

PROCEDURES FOR APPLYING FOR PERMANENT RESIDENCY THROUGH THE SPECIAL HANDLING PROCESS

Permanent residents are not citizens of the U.S., but unlike aliens in nonimmigrant visa status (H-1, J-1, etc.), they do not have to worry about visa expirations and extensions. They share many of the same privileges as citizens with some exceptions (e.g., they cannot vote or obtain a U.S. passport). The permanent residence process is rather long and complicated, but the college and you will be assisted at every step by the office of International Programs (IP).

The steps for a Special Handling green card application consist of:

- 1) obtaining a labor certification from the U.S. Department of Labor;
- 2) obtaining an approved preference petition from the USCIS and;
- 3) obtaining an approved adjustment of status application from the USCIS (unless you opt for consular processing).

Employment and international travel are normally not impeded during this process and H-1 status can normally be extended even beyond the sixth year if the green card process starts early enough.

Processing times for various stages are estimated based on recent cases.

STAGE 1: Labor Certification (2-4 months)

Labor certification must be obtained for individuals who are applying for permanent residence as “Aliens having advanced degrees”. This is obtained through the U.S. Department of Labor. The purpose is for the Department of Labor to certify that a fair job search was conducted and the U.S. workers (U.S. citizens or permanent residents) were given fair consideration. The IP office will prepare the application which is submitted electronically through a system called PERM.

For someone in a university teaching position, the Department of Labor will normally accept the recruitment already done by the university as being sufficient. Re-advertising will not be required if: 1) the position was nationally advertised in print, 2) you possess the required qualifications, and 3) the labor certification process was initiated within 18 months from the date the job was offered.

In order to initiate Labor Certification the hiring college and the employee will need to fill out questionnaires which can be found on this web site. IP uses these questionnaires to prepare the application. It is a long application which describes the position, the recruitment and contains information about the employee regarding his/her educational and employment history. In some cases the Department of Labor may decide to audit IP for information about the recruitment, but in most cases the application should be approved fairly quickly.

STAGE 2: Preference Petition (3-4 months)

There are many ways to apply for a green card. The two basic divisions are employment-based applications and family-based applications. Each division has several categories. The preference petition indicates to the USCIS which category UIS is requesting to be the basis for the application. For most faculties, it will be the second category of the employment-based division, or “Aliens having advanced degrees”. This petition (form I-140) is filed with the USCIS processing center in Lincoln, Nebraska. The employee will be asked to complete another separate questionnaire at this point to initiate the I140 application process.

At this stage IP requests the category and shows the USCIS that the employee has the qualifications required. For the second preference request, IP submits the approved labor certification along with documentation of the employee’s credentials. This will include recommendation letters, C.V., a copy of diploma/degree completion certificate and sample publications.

In most cases the employee may submit the Stage 3 papers at the same time as the preference petition, but he/she may choose to submit them later.

STAGE 3: Adjustment of Status (~18 months)

The adjustment of status is the formal request to change the employee’s status from non-immigrant to immigrant or permanent status. **An immigrant visa number must be available for you before submission of this final set of papers.** Normally a number is available unless the quota for your country is oversubscribed. The IP office will keep track of the visa number for each country and category, but the employee can check for him/herself at http://travel.state.gov/visa/frvi_bulletin.html (click on "Current Bulletin"). Visa number availability is determined by the employee’s preference category and place of birth. Note that for the first time in many years, some of the categories have become oversubscribed.

The adjustment of status application consists of a number of other documents such as photographs and medical exam results. These papers are submitted by mail to the USCIS processing center in Lincoln, Nebraska. The employee and his/her family can obtain work permission during the waiting period as well as permission to travel, although those in H-1 status only need special work or travel documents in certain instances.

The consular processing alternative. The employee has the choice to apply for an immigrant visa at a U.S. embassy or consulate abroad, rather than file for an adjustment of status. This option may be faster but can be more complicated to arrange. If the employee wishes to do consular processing, do not follow the instructions for adjustment of status. The employee will indicate on the I-140 questionnaire that he/she wishes to follow this route and indicates which

consular post should be notified of the I-140 approval. That post will then contact the employee with the forms and instructions.

NOTES

- **A green card will be valid for ten years. It can be renewed at the end of that time through a simple process.**
- **Spouses and unmarried children under 21 can normally apply for permanent resident status at the same time if they are in the U.S. Children under the age of 14 at the time of green card issuance must obtain an updated card after turning 14. NOTE: A spouse will not be eligible if there are obstacles in his/her visa history such as the two-year residence requirement.**
- **If the employee has a child who is likely to turn 21 before the adjustment of status application is approved, please bring it to the attention of the IP office.**
- **There are normally few travel restrictions during this process, but please consult the IP office before making any trips outside the U.S. to ensure that the employee has the proper documentation.**
- **After the green card arrives the employee can travel with only the card and a valid passport.**
- **If the employee will be out of the U.S. for more than one year, he/she will need to apply for a re-entry permit before departure, even if his/her passport is valid. It is almost impossible to retain permanent resident status if the employee is gone for more than two years.**
- **The employee will be eligible to apply for U.S. citizenship approximately five years after permanent residence status is approved or after three years if married to a U.S. citizen.**