



TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER EL PASO

Operating Policy and Procedure

HSCEP OP: 70.09 Hiring and Immigration Sponsorship of Foreign Nationals

- PURPOSE:**
1. Define policies relating to the sponsorship of a Foreign National employee for both employment-based nonimmigrant and permanent residence petitions;
 2. Ensure excellence in the quality of services provided to Texas Tech University Health Sciences Center El Paso (TTUHSC El Paso) and Foreign National employees;
 3. Ensure consistency and accuracy in the representations made on behalf of TTUHSC El Paso to federal agencies;
 4. Ensure compliance with TTUHSC El Paso's employment policies and practices;
 5. Provide a reliable means of collecting and storing data on TTUHSC El Paso's Foreign National employees, as required by law, and for TTUHSC El Paso's own data collection needs.

REVIEW: This policy will be reviewed in February each year by the Managing Director, Immigration Services Office (ISO) with recommendations for revisions forwarded to the Vice President of Human Resources.

POLICY:

1. **Definitions.**

- a. **FN:** Foreign National. A person who was born outside the jurisdiction of the United States who does not have a US permanent resident card or US citizenship.
- b. **ICE:** Immigration & Customs Enforcement. A unit of the US Department of Homeland Security.
- c. **ISO:** Immigration Services Office at TTUHSC El Paso. Office responsible for all employer-based nonimmigrant and immigrant visa filings; TTUHSC El Paso's Exchange Visitor Program (EVP); and primary point of contact for detailed information about TTUHSC El Paso's immigration documents, processes and other immigration- related topics.
- d. **Nonimmigrant:** A FN who does not intend to remain permanently in the US, and who can demonstrate intent to return to his or her home country after a temporary period of time in the US.
- e. **Lawful Permanent Resident:** A FN who is lawfully admitted into the US as an immigrant. Other common terms include Permanent Resident and Green Card Holder.
- f. **Employment-Based Permanent Residence Petition:** Petition filed with USCIS to secure permanent residence for a FN employee. Petitions are usually filed by a US employer and require the US employer to provide evidence of a full-time offer of employment for an indefinite duration (i.e. employment relationship has no fixed end date).
- g. **Advance Parole:** Document containing reentry permit allowing a lawful permanent resident or conditional permanent resident to apply for admission to the US upon return from abroad during the permit's validity without the need to obtain a returning resident visa from a US Embassy or US Consulate.

- h. **OPT:** Optional Practical Training. Work authorization given only to foreign students in F1 or M-1 visa status, allowing them to engage in employment (practical training) directly related to their major area of study. OPT is given for a maximum of 12 months.
- i. **STEM OPT Extension:** A 24-month extension of work authorization given to certain F-1 students who have completed a period of OPT after receiving their degree. Only F-1 students who have completed a degree in a specifically listed science, technology, engineering, or mathematics (STEM) fields qualify for OPT-STEM.
- j. **USCIS:** United States Citizenship and Immigration Services Office (a unit of the US Department of Homeland Security).

2. **Sponsorship for Nonimmigrant Visa or Visa Status.**

- a. Employment-based nonimmigrant petitions currently sponsored by TTUHSC El Paso:
 - i. H-1B: a FN employee working in a “specialty occupation.”
 - ii. E-3: a FN who is a citizen of Australia working in the USA in a “specialty occupation.”
 - iii. J-1: exchange visitors.
 - iv. TN: citizen of Mexico or Canada working in the USA in certain designated professional occupations as noted in the [United States-Mexico-Canada Agreement \(USMCA\)](#).
 - v. O-1: a FN employees who can demonstrate extraordinary ability in the sciences, arts, business or education by sustained national or international acclaim and are coming to the US to continue work in the area of extraordinary ability.
- b. To ensure institution-wide compliance, ISO has been designated as the only representative to file nonimmigrant petitions on behalf of the institution. Private legal counsel may not file these petitions on behalf of the institution and cannot represent TTUHSC El Paso on any immigration filing.
- c. Sponsorship of a nonimmigrant petition is contingent upon both the TTUHSC El Paso hiring department and prospective FN employee providing the necessary documents and evidence required for the specific visa category. ISO will provide instructions and a required documents checklist to the hiring department and prospective FN employee as guidance. A nonimmigrant petition will not be filed for a FN until all required documents and evidence (as needed by USCIS to approve the visa petition) have been received by the ISO.
- d. After extending an offer of employment to a FN in need of immigration sponsorship to work in the US, the hiring department must contact ISO to determine if sponsorship is possible. ISO will review/evaluate the immigration history and current status (if any) of the FN to identify whether sponsorship will be successful, while also determining the best visa category to utilize. ISO will advise the hiring department after the immigration review/evaluation is completed.

