

FILING U.S. PERMANENT RESIDENT PETITIONS AND RELATED PAPERWORK

The University of Tennessee, Knoxville Center for International Education Policy (effective November 21, 2005)

Overview

The University of Tennessee, Knoxville will sponsor professional-level employees for US Permanent Residence if the employee is employed (or has been offered employment) in any full-time position considered to be permanent. The definition of “permanent” for the purpose of this policy is explained in detail below.

All permanent resident applications filed by The University of Tennessee, Knoxville must be processed by, or directed by, the Center for International Education (CIE). Hiring departments may not prepare or sign immigration documents or applications for Labor Certification related to permanent resident petitions. Outside attorneys may not prepare or file applications or petitions on behalf of The University of Tennessee, Knoxville unless previously approved by the UT Office of the General Counsel. Hiring departments may not pay for immigration-related work performed by outside attorneys, except when arranged through the Center for International Education and the UT Office of the General Counsel.

Permanent resident petitions will be processed based on an official request by the head or director of the department (or organizational unit) employing the employee, with approval by the college dean (if appropriate) and the Office of the Vice Chancellor for Academic Affairs.

The applications will be prepared by the UT Center for International Education if CIE staff levels permit. If staff time does not permit, the Office of the General Counsel will arrange for an outside attorney to prepare the applications, with all attorney fees to be paid by the hiring department.

University departments may not make promises to any non-tenure track employee or prospective employee concerning sponsorship for permanent residence until the request for sponsorship has been approved by all required offices.

Employees for Whom UT Will File Permanent Resident Petitions

A petition for permanent residence may be filed for an employee in a **permanent, full-time professional** position. “Professional” is defined to be any position which clearly requires a four-year Bachelor’s Degree or higher. “Permanent” is defined to be a tenure-track or tenured faculty position or any regular position that is expected to continue indefinitely, and in which the employee intends to remain indefinitely. [Note that Post-doctoral Research Associate positions are not considered permanent.]

For persons employed as teaching faculty, the permanent resident application process should begin within eighteen months after the official job offer has been made. For all other positions (including research faculty), the conditions below must be satisfied before the University begins any paperwork related to a permanent resident petition.

1. The employee must normally be employed by The University of Tennessee, Knoxville **for a**

minimum of two years before the University will sponsor him/her for permanent residence.

2. The hiring department must already have secured a minimum of **three additional years of funding** (after the Permanent Resident paperwork has begun) and must clearly demonstrate that continued funding beyond the three years is highly probable for an indefinite period.

3. Exceptions to the above requirements may be made only with approval of the Office of the Vice Chancellor for Academic Affairs.

4. After initial approval by the Vice Chancellor for Academic Affairs and after consultation with the employee and the hiring department, the Center for International Education will determine the most appropriate category of employment-based immigration to be used for the application. If the Center for International Education determines that the application is unlikely to be approved, it will not file any application and will not recommend that the application be referred to an attorney.

Whenever possible, the University will apply for a “Special Handling” Labor Certification for teaching positions, followed by a second preference immigration petition. For non-teaching positions, the Center for International Education may recommend either a second or third preference petition with Labor Certificate, or a first preference petition for outstanding researcher. In most cases, only one application will be filed for an employee at one time. If a petition or application for Labor Certificate is unsuccessful, the sponsoring UT department and the Center for International Education may choose to file or recommend an application in another category. While the Center for International Education will use its best judgement in filing petitions, it does not guarantee approval of any application filed.

Note: Employees are free to file immigrant petitions on their own behalf without approval by The University of Tennessee. These petitions may be filed in the categories of “Extraordinary Ability” or “National Interest Waiver”, and the employee him/herself will act as the petitioner. While UT department heads, professors, and other employees may write recommendation letters in support of such applications, they may not sign any US Government forms on behalf of the University in relation to these applications.

Costs

All costs related to the filing of permanent resident petitions filed by The University of Tennessee, Knoxville must be paid by the hiring department and may not be paid or reimbursed by the employee. The costs associated with an application for an immigrant visa or adjustment of status for the employee may be paid by the employee or the hiring department. The University may not pay any costs associated with applications filed by the dependents of the employee. If the services of an outside attorney are used, the hiring department will be responsible for paying all attorney fees.

The hiring department will also be responsible for paying for all costs of advertising and recruitment, as required by U.S. labor law, as well as fees charged by the US Citizenship and Immigration Services for an immigrant petition (Form I-140), and fees (if any) charged by the US Department of Labor for an application for Labor Certification.

If an employee files an immigrant petition on his/her own behalf, The University of Tennessee will not pay or reimburse the costs of the application.

Summary of Procedures for filing Permanent Resident Petitions

To initiate paperwork for a permanent resident petition, the hiring department or organizational unit will complete a request form, stating its intention to employ the employee on a permanent

or indefinite basis and indicating how the employee meets the above criteria. The request form will be signed by department head and dean (if applicable) and forwarded to the Office of the Vice Chancellor for Academic Affairs with required documentation. If the request is approved, it will be forwarded to the Center for International Education.

A representative of CIE will then meet with the Head of the hiring department to make the final determination about filing the petition, discuss the best immigrant category to be used, the relevant requirements and procedures, the probabilities for approval, and to give an estimate of related costs.

Although the Center for International Education will advise the department to the best of its abilities before beginning an application, it does not guarantee approval of any application.

Based on the availability of CIE staff, in consultation with the Offices of the General Counsel and Vice Chancellor, a decision will be made to have the application prepared by CIE or an outside attorney. (This determination will be made before the department makes the final decision to proceed.)

The hiring department will then provide more detailed information and documentation as requested by CIE or the attorney. If further advertising and recruitment is required, this will be arranged by the hiring department under the direction of CIE or the attorney.

The Office of Human Resources will also assist, as needed, in fulfilling Department of Labor recruiting requirements. When an application will be filed for a Labor Certification, paper and electronic notices must be posted for the information of other employees. Arrangements for these postings will be made by CIE, Human Resources, and the hiring department, coordinated by CIE.

Paper documentation related to the Labor Certification must be collected before the electronic application is filed, and kept by the employer for five years. This file will be assembled and kept by the Center for International Education.

A representative of the Center for International Education, designated by the Office of the Vice Chancellor, will sign all documents related to applications for Labor Certification or immigrant petitions. If the services of an attorney will be used, the G-28 form will be signed by a representative of the General Counsel's Office.