



THE UNIVERSITY OF
CHICAGO

**Campus and
Student Life
International Affairs**



K E M P S T E R
KELLER & LENZ-CALVO, LTD.

Office of Legal Counsel



THE UNIVERSITY OF
CHICAGO

**Human
Resources**

How to Obtain a Green Card

Agenda for Today's Meeting

- What Legal Permanent Residency (LPR) applications in the University typically involve, including Faculty and Other Academic Appointees (OAA)
- The University's internal process for requesting LPR sponsorship for someone in a staff position
- Follow-up processes
- Contact information

Categories or “Preferences” of LPR

LPR = Lawful Permanent Residence aka the Green Card

“Self-sponsored” categories:

Aliens with extraordinary ability
National Interest Waiver

Do not require Labor Certification
Do not require University approval

The employee can pursue these on his/her own



Categories or “Preferences” of LPR, cont.

Employment-based = University-sponsored categories:

- EB-1:
 - Extraordinary Ability
(does not require University sponsorship)
 - Outstanding Researcher/Professor
(requires sponsorship and Labor Certification)

- EB-2:
 - Members of the professions holding advanced degrees (PERM, requires Labor Certification)
 - Aliens of exceptional ability in the sciences, arts or business (NIW)

Three Steps in LPR (PERM)

Employment-based/University-sponsored LPR requires 3 steps:

1. Labor Certification
2. Immigrant Petition
3. Obtaining the Visa

The Labor Certification

To obtain a Labor Certification, we (the University) must prove that there is no U.S. worker who is ***able, willing, qualified*** and ***available*** to take the job.

Detailed, legally prescribed process and posting in multiple media for extended periods of time are required.

If any U.S. workers apply who meet the criteria above, we cannot obtain a Labor Certification and the individual cannot obtain LPR in this category.

What does this mean for you?

Staff Sponsorship of Foreign Nationals Policy

- Key Guidelines

- Unit, department or division initiates the process
- Written approval from Dean, unit VP, Provost, or cognizant officer
- Human Resource reviews department requests to commence the process
- Outside immigration counsel must be authorized in advance by the Office of Legal Counsel
- Costs borne by employee with the exception of costs the University is required to pay by law (those costs are covered by the sponsoring department.)
- No guarantees, the University very rarely sponsors staff employees

- Minimum Requirements

- Position requires 37.5 hours/week
- Position requires a bachelor's or higher degree or its equivalent and specialized and complex knowledge
- Uniqueness of the position makes it difficult to recruit qualified applicants
- Foreign national is uniquely qualified through experience, skill, and background

Unit determines it would like the University to sponsor an employee.

Unit obtains Dean, unit VP, Provost, or cognizant officer's approval and forwards approval to HR Staffing.

HR Staffing obtains approval from Office of Legal Counsel to proceed with the process.

HR reviews the job description to ensure it is fit for posting per the guidelines of the Labor Certification

HR Staffing posts the position for 15 days on UChicago Jobs.

HR Staffing reviews applicant pool and consults with the Unit.

HR Review of Applicant Pool

HR Staffing will review all applications to determine whether each applicant is ***able, willing, qualified*** and ***available*** to accept the position.

Qualified means “qualified” not “*best* qualified”

If the answer for any applicant is “**yes**” and that applicant is a U.S. worker, the process ends there.

HR Determines Whether To Approve Sponsorship Request Based On University Policy And Applicant Pool.

Yes

- HR informs the Office of Legal Counsel, outside legal counsel, and the unit of approval and forwards approved job description to outside legal counsel.
- The unit informs employee of the University's decision to sponsor him/her.
- Employee contacts outside legal counsel (approved by the Office of Legal Counsel) to continue the process.

No

- HR notifies department of the decision not to sponsor.
- Department notifies employee and suggests that he/she contact the Office of International Affairs to discuss possible options.

