

Employee Immigration Services

Human Resources

A variety of sources were consulted when compiling these materials, including electronic and written documents from governmental agencies and public and private institutions of higher education, including Rice University, The Ohio State University, and Cornell University.

Before We Begin, Please Remember

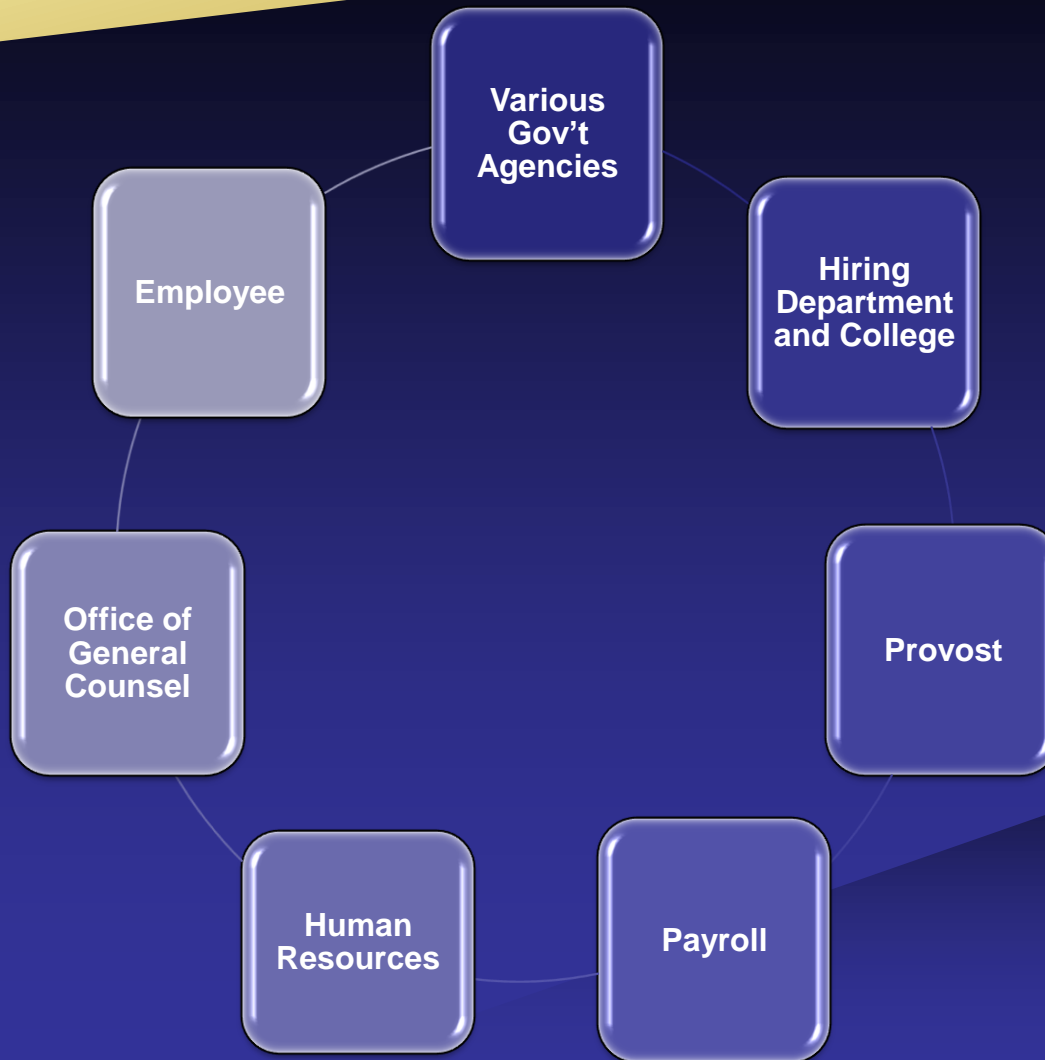
- This is not a “one size fits all”. Individuals and hiring departments bring unique factors to each case.
- Each time you seek University sponsorship for an immigrant or non-immigrant visa, please check forms and flowcharts for updates. Changes will be made to University procedures in response to changes in federal immigration law and regulations.

Changes to Immigration Services at UA

1. UA now has a rule defining when sponsorship of a foreign worker is appropriate.

2. Immigration issues for employees (other than J-1 Exchange Visitors) are now handled through Employee Immigration Services in Human Resources. Office of International Programs will continue to handle J-1 Exchange Visitor visas.

Who is Involved?



Key Definitions

Non-Immigrant Visas

H-1B
TN
O-1
E-3
J-1

Permanent Residency (PR)

Immigration (permanent) can be based on employment offer in a permanent position. Most often used for tenure-track faculty.

University-Sponsored PERM

In some cases, UA must test the market to prove there are no qualified U.S. workers available before application for permanent residency can be filed.

H-1B and J-1: The Most Common Non-Immigrant Visas at UA

H-1B Highly Skilled Specialized Knowledge

- Temporary, non-immigrant status used for fields requiring highly skilled specialized knowledge.
- Bachelor's Degree or higher (or equivalent).
- Dual intent allowed (can intend also to seek permanent residency).

