



UNIVERSITY OF WISCONSIN SYSTEM

Immigration Overview

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Today's Objectives

- H-1B Basics
- EB-2 Special Handling
- HR Considerations



H-1B Status

- Position must require at least a Bachelor's degree in a particular field
- Person must have at least that degree
- Degree requirements must be common in the industry
- Must have an *offer* of employment as a professional in a specialty occupation*
- Employer and Employee Specific
 - Cannot accept payment from anyone other than the Department

Timeline for H-1B

- Offer accepted by May 1st at the very latest to allow for the individual to likely start at the beginning of the academic year.
- This assumes:
 - the new hire will act promptly upon our requests
 - premium processing the petition
 - individual is in the US and does not need a visa stamp

What does IFSS need to know?

- Changes in work location
- Changes in title, duties, percentage of employment
- Changes to salary unrelated to pay plan, normal progression or activities outside of their normal duties
- If they resign or obtain permanent residency

How long can they have H-1B status?

- Total Maximum: 6 years with exceptions
- Exceptions to 6 year maximum

1-year extension	Filed PERM or I-140 > 365 days ago
3-year extension	I-140 approved but cannot get PR because of backlog

Government Filing Fees

does not include any visa stamping fees at US consulate

Type of Fee	Amount	Required?	Who Pays	What is it for?
Petition Filing Fee	\$460	Yes, for <u>all</u> types of H-1B petitions	Hiring Unit	Processing the petition
Anti-Fraud Fee	\$500	Yes, but one-time only per employer	Hiring Unit	Fraud prevention and detection
Premium Processing Fee	\$2,500	Hiring Unit, when there is a documented business need Employee can pay this only when there is no documented business need	Hiring Unit, when there is a documented business need Employee can pay this only when there is no documented business need	Guarantees 15-day processing at USCIS only (not IFSS)

IFSS Fees Paid by UW-Green Bay

Fee Type 1	\$1750.00 per H-1B petition filed, \$400.00 for each H-4 family petition. This includes any TN and E-3 when an I-129 petition is filed.
Fee Type 2	\$4500.00 per permanent residency application filed.
Fee Type 3	\$100.00 per hour charge for work associated with audits, requests for evidence and other legal or regulatory issues.

Permanent Residency:

EB-2 Special Handling

A red, rectangular stamp with a distressed, ink-like texture. The words 'SPECIAL HANDLING' are printed in a bold, sans-serif font, stacked in two lines. The stamp is tilted slightly clockwise.

**SPECIAL
HANDLING**

University's Role in the Process

- Position meets DOL & USCIS standards
 - 100% full time permanent position
- National recruitment per DOL standards
- Labor Certification aka PERM
- I-140 and supporting documents

The final step, Adjustment of Status, is the employee's responsibility. The UW completes the Supplement J to the I-485.

IFSS interpretation of Department of Labor Standards

- Job announcement and ads should include “teach” in job duties
- Announcement has “outs” for non selected applicants
- Announcement and ads match
- Salary on and ads listed as commensurate with skills and experience



Special Handling Labor Certification (LC) Requirements

- Electronic and print ads must:
 - Be in a website or publication that is national in scope and a professional journal
 - Electronic ads must be posted for min. of 30 calendar days
 - Include title, duties & min. education, training & experience
- Must be a full time permanent position
- Must have a teaching component to position
- Must meet 100% of PWD
- Must be most qualified applicant in competitive national recruitment
- Must be filed within 18 months of date of selection

UW Sponsorship Not Available

- When no national recruitment was conducted
- When a minimally qualified US worker applies for the job
- When recruitment does not meet federal standards
- When not full time permanent position

Timeline for Process

- Eight months for Labor Certification—after its filed
- Ten to twelve months for USCIS to adjudicate I-140
 - 15 days for I-140 if use premium processing
- Six to ten months for I-485 Adjustment of Status
 - No premium processing for this last step
 - No University assistance
 - Only if visa number available

HR Considerations

Job Announcement

- *Recommendations:*
 - Should not list salary, should be negotiable
 - Education minimum PhD in X or related field
 - Preferences are implicit requirements per US Department of Labor
 - Include subjective objective requirements to help justify the hire
 - Ads must be consistent
 - Title
 - Duties
 - Minimum education, training and experience

Search and Screen Report

- Lists the names of the search committee members.
- Explanation of the process conducted to select hire.
 - HR drafts this for your review and revision.
- Signed by the search committee chair.
- A final report of the body making the recommendation of selection of the beneficiary (the Search Committee) after the completion of the process.



Hiring Authority (The Dean)

- Signed recruitment summary which includes the title and dates of the ads, what was done with the applicants' CVs, who was interviewed etc.
 - HR drafts for your review and revision.
- Signed statement outlining in detail the complete recruitment procedures undertaken
- Spreadsheet with the total number of applicants and the specific, lawful, job-related reasons why each applicant was not as qualified.

Communicating with Employees

- Campus decides, what, if any, petition will be filed
- Campus decides the status
- Consult HR and IFSS before having any discussions with potential hires regarding immigration sponsorship
- Cannot promise any immigration petitions will be filed



For what is the foreign national responsible?

- Prompt responses to IFSS's questions
- Full disclosure of past immigration situations
- Prompt filing of the I-485 for permanent residency and the filing fees
- Private attorneys' fees
- Fees for immigration services for the employee's family members
- Application costs for U.S. citizenship if they decide to naturalize

Questions?