



TEXAS TECH UNIVERSITY

Operating Policy and Procedure

**OP 70.38: Employment-Based Permanent Residency Petitions**

**DATE:** March 1, 2024

**PURPOSE:** This Operating Policy/Procedure (OP) sets forth the policy and procedures for sponsorship of a current international employee of the university for an employment-based permanent residency petition in support of the teaching and research mission of the university.

**REVIEW:** This OP will be reviewed in January of each year by the Vice Provost for International Affairs and the Associate Vice President for Human Resources with substantive revisions forwarded to the Vice Provost for Faculty Success and the Chief of Staff to the President.

**POLICY**

Texas Tech University will maintain a system for review and approval of employer applications to be filed with the U.S. Department of Labor and the U.S. Citizenship and Immigration Services concerning employment-based permanent residency petitions for current international employees of the university.

**1. Definitions**

a. Lawful Permanent Resident:

An international person who is lawfully admitted to the U.S. as an immigrant. Other common terms for this status include permanent resident, resident alien, and green card holder.

b. International Person:

A person who was born outside the jurisdiction of the United States, is a citizen of a foreign country, and has not become a naturalized U.S. citizen under U.S. law.

c. Employment-Based Permanent Residency Petition:

Petitions requiring sponsorship by a U.S. employer based on an offer of **full-time, permanent employment.**

d. Nonimmigrant:

One who does not have the intent of remaining permanently in the U.S. and can overcome the statutory presumption that he/she is an immigrant.

e. Dual Intent:

Persons who hold both a short-term intent to enter the U.S. in nonimmigrant status and a long-term intent to remain permanently. Presently, only those persons holding the following statuses are allowed to enter and remain as nonimmigrants while pursuing permanent residency: H-1B and O.

f. Texas Tech University International Affairs (TTU IA):

TTU IA is the office responsible for all employment-based permanent residency petitions for Texas Tech University. More information is available on the [TTU IA website](#).

**2. Petition for Permanent Residency**

Sponsorship for permanent residency is an employer-driven process. In the case of tenure-track faculty and professors of practice, sponsorship will be initiated in the first semester of employment. In all other cases, an office/department will only consider sponsoring positions for permanent residency if the positions are eligible for such sponsorship, and it is clearly demonstrated to be in the best interest of the office/department to do so.

a. Prior to commencing an employment-based permanent residency petition for an international employee, TTU IA will confirm that the international employee holds nonimmigrant status that allows for dual intent. If the international employee’s status does not allow for dual intent, TTU IA will attempt to adjust the international employee’s status to one that will permit a permanent residency filing.

b. TTU IA has sole authority and responsibility for directly handling only the permanent residency-related forms listed below:

- (1) I-140, *Immigrant Petition for Alien Worker*
- (2) ETA 9089, *Application for Alien Labor Certification (PERM)/Special Handling*
- (3) Any letters on institution letterhead relating to immigration sponsorship

Any other form not listed above, such as I-539, I-485, I-864, DS-160, N-400, is the sole legal responsibility of the individual signing the form.

c. Employment-based permanent residency petitions for international employees at TTU will generally be limited to specific **tenure/tenure-track faculty, research positions, and staff IT positions**. See below for TTU job titles eligible for sponsorship.

	<b>TTU Job Title</b>	<b>PR Timeline</b>
<b>Teaching:</b>	Tenure-Track Assistant, Associate, or Professor	1st semester of employment
	Professor of Practice and Lecturer	1st semester of employment
<b>Research:</b>	Research Associate	1st year*
	Senior Research Associate	1st year*

	Research Assistant, Associate, or Professor	1st year*
	Research Scientist	1st year*
<b>Librarian &amp; Archivists:</b>	Tenure-Track Librarian Tenure-Track Archivist	1st semester of employment
<b>Staff IT positions:</b>	Programmer Analyst, Enterprise positions	2 years†

\* Office/department may request sponsorship after an international employee has been employed full-time at TTU a minimum of 1 year unless exigent circumstances exist, and if there is a reasonable expectation that funding for the position will continue for the foreseeable future.

† Office/department may request sponsorship after an international employee has been employed full-time at TTU for a minimum of 2 years in their position.

- d. Positions that TTU will **not** sponsor for permanent residency because they are temporary include postdoctoral research associates, instructors, researchers with fixed-term appointments, appointments ending with funding, exchange visitors, temporary employees, and visiting appointments. Each office/department will determine at its sole discretion whether to sponsor an international employee.
- e. Employment-based permanent residency petitions sponsored by TTU include only the following:
  - (1) EB-2 Professionals holding advanced degrees
  - (2) EB-3 Professionals/Skilled

EB-1(b/2) Outstanding is Employer Sponsored and must be paid for by the employer. EB-1(a/1) can be sought out by the individual at their own cost and can be with the attorney of their choice.
- f. Employment-based permanent residency petitions for faculty will be handled by International Affairs; please refer to Attachment A for IA processing fees for faculty cases.
- g. Employment-based permanent residency petitions for staff and non-tenure faculty will be outsourced to an external attorney recommended by Texas Tech at the expense of the office/department. IA will work with the outside counsel to complete any needed internal documentation and postings for labor certification. The hiring office/department will be responsible for all attorney fees.

An international employee may elect to seek permanent residency status on his/her own and pursue self-sponsorship at his/her own cost.

**PROCEDURES**

1. Texas Tech offices/departments and employing units should contact TTU IA to initiate a request. A request form should be completed and forwarded to the dean and Provost and Senior Vice

President or the appropriate department head and vice president for approval. The form then should be filed with TTU IA.

2. TTU IA will coordinate the collection of information and supporting documents and the preparation of applications and petitions related to the immigrant application process.
  - a. TTU IA will discuss with the employing office/department and the prospective employee the most appropriate procedures for the immigrant application process. If petition needs to be outsourced (staff/non-tenure track cases), IA will coordinate the process among employee, department, and the attorney. Departments will be responsible for attorney fees and any other fees (i.e. advertising) required as part of the labor certification process.
  - b. If appropriate, the Department of Labor form ETA 9089, *Application for Permanent Employment Certification*, will be produced for labor certification. TTU IA has signature authority for form ETA 9089.
  - c. TTU IA will prepare and sign form I-140, *Immigrant Petition for Alien Worker*. The employing department is responsible for payment of required immigration fees.
3. Preparation of labor certifications and immigrant applications based on employment are the responsibility of the employer. Although an immigration attorney representing the employee may cooperate in the preparation of applications by providing assistance and advice to the employee, university representatives **must not sign** a *Notice of Entry of Appearance as Attorney or Representative*, form G-28, authorizing the employee's attorney to act for the university.
4. These policies and procedures do not relieve international employees of their responsibilities in maintaining their immigration status, nor do they limit the employee's right to be represented by competent legal counsel.

## 5. Authoritative Reference

[20 Code of Federal Regulation 655 Subpart H & I](#)

## 6. Right to Change Policy

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

[Attachment A: Immigration Services Fees](#)