

DEPAUL UNIVERSITY



University Sponsorship of Foreign National Employees

Category: Operations

Responsible Department: General Counsel

Responsible Officer: Vice President and General Counsel

Effective Date: 3/14/2016

Policy Summary

This policy sets forth the University guidelines regarding sponsorship of foreign nationals for temporary employment visas and/or applications for permanent residency based upon permanent employment within the United States. This policy does not apply to non-immigrant student visas (F-1) or exchange visitor visas (J-1). These visas are administered by the director of the International Students Office.

Scope

This policy affects the following groups of the University:

- Executive Offices
- Assoc. / Assist Vice Presidents
- Full-Time Staff
- Part-Time Staff
- Full-Time Faculty
- Part-Time Faculty
- Vice Presidents
- Deans
- Directors/Department Chairs

This policy applies to all faculty and staff members involved in the sponsorship and employment of foreign nationals.

Policy

To establish a uniform process whereby DePaul University will sponsor non-immigrants for temporary employment authorization and/or with applications for permanent residency based on permanent employment in the United States. This process must comply with current immigration

laws and regulations promulgated by the U.S. Citizenship and Immigration Services, formerly the Immigration and Naturalization Service (INS), the U.S. Department of Labor, and other pertinent federal agencies. Given the rapidly changing nature of immigration law, aspects of this Policy relating to the law and its effect on an individual faculty or staff member's case may change without notice.

The University is committed to a diverse workforce. Under certain circumstances as outlined below, the University will sponsor foreign nationals for temporary employment-based visas and/or for lawful permanent residency based on permanent employment in the United States. However, the University recognizes that it is not legally obligated to sponsor or otherwise financially assist any foreign national for employment authorization in the United States.

University sponsorship of a faculty or staff member is not a guarantee of continued employment. For example, University employment under Curricular Practical Training ("CPT") or Optional Practical Training ("OPT") is not a guarantee of University sponsorship for an H-1B visa. Similarly, employment under or sponsorship for an H-1B visa is not a guarantee that the University will sponsor the employee for lawful permanent residency ("green card") status. No right of entitlement accrues to an employee by virtue of this Policy, or by virtue of having received services under this Policy.

A. Initiation and Approval of Sponsorship Requests

Consideration for University sponsorship of foreign nationals requires an initial request by the appropriate Department Chair or Department Supervisor and must be approved by the Dean or the appropriate Vice President. Based on supporting documentation and relevant immigration laws, the Immigration Attorney will then make a determination regarding the viability of the case for sponsorship and the appropriate status, if any, to pursue on behalf of the proposed beneficiary.

In certain instances, the University will not honor requests for sponsorship of foreign nationals for employment. Such specific instances may include requests for sponsorship for employment in part-time, grant-funded, or other types of short-term positions that may be identified by the Immigration Attorney. Similarly, the University will not honor requests for sponsorship where an alternative avenue for retention of a lawful permanent residency exists. For example, where the foreign national is able to obtain residency status through a family member, the University will not sponsor the individual for permanent residency.

Approval of requests for sponsorship resides solely within the discretion of the University's Immigration Attorney, acting under the authority and direction of the General Counsel. No individual at the University may undertake sponsorship of foreign nationals under the auspices of the University except through the Office of the General Counsel and in compliance with this Policy.

The authority to prepare and execute immigration-related petitions/applications rests exclusively within the Office of the General Counsel with the primary signatory being the Immigration Attorney. No persons other than those authorized by the General Counsel are permitted to prepare or sign immigration petitions/applications on behalf of the University.

The Immigration Attorney will work in consultation with the sponsoring department or college and the proposed beneficiary to carry out the required actions necessary to complete the application for sponsorship.

1.) Sponsorship Requests for Non-Immigrant Temporary Employment Visa (H-1B/TN)

Deans/Department Chairs or Department Supervisors/Vice Presidents shall submit all requests for university sponsorship of a temporary non-immigrant employment visa to the Immigration Attorney as soon as they become aware of the need.

