



Division of Human Resources
North Carolina Agricultural and Technical State University
Employment-Based Permanent Residence (PR)

PERMANENT RESIDENCE OVERVIEW

The Division of Human Resources (DHR) facilitates the administrative and regulatory process for permanent resident petitions on behalf of North Carolina A&T State University to ensure accuracy and consistency of University information that is sent to the U.S. federal government; also to certify that the employee meets the criteria for sponsorship.

In compliance with state law, the University does not authorize outside attorneys to represent its interests. **Only the Provost and Vice Chancellor for Academic Affairs may sign forms related to employment-based permanent residence applications filed on behalf of the University.** Immigration petition applications and/or paperwork signed by faculty, supervisors, principal investigators, department chairs and/or deans/vice chancellors is not considered legal and binding and therefore, do not represent the support of the University. **Departments should never promise sponsorship before hiring, during the interview or after selection for employment. Such promises and/or commitments will not be honored by the University.** Any commitments to sponsor a foreign national employee for permanent residency may not be made without following established guidelines in accordance to University policy and the approval from the Office of the Provost. The University reserves the right to decline permanent residence sponsorship. Employees (scholars) may hire attorneys to assist with applications for permanent residency that **do not** require sponsorship by the University.

As a general rule, the University will not support permanent residence applications for other EPA occupational classifications (outside of teaching and research). However, all requests for exception must be filed through the Division of Human Resources and will be collaboratively discussed with the Provost and Vice Chancellor of Academic Affairs for sponsorship determination. Under no circumstance does the University sponsor State Personnel Action (SPA) positions for permanent residence.

NCA&TSU SPONSORSHIP POLICY (At-A-Glance)

NCA&TSU sponsors certain faculty (professors) and researchers for Permanent Residency. The following criteria must be met for an individual to be recommended and sponsored.

1. The position must be permanent and full time. *(Students, postdoctoral scholars, visiting scholars/faculty, interim/acting positions, temporary and part-time employees are not eligible for sponsorship)*
2. The individual must already be employed in this permanent position. Pending promotions must be finalized before the initiation of any filing procedures.
3. The employee must be employed with NCA&TSU for at least one year. This one-year waiting period is the policy of the University. This requirement is waived for tenured and tenure-track employment.
4. The department must intend to employ the employee for at least three additional years from the date of petition submission or an indefinite term until the Form I-140 is adjudicated by the United States Citizenship and Immigration Service (USCIS). Funding for the position must be guaranteed. The permanent residence sponsorship process may take at least three years or longer, and the job should be available to the employee at the end of this process.
5. The approval of the Supervisor, Department Chair, and Dean/Vice Chancellor must be obtained. Although general information regarding permanent residency procedures and categories may be discussed beforehand, the Division of Human Resources will not initiate NCA&TSU-sponsored permanent residency applications until approval is received from the Provost and Vice Chancellor for Academic Affairs and all DHR receives all required documentation to support the petition.

Please note that all applicable University policies with regard to employment at NCA&TSU apply, and nothing in this process or document implies otherwise.

ALTERNATIVES TO NCA&TSU SPONSORSHIP

If an employee does not qualify for NCA&TSU sponsorship, s/he may be able to self-petition under another category that is not employment-based and does not require support or sponsorship by the University or employer sponsorship.

EMPLOYMENT-BASED CATEGORIES

There are five employment-based permanent residence categories; each requiring degrees of supporting documentation. Employees approved for sponsorship through NC A&T State University will fall under two (2) of the categories:

1. EB-1 Priority Workers (No Labor Certification Required)
 - a. Outstanding Professor and Researcher:
 - i. Nationally and internationally recognized in academic field
 - ii. Considered outstanding in 3 of 6 criteria categories
 - iii. Minimum of 3 years experience in the field
 - iv. Must be tenured or tenure-track
 - v. Must be employed in a permanent full-time position

This classification is for individuals who have made significant original contributions to his or her field and who are nationally/internationally recognized.

2. EB-2 Advanced Degree Professionals and People with Exceptional Ability (Labor Certification Required)
 - a. Special Handling Labor Certification (for teaching faculty only)
 - i. Must have teaching duties that involve classroom teaching (student based)
 - ii. Must have at least three (3) years of teaching experience
 - iii. Must have been selected through an open competitive search process
 - iv. Must meet prevailing wage
 - v. Must meet the Department of Labor (DOL) criteria for selection
 - vi. Must be employed in a permanent full-time position

INITIATING SPONSORSHIP PROCEDURES

The employee and department chair should meet to discuss the opportunity of permanent residency sponsorship. The department should complete the **Recommendation for Permanent Residence Sponsorship Form** and advance the recommendation up to receipt in DHR. The request will be reviewed in the Division of Human Resources to determine eligibility and forwarded with an official case assessment to the Office of the Provost for final review and sponsorship determination. The Provost and Vice Chancellor of Academic Affairs must approve NCA&TSU sponsorship before DHR may begin to initiate the permanent residence process. **The University reserves the right to decline permanent residence sponsorship as deemed necessary for the best interest of the University.**

Upon receipt of the recommendation for permanent residency sponsorship, the Student and Foreign National Employment Manager will complete a thorough assessment of the submitted documentation. During the review, it will be determined which (if any) employment-based permanent residency category the employee meets the eligibility criteria for sponsorship.

