Georgia State University Policy

6.10.57 Sponsorship for U.S. Lawful Permanent Resident Status & H-1B Specialty Occupation

Policy Summary

All institutional units are required to utilize the services of the Office of International Students and Scholars for all immigration petitions on behalf of International Scholars.

Full Policy Text

Permanent Residency
In a memorandum sent on 19 May 2004 from the Associate Provost to all Deans, the Associate Provost indicated that "in order to reduce risk to the university, Georgia State units are required to use the services of ISSS" (International Student and Scholar Services or International Services) for all immigration services for international scholars. The 19 May memorandum also established a schedule of fees for international scholar services (see Addendum A). This includes the authority to submit employment-based adjustment of status petitions to the U.S. Citizenship & Immigration Services (USCIS) on behalf of foreign nationals seeking U.S. Lawful Permanent Resident (LPR) status.

There are certain employment-based permanent residency petitions that require a job offer letter to be submitted from, or on behalf of, the University. Pursuant to University guidelines and policies, as well as Federal government regulations and requirements, International Services has the authority to accept or decline the filing of such petitions that require a job offer letter. There are other employment-based petitions that do not require a job offer letter or employer sponsorship. With regard to these cases, the foreign national may choose to submit a petition on their own and/or with the assistance of an attorney, without any employer sponsor. However, even in these cases that do not require an employer sponsor, it is extremely important that International Services is aware of the filing since it may have serious implications on the international’s status within the United States.

International Services MUST approve, sign, and submit the petition to USCIS for the following preference categories and must process them in-house unless International Services authorizes that the University system of Georgia (USG) designated outside attorney assist: [see note below]

EB-1(B): Outstanding researchers and professors who are internationally recognized, have a minimum of three years of experience, and have been offered a tenured, tenure-track, or long-term research position comparable to tenure-track at a university or research institution. No labor certification is required. A job offer IS REQUIRED.
EB-2: Members of the professions holding advanced degrees or aliens of exceptional ability in the sciences, arts, or business. "Advanced degree" is defined as any academic or professional degree or foreign equivalent above the U.S. baccalaureate. In some cases, a baccalaureate plus five years of appropriate experience can be counted as a master’s degree. A Permanent Labor Certification and a job offer ARE REQUIRED.

EB-3: Skilled workers, professionals, and other workers. Professionals who do not hold advanced degrees, but who hold licenses, certificates, or other professional qualifications. A Permanent Labor Certification and a job offer ARE REQUIRED.

International Services MUST be informed of an international’s filing for any of the following preference categories, but International Services is not responsible for the filing of the petition with USCIS since no employer sponsor is required:

EB-1(A): Persons of extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and who will prospectively be of substantial benefit to the United States. No labor certification is required. A job offer is NOT required.

EB-1(C): Multi-national executives and managers who have been employed outside of the United States for at least one year within the three years immediately preceding entry into the U.S. and are or will be employed in an executive or managerial capacity for that same employer or its subsidiary, branch, or affiliate in the U.S.

EB-2 (National Interest Waiver): Aliens of exceptional ability in the sciences, arts, or business whose presence and activities in the U.S. are in the national interest. A job offer is NOT required and the labor certification is waived.

Criteria for Immigration Sponsorship by Georgia State University
Pursuant to internal Georgia State University policy, the following criteria must be met in order to establish eligibility for sponsorship for U.S. Lawful Permanent Resident status:

Staff: Staff members must hold a permanent, full-time position at the University and must have been employed at Georgia State University in H-1B or O-1 visa classification for at least two years in order to be eligible for sponsorship by the University. There are no exceptions to this policy for staff members.

Faculty: All Faculty members and any teaching positions considered a permanent appointment are eligible to begin the permanent residency process as soon as they are under Georgia State H-1B sponsorship.

Research Positions: Because research positions are generally not tenure-earning, USCIS has defined "permanent" as a term of indefinite or unlimited duration in which there is an expectation of continued employment, unless there is good cause for termination. Researchers may use the phrase "Her appointment may be considered as permanent, in accordance with the regulations found at 8 CFR 204.5(i)(2)." Postdoctoral positions will not be considered for Permanent Residency.