Exploring Options with OIA

A staff employee who will not be sponsored for LPR by the University should make an appointment with OIA to discuss alternate options, such as:

- Alternate immigration statuses
- Alternate strategies for obtaining LPR
- Alternate career strategies for sponsorship at a later time

Process between Law firm and Department

PERM: Faculty, OAA, Staff

Extraordinary Ability, Outstanding Researcher, National
Interest Waiver

REGULAR LABOR CERTIFICATION PROCESS

Pre-filing Requirement – Recruitment

PERM-OAA, Staff, Faculty (if filing outside of 18 mo. window)

Placement of job order with Illinois Department of Employment Security (IDES) for 30 days

Two (2) Sunday newspaper ads – can be consecutive Sundays (a professional journal ad may be used in lieu of one Sunday ad when an advanced degree + experience are required)

Posted notice – 10 consecutive business days

Use of Other In-House Media (i.e., Intranet)

Additional Recruitment for Professional Occupations (3 of the following)

1. Job Fairs
2. Employer's website
3. Job search website
4. On Campus
5. Trade/Professional Organizations
6. Employee Referral Program
7. Recruitment Firms
8. Local/Ethnic Newspaper
9. Campus Placement Office
10. Radio/TV Ads

**EXTRAORDINARY ABILITY,
OUTSTANDING RESEARCHER, and
NATIONAL INTEREST WAIVERS**

Extraordinary Ability (EB-1A)

Requires **sustained national or international acclaim**

Also called the “Nobel Prize Category”

Extraordinary Ability Criteria

You must meet **3 out of the 10** listed criteria below to prove extraordinary ability in your field:

- Evidence of receipt of lesser nationally or internationally recognized **prizes or awards** for excellence
- Evidence of your **membership** in associations in the field *which demand outstanding achievement of their members*
- Evidence of **published material about you** in professional or major trade publications or other major media
- Evidence that you have been asked to **judge the work of others**, either individually or on a panel
- Evidence of your **original scientific**, scholarly, artistic, athletic, or business-related contributions **of major significance** to the field
- Evidence of your **authorship of scholarly articles** in professional or major trade publications or other major media
- Evidence that your work has been displayed at artistic exhibitions or showcases
- Evidence of your performance of a **leading or critical role** in distinguished organizations
- Evidence that you command a **high salary** or other significantly high remuneration in relation to others in the field
- Evidence of your commercial successes in the performing arts

Analysis of Eligibility of Potential Extraordinary Ability (EB-1A) Cases

One time achievement **OR** 3 of 10 criteria

Is meeting 3 of 10 criteria enough?

Can a postdoc be eligible?

How many citations are enough?

Outstanding Researcher or Professor (EB-1B)

You must meet 2 **out of the 6** listed criteria below to prove you are recognized internationally as outstanding in your field

- Evidence of receipt of **major prizes or awards** for outstanding achievement
- Evidence of **membership** in associations *that require their members to demonstrate outstanding achievement*
- Evidence of **published material** in professional publications written by others about the alien's work in the academic field
- Evidence of participation, either on a panel or individually, as a **judge of the work of others** in the same or allied academic field
- Evidence of **original scientific** or scholarly research contributions in the field
- Evidence of **authorship of scholarly books or articles** (in scholarly journals with international circulation) in the field

Analysis of Eligibility of Potential Outstanding Researcher (EB-1B) Cases

How does one show that s/he is “internationally recognized as outstanding?”

- Conference session chair
- Conference technical committee
- Invited talks outside of your institution
- Citations
- Items published about your work: editorials, Science Daily, etc.

National Interest Waiver (EB-2)

- 1) Exceptional Ability/Advanced Degree;
- 2) Work in an area of **substantial intrinsic merit**;
- 3) Work must have a benefit which will be **national in scope**;
and,
- 4) Work serves the national interest to a substantially **greater degree than would an available U.S. worker having the same minimum qualifications**, and therefore, the national interest would be adversely affected if a labor certification were required for the beneficiary.

National Interest Waiver

What does exceptional ability mean to USCIS?

- Record of specific prior achievement in the field
- Standing out from your peers
 - Awards
 - Accomplishments- publications, citations, use of your work by others

Is genetics in the national interest?

Are 5 citations too few?

I-140 Form + Supporting Docs

- Extraordinary Ability/NIW: requires no sponsorship, I-140 form signed by foreign national
- OR: requires sponsorship, I-140 form signed by University, petition is tied to employment
- Supporting documents gathered by foreign national
- Letter confirming employment with University signed by Department (template provided)
- After I-140 is approved, *you still have to file I-485 (green card application) to complete immigration process*

Current Issues

Comprehensive Immigration Reform is on the table. *If passed*, possible changes that would affect employment-based immigration:

- Elimination of per country (7%) limitations
- Elimination of Diversity Visa, but will implement a point system
- Increase in #s of H-1B visas (but also making process more complex and expensive)
- Exempting STEM and dependents from immigrant visa quota

And finally...

Your questions

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