



TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

Operating Policy and Procedure

HSC OP: 52.13, Hiring and Immigration Sponsorship of Foreign Nationals

- PURPOSE:**
1. Define policies relating to the sponsorship of a foreign national employee for both employment-based nonimmigrant and immigrant (permanent residence) petitions;
 2. Ensure excellence in the quality of services provided to Texas Tech University Health Sciences Center (TTUHSC) and foreign national employees;
 3. Ensure consistency and accuracy in the representations made on behalf of TTUHSC to federal agencies;
 4. Ensure compliance with TTUHSC's employment policies, federal immigration laws, and applicable regulations ;
 5. Provide a reliable means of collecting and storing data on TTUHSC's foreign national employees, as required by law and institutional needs.

REVIEW: This HSC OP will be reviewed by March 1 of each even-numbered year by the Managing Director, Immigration Compliance and Services, with recommendations forwarded to the Vice President of Institutional Compliance.

POLICY:

1. Definitions.

Employment-Based Permanent Residence Petition: Petitions filed with U.S. Citizenship and Immigration Services (USCIS) to obtain lawful permanent residence for a foreign national employee. Such petitions are typically employer-sponsored but may be self-petitioned where permitted by law. Employer-sponsored petitions generally require a permanent, full-time job offer (i.e., a position of indefinite duration).

- a. **Employment-based Permanent Residence Petitions Sponsored by TTUHSC:**
 - i. EB-1 Extraordinary Ability
 - ii. EB-1 Outstanding Professor/Researcher
 - iii. EB-2 Advanced Degree Professional, including petitions requesting a National Interest Waiver (NIW)
 - iv. EB-3 Professionals/Skilled Workers, including Schedule A petitions for Registered Nurses and Physical Therapists
- b. **Foreign National.** A person who is not a citizen or national of the United States.
- c. **ICE.** Immigration & Customs Enforcement, (a unit of the US Department of Homeland Security).

- d. **Immigration Compliance and Services in the Office of Institutional Compliance (ICS)** is responsible for all employer-based nonimmigrant and immigrant visa filings at TTUHSC. [ICS](#) is also responsible for TTUHSC's Exchange Visitor program. Detailed information about TTUHSC's immigration documents, processes and other immigration-related topics is available on the [ICS](#) website.
- e. **Lawful Permanent Resident.** A foreign national who is lawfully admitted into the USA as an immigrant. Other common terms include permanent resident and green card holder.
- f. **Nonimmigrant:** A foreign national admitted to the United States for a temporary period and specific purpose under a nonimmigrant visa classification. Certain immigration sponsorship classifications permit dual intent, allowing the individual to pursue permanent residence.
Nonimmigrant Petitions Currently Sponsored by TTUHSC:
 - i. **H-1B:** foreign national employee working in a "specialty occupation"
 - ii. **E-3:** Australian national working in a "specialty occupation"
 - iii. **J-1:** exchange visitors (discussed in detail in [HSC OP 52.14](#))
 - iv. **TN:** citizen of Mexico or Canada working in certain designated professional occupations as noted in the [United States-Mexico-Canada Agreement \(USMCA\)](#),
 - v. **O-1:** Individuals who can demonstrate extraordinary ability in the sciences, arts, business or education by sustained national or international acclaim and are coming to the U.S. to continue work in the area of extraordinary ability.
- g. **OPT.** Optional Practical Training. Temporary employment authorization granted to F-1 students for employment directly related to their field of study, generally for up to 12 months.
- h. **OPT-STEM Extension:** A 24-month extension of work authorization given to F-1 students who have completed a period of OPT after receiving their degree. Only F-1 students who have completed a degree in specifically listed science, technology, engineering, or mathematics (STEM) fields qualify for OPT-STEM. The [list of specific STEM degree fields](#) is maintained by ICE.
- i. **USCIS.** United States Citizenship and Immigration Services (a unit of the US Department of Homeland Security).

2. **Foreign National Employees with Employment Authorization Documents (EAD).**

- a. EAD cards are issued to foreign nationals in various visa categories. Persons with a valid, unexpired EAD card may work under the conditions that the EAD was issued. Foreign national employees with EAD do not require TTUHSC sponsorship but may require sponsorship to allow for continued employment after the EAD expires. If institution sponsorship is required in the future, ICS should be contacted at least six months before the EAD card expires so that an immigration sponsorship assessment can be made.