Exceptions to the above criteria are considered for extraordinary circumstances on a case-by-case basis by the Director of International Services. A request for an exception must be submitted to the
H-1B Temporary Worker in a Specialty Occupation
The H1-B visa category is a temporary work visa for non-U.S. workers in an occupation that requires at least a bachelor’s degree or the equivalent at the entry level. The employee’s bachelor’s degree must be related to the specialty occupation in which the employee is working. At the University, H-1B status is typically used for tenure-track faculty, academic researchers, research associates, and professional staff. It is not available for employees in secretarial, clerical, office and administrative support positions. Georgia State will sponsor employees for the H-1B status when the position requires a Bachelor’s degree fitting the occupational field normally required for such a position.

In order to obtain H-1B status for an employee:

- the employee’s bachelor’s degree must be related to the "specialty occupation" in which the employee is working;
- the employer must document the appropriateness of the wages to be paid, the duties and responsibilities of the position to be filled, and the employee’s qualifications to fill that position;
- a prevailing wage declaration must be made to the Department of Labor that describes the position and not the employee.

[Note: If the department, school, administrative, office or foreign national is authorized by International Services to retain the services of an attorney for any of these categories, International Services must sign any formal documentation as the official representative of the University. Other faculty members and/or staff members are not authorized to sign on behalf of the University. In addition, the foreign national must give the attorney permission to release information about the petition to designated International Services staff upon request. Any attorney fees incurred will be the responsibility of the individual beneficiary and/or their department.]

Administration of Policy

Mandating Authority:
Administrative Council

Responsible Office(s):
International Student & Scholar Services, 252 Sparks Hall, 3-2070

Responsible Executive(s):

Policy History
Approving Body: Administrative Council

Rationale or Purpose

Immigration services for international scholars will be a fee-based service provided by International Student and Scholar Services (International Services) in conjunction with Classification and Employment--where necessary. This will go into effect 1 July 2004.

Rationale: Learning Has No Borders is the vision of International Student and Scholar Services at Georgia State University. The scholar aspect of that vision supports the strategic teaching and research missions of Georgia State University through immigration services that make possible the presence of international scholars from around the world.

In the current fiscal environment in the State of Georgia, the support and expansion of those services will only be possible by moving to a fee-based structure. The fees charged will enable International Services to maintain professional staffing to support this work and represent a savings to the University by eliminating the need for outside legal counsel. Georgia State departments will be required to utilize the on-campus service and no outside counsel may be hired. The visa options and procedures are described in the full policy statement. Fees listed are in addition to any fees that must be paid directly to the appropriate federal agency.

Additional Information

General Application Procedures

The following steps must be followed in order to be considered for sponsorship for U.S. Lawful Permanent Resident status by Georgia State University:

1. The department seeking to sponsor the foreign national must contact International Services to schedule an appointment between the foreign national, the faculty sponsor and/or department administrator, and the International Services scholar advisor.
2. Upon review of the foreign national’s credentials and the University criteria for sponsorship, the International Services scholar advisor will make a determination regarding whether or not the foreign national meets University and Federal guidelines for sponsorship. In extraordinary cases, the Director of International Services may be required to make a final determination.
3. If the International Services scholar advisor determines that the foreign national does NOT meet University and Federal guidelines for sponsorship, the scholar advisor will notify the faculty sponsor and/or department administrator in writing and recommend other options.
4. If the International Services scholar advisor determines that the foreign national does meet University and Federal guidelines for sponsorship, the scholar advisor will notify the faculty sponsor and/or department administrator in writing and include a statement regarding which LPR preference category is most appropriate. Georgia State University will only pursue one type of permanent residency petition at a time for any one foreign national.
5. Following a favorable determination, the sponsoring department and the foreign national may begin gathering and submitting all required forms and documentation pursuant to the preference category in which they will be applying.

Please visit the web page of the Office of International Student and Scholar Services for information on fees.
Additional Helpful Resources