Once the employment-based permanent residency recommendation has been approved by the Office of the Provost, the Student and Foreign National Employment Manager will provide the necessary instructions and documents to the Department Chair and Employee.

THE SPONSORSHIP PROCESS

There are two or three steps in applying for permanent residency, depended upon the elected category; the University is only liable for process Steps 1 and 2. The foreign national employee is independently responsible for Step 3.

1. **Labor Certification** is a process designed to establish, to the satisfaction of the U.S. Department of Labor that the permanent employment of a foreign national will not take away a job from a minimally qualified U.S. worker. This process involves placing advertisements (i.e. competitive recruitment and selection procedures), as well as the evaluation of these responses. The Labor Cert process alone may take 6-12 months. (Note: A prevailing wage determination from DOL is required prior to submitting the Labor Certification. The process timeline stated in this section does not include allotted time for the prevailing wage.)

Under the EB-2 Advanced Degree Professionals and People with Exceptional Ability – Special Handling category, the University must compile a PERM Audit File as required by federal law. The Division of Human Resources will not initiate any portion of the filing activities for the employment-based petition under Special Handling or the Labor Certification process without receipt of all documents from the department required to complete the PERM Audit File. The sponsoring department is responsible for gathering and submitting all required documents to complete the

PERM Audit File. The Division of Human Resources will provide to the sponsoring department documentation that outlines specific information required to complete the PERM Audit File.

Note: This step is not required if filing under the Outstanding Professor and Researcher category.

2. DHR files an **I-140 Immigrant Petition** with U.S. Citizenship and Immigration Services (USCIS) requesting to classify the employee in one of the two employment-based categories sponsored through NCA&TSU. If the classification being sought requires a Labor Certification, this petition may not be filed until the Labor Certification has been approved.
3. The employee and his/her dependents file the **I-485 Adjustment of Status** (this application is an independent action/cost of the employee) applications with USCIS. In some cases, the Adjustment of Status application may be filed concurrently with the University's immigrant petition (Form I-140). In other cases, there may be a long wait before the employee can file their adjustment of status application. The priority date (the date the labor certification application was filed or if exempt from the labor certification, the date of the Form I-140 petition was filed) and the employment-based preference category determined this. **(It is highly recommended that the employee consult with an Immigration Attorney to discuss and to determine the eligibility to file. DHR does not provide any consultation or advice regarding the Adjustment of Status process.)**

The State Department publishes a monthly Visa Bulletin indicating who is eligible to adjust status (refer to http://travel.state.gov/visa/visa_1750.html).

Any change in employment status during the application process (i.e. reduction of percentage of time, leave of absence, change in job title or duties, or termination) could result in withdrawal of the petition.

PROCESSING TIMES

The processing time for permanent residency varies. Priority Workers may finish the process in 1 to 2 years while the other classifications can take at least 3 or more years.

FEES

All petition fees (cost) associated with filing the Form I-140 must be paid by the department. The fees for the Form I-485 and any accompanying applications are paid by the employee. Fees and filing locations are subject to change per notification from USCIS.

The cost to file Form I-140 is **\$580.00**. The University issued check should be made payable to:

U.S. Department of Homeland Security
USCIS Dallas Lockbox
P.O. Box 660867
Dallas, TX 75266

If this petition qualifies for premium processing and the sponsoring department request such filing, there is an additional cost of \$1,225.00 (to be paid by department). The use of funding is not recommended for premium processing, unless the employee is under extreme circumstances to maintain employment authorization through NCA&TSU. Please contact the foreign national employment manager to discuss further.

DISCLAIMERS

NC A&T State University does not guarantee the approval of the Labor Certification or the Form I-140 for permanent residence. The information submitted to both agencies is that provided by the sponsoring department and the employee. The employee understands and accepts the final decision of USCIS, along with the department and University.

This handout is intended to provide basic, general information and should not be considered to cover all situations and circumstances. In addition, this information should not be used as a substitute for professional advice from qualified immigration specialists/counselors.