Immigration

The Office of Human Resources coordinates with any A-State department interested in hiring international faculty and/or staff.

The Employee Relations and Immigration Specialist assists department heads with the procedures involved in securing Legal Permanent Residency and H-1B approval for international faculty and staff members in specialty occupations.

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For information regarding International Student Employment, please contact the Office of International Programs at 870-972-2329 or visit their web site.

- H-1B
- Legal Permanent Residency

H-1B

H-1B

This information is for Arkansas State University hiring departments that are interested in hiring a foreign national. This information is also for current foreign national employees at A-State. This information does not constitute legal advice.

H-1B, or Temporary Worker, nonimmigrant status may be granted to a non-U.S. resident who has been offered a professional-level position in the United States. For A-State H-1B sponsorship, the position must require at least a bachelor's degree, and the individual must possess at least a bachelor's degree. Experience cannot be substituted for either requirement.

In order for a person to obtain H-1B status, the prospective employer must file a petition with the U.S. Department of Homeland Security/ U.S. Citizenship and Immigration Services (USCIS) [formerly INS]. The Immigration Specialist for Faculty and Staff files all official H-1B requests for Arkansas State University after receiving a formal request from the hiring department. **It is very important for the Department Head to understand the U.S. laws and regulations related to an H-1B status before submitting an H-1B Request to the Immigration Specialist for Employment.**

A hiring department can initiate the H-1B process by completing a H-1B Information Sheet and submitting this to the Immigration Specialist for Faculty and Staff. The department should further refer to the information and forms regarding the H-1B petition process found on this website and contact the Immigration Specialist with questions.

Processing times for H-1B petitions vary, from three months to up to one year; please note that much of the processing time is beyond the control of the Immigration Specialist. If H-1B status is being requested for an individual outside of the United States, processing times are significantly longer, and departments should be mindful of this when planning for employee start dates.

It is the responsibility of the hiring department to notify the Immigration Specialist, in a timely manner, of the request for H-1B status for a new employee or for an extension of status for an existing employee. Hiring departments and foreign national employees will also be expected to timely provide the Immigration Specialist with requested documentation necessary for the petition process.

H-1B Fee Information

Any costs associated with the filing of H-4 dependent petitions must be paid by the beneficiary; the University has no obligation for these fees.

H-1B Initiation by Department and Foreign Employee

The following form must be submitted by the sponsoring department to the Immigration Specialist to initiate the H1B process.

- H-1B Information Sheet
- Required Documents for H-1B Application (listed below)

Required Documents for H-1B Application:

From Prospective H-1B Employee:

1. Both sides of I-94 card
2. Biographic and Visa pages from passport
3. Copy of all I-20's and DS-2019's
4. Copy of all EAD cards
5. Copy of all I-797's (if applicable)
6. Curriculum Vitae (resume) with publication list
7. Copy of highest academic degree and previous degrees and transcripts. If the transcript and the diploma are from outside the US, a credential evaluation must be submitted. (ASU can obtain at the expense of the sponsoring department)
8. Proof of '2 year home residency requirement completed' (only applicable if J-1 status and subject to 2 year home residency requirement). USCIS waiver is acceptable.
9. Copy of the most recent pay stub of current employer (if employed).

From Sponsoring Department:

1. H-1B Information Sheet
2. Optional Premium Processing fee of $2500 (optional fee for faster processing)

From Dependents (if applicable):

1. Form I-539 prepared and signed by the spouse for a change of status or extension of status to coincide with the petition dates for the H-1B beneficiary.
2. Form I-539 fee
3. Copy of both sides of the dependents' I-94 card
4. Copy of dependents' biographic and visa page in passport
5. Copy of marriage certificate (if dependent is a spouse)
6. Copy of birth certificates (if dependent is a child)

Change in H-1B Beneficiary Job Duties, Work Location, or Resignation/Termination of Employee

The Employing Department is responsible for notifying the Immigration Specialist for Employment if the H-1B beneficiary's job duties change, if the location of employment has changed, or if the H-1B beneficiary resigns or is terminated from his/her position. A change in job duties, job location, resignation, or termination of the H-1B beneficiary creates certain legal obligations on the part of the University to amend/revise/revoke documentation that was filed pertaining to the H-1B beneficiary's status.