When a request for temporary work authorization is initiated by a department or college, in addition to the above requirements, the following guidelines apply:

The proposed beneficiary, if eligible, is encouraged to commence work under Optional Practical Training ("OPT") status before the first H-1B application will be initiated. Prior to OPT expiration, the employee and the position will be evaluated to determine the viability of an H-1B application.

Foreign Nationals from Canada and/or Mexico may be sponsored for a TN visa instead of an H-1B visa, if at the discretion of the Immigration Attorney and the General Counsel, such sponsorship is deemed to be in the best interest of the University.

According to current immigration laws, six months prior to the expiration of an employee's initial H-1B period, the Department and Immigration Attorney will evaluate the employee and the position to determine whether to pursue an H-1B renewal for an additional three years.

2.) Sponsorship Requests for Permanent Residency Based on Permanent Employment

Deans/Department Chairs must notify the Immigration Attorney of their desire to sponsor a tenure-track faculty member for permanent residency no later than twelve months from the date that the faculty member was originally offered the position. Department Supervisors/Vice Presidents must notify the Immigration Attorney of their desire to sponsor a staff member for permanent residency two years from their original hire date and no later than sixteen months prior to the expiration date of the employee's H-1B renewal.

When a request for sponsorship of permanent residency based upon permanent employment is initiated by a department or college, the Immigration Attorney will review the request for sponsorship using the following criteria:

A demonstrated long-term need for the position;

High job performance by the proposed beneficiary based on evaluations by the appropriate department representative;

An express intent by the proposed beneficiary to continue employment at DePaul;

A bona fide academic or business reason for the University to sponsor the proposed beneficiary; and Relevant immigration law.

In general, tenure-track faculty will be considered for sponsorship within 18 months of their offer letter date. Staff members will generally be considered for sponsorship after completing their second year of full-time employment at DePaul University. Even if an employee is eligible, however, approval for University sponsorship remains discretionary.

B. Responsibility for Payment of Sponsorship Fees

The department initiating the request for work authorization will be responsible for the payment of all filing fees charged by the federal government for the foreign national employee, and associated costs, including any premium processing fees incurred by filing on an expedited basis. The department will also be responsible for the payment of all advertising, credential evaluation, and other administrative expenses necessary to prepare the immigration forms filed on the employee's behalf. The Office of the General Counsel, on the other hand, will only be responsible for the payment of legal fees associated with the preparation and submission of these immigration forms.

Upon request, a foreign national employee being sponsored by the University for an employment-based visa may add family members to his or her visa petition. However, the University will not pay any fees whatsoever for these family members. Rather, the foreign national employee will be solely responsible for all filing, legal, administrative, or other fees incurred for including such family members in non-immigrant visa or permanent residency petitions.

C. Duty to Notify of Changes to Sponsored Employee's Employment Status

Once sponsorship has been approved and employment of the foreign national has commenced, the Dean or Vice President who approved sponsorship of the foreign national is responsible for apprising Human Resources and the Immigration Attorney of any changes in the foreign national's employment status in a timely fashion, including but not limited to: promotion, termination, any change to the foreign national's job description, any decrease in compensation, and/or resignation of employment.

Procedures

When an application for a non-immigrant or immigrant visa is filed, the Office of General Counsel will issue a budget transfer request to the initiating department or college to recover the immigration filing fees and administrative costs associated with the foreign national employee's sponsorship application. If necessary, the Office of General Counsel will likewise issue a billing request directly to the foreign national employee for any fees incurred on behalf of his or her family members, which the employee must pay within 30 days of issuance. Should the foreign national employee fail to make timely payment, the Office of the General Counsel reserves the right to take any and all steps necessary to recoup incurred costs, up to and including withdrawing the family member's visa petition(s) until receipt of payment, and/or requiring advance payment for any future costs recoverable under this Policy.

The Immigration Attorney will update procedures annually or as immigration laws change. These procedures will be distributed to Deans, Department Chairs, Vice Presidents, Human Resources and the International Student Office.

The Office of the General Counsel retains final authority on the approval and processing of all University-sponsored non-immigrant and immigrant visas.

Divisional Collaborations

Office of the General Counsel
Office of Human Resources

Contact Information

Immigration Attorney
Office of the General Counsel
(312) 362-8865

Appendices

[Definition of Terms](#)

History/Revisions

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