school/college. The form is then submitted to the Director of Immigration Services in the Office of International Education, 916 W. Franklin St., who obtains the Provost’s or applicable Vice President’s approval and then notifies VCU General Counsel and Challa Law Offices (Attorney General’s authorized immigration counsel) to begin their procedures.

C. Payment of Legal Fees and Filing Fees:

All fees paid by VCU on behalf of the beneficiary, regardless of fund source, for other than the labor certification request, require execution of the “Reimbursement Agreement for Permanent Residency Petition Fees”.

The department is allowed to pay expenses for the foreign national employee only, i.e. a department may not pay expenses associated with a permanent residency application for the employee’s dependent(s). The

employee will pay the immigration attorney directly for any dependent costs.

The following conditions apply to legal fees in permanent residency cases paid from state funds:

1. The Attorney General's authorized immigration counsel performs the work, and
2. Authorization is sought and granted through the standard counsel appointment procedures before work is commenced, and
3. The University, through the appropriate officer, certifies that the university's providing the service is in the university's and Commonwealth's best interest, and
4. The total cost to the Commonwealth does not exceed \$5,000, and
5. For other than the labor certification request, the employee enters into an agreement with the University to repay the cost if s/he fails to continue employment with the university for a period of at least 3 years beyond the date of application. (No agreement to repay is to be required for the labor certification process.)

D. Process to Become an Immigrant Based on Employment:

Labor Certification:

The employer is required by federal law to pay the legal fees plus any position advertising costs for the Labor Certification request.

Immigrant Visa Based on Employment (I-140) and Adjust to Permanent Resident Status or Register for Permanent Residence (I-485):

The VCU hiring department may agree to pay for additional legal and filing fees related to the permanent residency petition. Note: Total legal fees paid by state funds (including legal fees from Labor Certification) may not exceed \$5,000.

E. Exceptions to Use of the Current State-Contracted Law Firm:

Individuals who started but did not complete Permanent Residency proceedings at another institution or employer and who have subsequently been hired by VCU may receive University sponsorship but still use the prior firm. However, standard approval procedures must be followed, and reimbursement requirements must be adhered to with the other law firm.

F. Authorized University Representatives:

The Director of Immigration Services in the Office of International Education is the university representative who facilitates the Permanent Residency paperwork with the state-contracted immigration law firm, Challa Law Offices. All university sponsored residency petitions must be processed through this University office and this law office.