Return Transportation of Alien

If the employee is dismissed before the end of the authorized period of H-1B employment, the sponsoring department will be responsible for paying the reasonable costs of return transportation to the employee's home country. This is required by USCIS regulations to ensure that the non-resident international will not be stranded in the U.S. without being able to return to his/her home country.

A-State International Travel Policies for H-1B Employees

Foreign national employees currently maintaining H-1B status must check in with the Immigration Specialist for Employment at least two weeks prior to engaging in international travel. The purpose of this policy is to ensure that employees have all of the proper documentation to return to the U.S. and to ensure that employees are aware of the potential risks of international travel.

> **Travel Warning: it is likely that a foreign national employee will encounter significant wait times when applying for a re-entry visa to the U.S. at the embassy/consulate abroad. If this situation arises, there is nothing that Arkansas State University can do to assist the employee, aside from providing the employee with paperwork documenting his/her current non-immigrant status. Wait times are a direct result of increased U.S. security measures and are unavoidable. Please consider that such wait times may impact your employment in that you may be delayed in resuming your job duties.**

Legal Permanent Residency

Information on U.S. Permanent Resident Petitions

Arkansas State University will consider sponsorship of eligible employees for legal permanent resident status in accordance with its Procedures on Permanent Residency. The Immigration Specialist for Faculty and Staff will guide the processing and preparation of documentation related to the Legal Permanent Residency petition; however, significant assistance and involvement from hiring departments and employees will be required. Please be aware that some petition options have a limited timeframe in which to be filed; therefore, departments are encouraged to contact the Immigration Specialist for Faculty and Staff as soon as they make a determination to sponsor an individual.

The sponsorship process begins by submitting the Authorization to Engage form; this is a formal request from the hiring department. Certain employees are not eligible for sponsorship under A-State policy. Departments should review the policy carefully before discussing Legal Permanent Residency sponsorship with an employee. Departments are encouraged to contact the Immigration Specialist for Faculty and Staff with any questions at 870-972-2680 or by email.

Employees interested in sponsorship should first discuss this with their department. The Immigration Specialist for Faculty and Staff will not discuss Legal Permanent Residency sponsorship options with employees unless a formal request has been made by a department and approved by the University, as outlined in the University policies and procedures.

Permanent Residency Application Process

In order for a foreign national faculty, staff member or researcher to obtain permanent residence status, they have to go through a three-step process. The whole process may take several years, depending upon the type of immigrant category and the country of birth. **When the foreign national qualifies for the EB-1 category, it will not be necessary to complete the first step; proceed directly to step two (filing the I-140).* The steps are listed below:

1. **Labor Certification -** in the first step, the Labor Certification Application is submitted by Ogletree to the Department of Labor for certification. USCIS approves the employment-based petition filed by A-State as the petitioner. This may take 8-10 weeks. A-State will cover the costs associated with the Labor Certification as well as the attorney fees, as mandated by the Department of Labor.
2. **Form I-140: Immigrant Petition for an Alien Worker –** in the second step, the applicant will continue the process with Ogletree. Form I-140, Petition for Alien Worker, will be filed.

3. **Form I-485: Adjustment of Status (AOS)** – in the third step, the process will continue with Ogletree Law Firm. The fees plus any attorney fees associated with the filing is paid by the faculty or staff member. Adjustment of status is submitted to USCIS via form I-485, Application to Register Permanent Residence or Adjust Status. The USCIS conducts a series of background checks (including fingerprinting for FBI criminal background check and name checks) and makes a decision on the application. Once the adjustment of status application is accepted, the foreign national is allowed to stay in the United States even if the original period of authorized stay on the Form I-94 is expired, but he is not allowed to leave the country until the application is approved or rejected. If the foreign national has to leave the United States during this time, he/she can apply for travel documents at the USCIS with form I-131, also called Advance Parole. If there is a potential risk that the applicant's work permit (visa) will expire or become invalid (laid off by the employer and visa sponsor), while he/she is waiting for the decision about his/her application to change status, he/she can file form I-765, to get Employment Authorization Documents (also called EAD) and be able to continue working legally in the United States. Once the application is approved, the alien becomes a Legal Permanent Resident, and the actual green card is mailed to the foreign national’s last known mailing address.

Resources and Documents Related to A-State's Permanent Residency Sponsorship Process:

- A-State's Procedure on Permanent Residency Support
- A-State's Immigration Policy
- Authorization to Engage