- b. Employees authorized for OPT or STEM OPT may be considered for employer-sponsored nonimmigrant status, subject to institutional discretion and operational needs. Departments are encouraged to consult ICS regarding timing and strategy.

3. **Sponsorship for Nonimmigrant Visa or Visa Status.**

- a. To ensure institution-wide compliance, ICS is the designated institutional representative for filing employer-sponsored immigration petitions on behalf of TTUHSC. Outside counsel may be engaged only with prior approval from ICS and TTUHSC and must coordinate through ICS.
- b. Sponsorship of a nonimmigrant petition is contingent upon employment in a qualifying position, the satisfaction of visa-specific requirements, completion of an export control check and the prospective foreign national employee being able to provide the necessary documents and evidence needed for the specific visa category. ICS will maintain a list of documents that must be provided for each nonimmigrant visa category and will provide that information to the hiring department and prospective foreign national employee. A nonimmigrant petition will not be filed for a foreign national who does not meet visa-specific requirements or provide all of the documents and evidence required by USCIS to approve the visa petition.
- c. Prior to extending an offer of employment to a foreign national in need of immigration sponsorship to work in the USA, the hiring department must contact ICS to determine if sponsorship is possible. Additionally, an export control check should be completed in coordination with Human Resources. ICS will review the proposed position and the immigration history and current status (if any) of the foreign national to identify whether sponsorship may be successful, and to determine the best visa category to utilize. ICS will advise the hiring department after the immigration review is completed.

4. **Sponsorship for Permanent Residence.**

- a. To ensure institution-wide compliance, ICS is the designated institutional representative for filing employer-sponsored immigration petitions on behalf of TTUHSC. Outside counsel may be engaged only with prior approval from ICS and TTUHSC and must coordinate through ICS.
- b. Prior to commencing an employment-based permanent residence petition for a foreign national employee, ICS will inquire with the employee's Department to confirm support. ICS will confirm the employee's eligibility for permanent residence and determine the most appropriate process to follow. Any and all conflicts with the current nonimmigrant visa status will be addressed and resolved.
- c. At a certain stage in the permanent residence process, the foreign national employee and dependent family members will file their personal applications for permanent residence status. TTUHSC does not represent employees or dependents in Form I-485 or other personal immigration filings, and individuals are encouraged to seek independent legal counsel.
- d. TTUHSC generally requires at least twelve (12) months of full-time employment before initiating employer-sponsored permanent residence. Exceptions may be granted based on institutional need, recruitment considerations, or immigration constraints.

- e. The 12-month service requirement may be waived in extraordinary circumstances which may include, but are not limited to, the following situations:
 - i. Foreign nationals transferring with limited remaining H-1B time (generally less than 30 months);
 - ii. Foreign nationals with a child in dependent nonimmigrant visa status who will reach the age of 21 in less than 30 months (or 2.5 years) as of the date employment will commence at TTUHSC;
- f. Faculty positions eligible for **PERM Special Handling**, which must be filed within 18 months of selection. Employees pursuing self-petitions (e.g., EB-1A, NIW) may obtain letters of recommendation from TTU employees, but such letters must not indicate institutional sponsorship. No self-petition for permanent residence may be signed by a TTUHSC employee as sponsor of the petition. Any and all documents sent by outside attorneys with a request for signature, must be forwarded to ICS for review, prior to signing, to ensure that the documents conform to institutional policy.
- g. ICS will ensure that the foreign national maintains valid nonimmigrant visa status during the permanent residence process to every extent possible. If circumstances do not allow for an extension of the nonimmigrant visa status, this information will be clearly communicated to the foreign national and the hiring department. If nonimmigrant visa status cannot be maintained, the foreign national employee will need to have a valid, unexpired EAD card in order to continue working at TTUHSC

5. **Employment Verification and Reverification.**

Employees must maintain valid work authorization. Failure to provide timely documentation may result in suspension or termination of employment in accordance with federal law.

6. **Procedures.**

ICS questionnaires, forms and guidance are available on the TTUHSC Office of Institutional Compliance website at [Immigration Compliance and Services](#).

7. **Right to Change Policy.**

TTUHSC reserves the right to interpret, change, modify, amend, or rescind this policy in whole or in part at any time without the consent of employees.