Employment-based Permanent Residency for University of South Florida International Faculty

I. Purpose

To establish university guidelines and procedures for the sponsorship of employment based United States permanent residency (“permanent residency”) for qualified and eligible international faculty. This would facilitate the hiring of high quality international professionals who apply for various faculty positions and would ensure that the university follows consistent guidelines.

II. Statement of Guidelines

A. General Statement

As an employer, the University of South Florida may support permanent residency for full-time, regular international faculty in certain academic positions based on current United States immigration regulations.

University Deans, Department Chairs and Directors must consult International Services to initiate the permanent residence process for any international faculty. The university-sponsored application will be required to have the written authorization and approval of the employing department, the Department Chair, and the Dean of the College. In addition, the department must accept full responsibility for compliance with the Department of Labor’s strict rules for position recruitment and prevailing wage.

If International Services deems that the Department is able to support an international faculty for permanent residency, they will authorize the department to initiate the permanent residence application. Faculty initiating the permanent residence process without prior written permission from International Services risk having their application process delayed or terminated.

B. International Faculty Positions

The University may offer support for permanent residency applications to “permanent” full-time, regular international faculty job classifications at the University. Appropriate positions include professor, associate professor, and assistant professor. The University does not support post-doctoral fellows, lecturers, instructors, visiting professors, auxiliary or adjunct faculty for permanent residency since these positions are considered by the University to be temporary and do not always carry full University benefits.

Immigration regulations define "permanent" as a period of indefinite or unlimited duration in which there is an expectation of continued employment, unless there is good cause for termination. Notwithstanding the definition of “permanent” used in immigration regulations, all faculty are still subject to and governed by all employment rules, regulations
and procedures of the University of South Florida, including but not limited to regulations governing non-reappointment.

The faculty’s qualifications and university position must fit the requirements listed in one of the preference categories below. Requirements for each category are based on regulations contained in the United States Code of Federal Regulations Chapters 8 and 20 (http://www.gpoaccess.gov) and the Department of Labor Permanent Labor Certification (http://www.foreignlaborcert.doleta.gov/perm.cfm).

1. **Teaching or Non-teaching: Outstanding Researcher**
   a. The position may be non-tenure, tenure track or a research position.
   b. The faculty would use the first employment/preference category: Priority Workers (EB-1: Outstanding Professor/Researcher).
   c. No labor certification required
   d. Per US Immigration regulations [8CFR 204.5(i)(3)(i)], the faculty must have at least three years of teaching experience and/or research in the academic field and must be recognized internationally as outstanding in a specific academic area. This must be evidenced by at least two of the following: (NOTE: A strong petition would have the applicant meet at least four.)
      i. Receipt of major prizes or awards for outstanding achievement in the academic field.
      ii. Membership in associations in the academic field which require outstanding achievement of their members.
      iii. Published material in professional publications written by others about the applicant's work in the academic field.
      iv. Participation on a panel, or individually, as the judge of the work of others in the same or an allied academic field.
      v. Original or scholarly research contributions in the academic field.
      vi. Authorship of scholarly books or articles in journals with international circulation in the academic field.

2. **Faculty Teaching Positions: Special Handling**
   a. The position may be non-tenure or tenure track.
   b. The faculty would use the second employment/preference category: Advanced-degree Professionals (EB-2: Teaching and Non-teaching).
   c. Teaching positions are eligible for ‘special handling’ during the Department of Labor Certification that shortens the process. To qualify:
      i. The application must be made within 18 months of the job offer.
      ii. The search was based on a national advertisement/recruitment that included a reference to 'teaching’ and print advertisement in a journal of national circulation.
   d. Teaching faculty in the position 18 months after the date of the job offer would need to file as EB-1: Outstanding Researcher or EB-2: Advanced Degree professionals [see below].
3. Faculty Teaching/Non-teaching Positions: Advanced Degree Professionals
   a. The position must be eligible for non-tenure, tenure track, or research position.
   b. If the faculty does not qualify for either the ‘special handling’ category or outstanding researcher, the faculty would use the second preference category: Advanced-degree Professionals (EB-2: Teaching and Non-teaching).
   c. The faculty must be in full-time employment status at University of South Florida for at least 12 consecutive months in a “permanent” position before permanent residency status will be pursued.
   d. During the Labor Certification process, the US Department of Labor requires the employer to demonstrate that there are no US citizens or permanent residents who met the minimum requirements for the position and who are willing and able to accept the position. To demonstrate:
      i. The department must conduct a national recruitment search per USF Human Resources policy that includes an advertisement in a journal with national circulation and two Sunday print advertisements in a paper with local circulation.
      ii. The search results must include a list of sources of recruitment and a list of the number of US workers responding.
      iii. The department must provide evidence of the interview of all minimally qualified US applicants and the number of interviews conducted.
      iv. The department must specify the job-related reasons for not hiring each minimally qualified US applicant and specify the wages and working conditions offered to US applicants.
   e. If there are minimally qualified applicants available and willing to accept the position, then the faculty may be employed for the length of time that various non-immigrant statuses (J-1, H-1B for example) allow if permanent residency cannot be pursued.

C. Exceptions to Guidelines

To the degree that an exception to these guidelines is warranted, the written request from the College Dean for exception must be compelling and must be approved by International Affairs and the Provost’s Office, in writing prior to initiation of sponsorship activity.

III. Procedures for Filing Permanent Residency Based on Employment

A. Filing the Application

The university Dean, Department Chair or Director forwards written authorization and approval to International Services for assessment of eligibility based on the above guidelines. If deemed eligible, the department is authorized to file the permanent residence application on behalf of the faculty. USF General Counsel and by designation the International Affairs Dean and International Services Director are the only university officials authorized to sign any forms authorizing the outside counsel to act on behalf of the university.
In consultation with the hiring department, the designated counsel retained by the university shall be responsible for taking the following steps:

1. **Filing the Application for Labor Certification with the U.S. Department of Labor.**
   a. A Labor Certification is a formal finding that there are no U.S. workers willing, able, qualified and available for the position offered and that the terms of the employment will not adversely affect wages and working conditions of current faculty.
   b. The Labor Certification process is a lengthy one during which valid non-immigrant status must be maintained by the beneficiary in order to remain in the United States.
   c. It is filed using the Department of Labor’s online PERM system.
      i. International Services maintains the university’s PERM account. The outside attorney will work directly with International Services on this portion of the process.
   d. This step is not necessary for an application filed under the outstanding researcher category.

2. **File form I-140: Petition for immigrant classification with the U.S. Citizenship and Immigration Service (USCIS).**
   a. The Department Chair and/or College Dean are authorized to sign this document.
   b. This is the first step in the application for classification as an outstanding professor/researcher.

3. **File form I-485: Application for Adjustment of Status to that of a U.S. Permanent Resident with the U.S. Citizenship and Immigration Service (USCIS).**

**B. Application Costs and Attorney Fees**

The College or Department is required to pay all fees and costs associated with the Labor Certification process (Step One) and are encouraged to pay the remaining application costs and all associated fees for filing the application under these guidelines. The total costs including attorney fees for permanent residency applications vary based on the type of application. Please see the list of current estimated costs as negotiated with our designated counsel.

The College or Department is not required to pay the $1000 fee for Premium Processing or the fees for the I-539 application for dependent change of status or extension. In the event that the applicant wishes to pay these fees, they may do so.