3. **Sponsorship for Permanent Residence.**

- a. Employment-based permanent residence petitions sponsored by TTUHSC El Paso:
 - i. EB-1B: Outstanding Professor/Researcher.
 - ii. EB-2: Advanced Degree Professional, Exceptional Ability Professional and [National Interest Waiver](#) (this category will be evaluated on a case-by-case basis, and sponsored ONLY as-needed).
 - iii. EB-3: Professionals/Skilled Workers, including Schedule A petitions for Registered Nurses and Physical Therapists.
- b. To ensure institution-wide compliance, ISO is the only representative who can file or assist in

the filing of employment-based permanent residence petitions on behalf of the institution. Private legal counsel may not file these petitions on behalf of the institution and cannot represent TTUHSC El Paso on any immigration filing.

- c. Prior to commencing an employment-based permanent residence petition for a FN employee, ISO will confirm the employee's eligibility for permanent residence and determine the most appropriate process to follow. Conflicts with the current nonimmigrant visa status will be addressed and resolved.
- d. The FN employee and dependent family members must file their personal applications for permanent residence status, such as filing I-485, employment authorization card (EAD card), Advance Parole, etc. TTUHSC El Paso does not serve as legal representative to the FN employee or the qualified dependent family members with regards to their personal immigration applications.
- e. With the exception of the conditions mentioned below in subsection 'f', no petition for permanent residence will be initiated by TTUHSC El Paso until the FN has successfully completed at least twelve (12) consecutive months of full-time service. TTUHSC El Paso service during a full-time program of study at any academic level, does not count towards the 12 months of service requirement.
- f. The 12-month service requirement may be waived in extraordinary circumstances including not limited to:
 - i. FNs transferring to TTUHSC El Paso with less than 30 months (or 2.5 years) of time remaining on their current H-1B visa status cycle as of the date employment will commence at TTUHSC El Paso;
 - ii. FNs with a child in dependent nonimmigrant visa status who will reach the age of 21 in less than 30 months (or 2.5 years) as of the date employment will commence at TTUHSC El Paso;
 - iii. FNs holding faculty positions and/or with teaching responsibilities. The permanent residence process will begin for teaching faculty within twelve (12) months of the date of the first job offer letter received from TTUHSC El Paso. The Permanent Labor Certification Special Handling (PERM-SH) process will be used for the employment-based permanent residence filing unless clear evidence indicates that an alternative process should be used.

Extraordinary circumstances may be taken into consideration and evaluated by the ISO on an individual basis. All final decisions will be made by the Office of the President.

- g. A FN employee may elect to seek permanent residence status through self-petition. No self-petition for permanent residence may be signed by a TTUHSC El Paso employee as sponsor of the petition. A TTUHSC El Paso employee may provide a letter of recommendation (peer support letter) but cannot indicate or state that TTUHSC El Paso is sponsoring the self-petition for permanent residence. Any/all documents sent by outside attorneys with a request for signature, are required to be forwarded to ISO for review (prior to signing) to ensure the documents conform to institutional policy.
- h. ISO will ensure that the FN maintains valid nonimmigrant visa status during the permanent residence process to every extent possible. If circumstances do not allow for an extension of the nonimmigrant visa status, this information will be clearly communicated to the FN and the hiring department. If nonimmigrant visa status cannot be maintained, the FN employee will need to have a valid, unexpired EAD card to continue working at TTUHSC EL PASO El Paso.

4. **FN Employees with Employment Authorization Documents (EAD).**

- a. EAD cards are issued to FNs in various visa categories. Persons with a valid, unexpired EAD card may work in the US under the conditions that the EAD was issued. A FN employee with

EAD is personally responsible for the timely filing of his/her EAD card renewal application to continue employment at TTUHSC El Paso. If a FN employee with EAD card needs his/her department to sponsor a petition such as H-1B, TN, O-1, or J-1, ISO should be contacted six (6) months before the EAD card expires to ensure an immigration sponsorship assessment can be conducted.

- b. FN employees, who have an EAD card due to an approval of OPT or STEM OPT extension must utilize all available OPT and STEM OPT employment periods of time before receiving institutional sponsorship for an employment visa. Extraordinary circumstances may be taken into consideration and evaluated by the ISO on an individual basis. All final decisions will be made by the Office of the President.

5. **Sponsorship for FN Employee's Dependents.**

- a. TTUHSC El Paso only sponsors employment-based immigration processes. ISO does not file any petitions on behalf of any FN employee dependents.
- b. The FN employee may choose to seek assistance from an attorney (outside of TTUHSC El Paso) for their dependent(s) immigration petitions.

6. **Employment Verification and Reverification.**

All FN employees are required to ensure their employment-based immigration documents are renewed and extended in a timely fashion to allow for timely updating of all Human Resources and Payroll and Tax Services records. Failure to provide timely evidence of employment authorization may result in formal disciplinary action in accordance with institutional and TTUS policies.

7. **Legal Representation.**

Irrespective of any personal licensures, certifications and/or academic degrees held, members of the ISO may not represent TTUHSC El Paso in any legal capacity at any time. All legal services, advice and representation is strictly reserved for the Office of General Counsel.

8. **Right to Change Policy.**

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