J-1 Exchange Visitors (Professors and Research Scholars)

- Must have appropriate academic credentials.
- Participating in program that fosters international exchange of ideas and collaborations.
- Temporary—3 years research or teaching. Extensions may be granted for 3 years. Not used for tenure-track; no dual intent allowed.

Other Non-Immigrant Visas

E-3 (only for Australians)

- 2 year renewals, indefinitely
- LCA only, consular filing
- Spouse and child work permits

TN (Canada/Mexico)

- Mexican/Canadian citizens
- Unlimited extensions of one year
- Residence outside U.S.
- One year job offer in listed occupation
- Bachelor's degree/license in that field
- See chapter 16 of NAFTA and 8 C.F.R. 216.4

Other Non-Immigrant Visas

O-1 “Extraordinary Ability”

- Temporary, term of employment should be 3 years or less (although multiple 1 year extensions allowed)
- Eight criteria for classification (need 3 of 8)
 1. Receipt of a nationally or internationally recognized prize for achievement in field.
 2. Membership in association in field that requires “outstanding achievement” of their members.
 3. Material published about applicant in major trade publications or other major media.
 4. Applicant serves as a judge of others in field either individually or on a panel.
 5. Original, scientific, scholarly, artistic, athletic, or business-related contributions of major significance in field.
 6. Authorship of scholarly articles in field.
 7. Performing a critical or leading role for organizations that have a distinguished reputation.
 8. Commanding a high salary in field.

Which Visa is Best?

Faculty

Tenure-Track faculty usually will use H-1B and/or apply for permanent residency. Some will require PERM process. Lecturers and non-tenure track faculty usually will use O-1, H-1B or J-1 Exchange Visitor Visas.

Postdocs

Most will use H-1B non-immigrant visas.

Staff

Most will use H-1B non-immigrant visas. If they desire permanent residency, most will require PERM process.

PERM Not Always Necessary for Employment - Based Permanent Residency

1. PERM is a labor certification process that tests the market for qualified U.S. workers.

2. Employment- Based Permanent Residency does not always require PERM (e.g. exceptions for “priority workers” such as “outstanding researchers or professors”, or persons with “extraordinary ability”).

3. HR will work with legal counsel to determine which procedures are required.

Employment Based (EB) Permanent Residency at UA

Priority Workers

- Extraordinary ability (no job required)
- Outstanding professors & researchers (usually for tenure-track positions)

Advanced Degree Holders

- Professionals with advanced degrees
- Exceptional ability in sciences, arts & business (job offer and labor certification required).

I-140 Immigrant Visa Petitions

- Three types of Employment Based (EB) Priority Workers
 1. EB-1-1 Extraordinary ability aliens
 2. EB-1-2 Outstanding professors and researchers
 3. EB-1-3 Multinational executives and managers
- Labor certification not required for any EB-1 Priority Workers
- EB-2
 - Advanced degrees
 - Exceptional ability in sciences, arts, business
 - Labor certification required except National Interest Waiver

Highlights—Faculty H-1B

1.

Flowchart
Form—“H-1B Department Visa Request Form”

2.

Special attention to:

- 1) Department must consult with HR before initiating process,
- 2) Department must pay \$500 for anti-fraud fee and \$320 for filing fee,
- 3) Posting Notices & Public Access File required—Departments must work with HR,
- 4) If termination of employee—must inform HR immediately.

Highlights—Staff and Postdoc H-1B

1.

Flowchart

Form—“H-1B Department Visa Request Form”

2.

Special attention to:

- 1) Department must consult with HR before initiating process,
- 2) Department must pay \$500 for anti-fraud fee and \$320 for filing fee,
- 3) Posting notices & public file entry required—department must work with HR,
- 4) If termination of employee—must inform HR immediately.

Highlights—Faculty and Staff Permanent Residency

1.

Flowchart

Form—“Employer-Sponsored Permanent Residency Approval Form”

2.

Special attention to:

- 1) Department must consult with HR before initiating process,
- 2) Recruitment requirements must be met,
- 3) Filing with the Department of Labor must be done within 15 months of final selection to qualify for PERM special handling,
- 4) Department must pay all costs, approximately \$5,000.

Legal Representation in Immigration Matters

Ohio law requires that legal services for The University of Akron be performed by attorneys acting under the authority of the Ohio Attorney General, including:

1. the University's Office of General Counsel;
2. the Office of the Attorney General; or
3. attorneys that have received appointments as special counsel from the Ohio Attorney General.

The Office of General Counsel is the *only* department that has the authority to retain outside legal counsel to represent the University. This includes retaining counsel to prepare and submit immigration related petitions and applications including:

- (1) Labor certifications filed with the U.S. Department of Labor
- (2) All I-140 petitions based on labor certifications
- (3) All I-140 petitions where the University or one of its colleges, departments or units is the petitioner (e.g. EB-1 outstanding researcher/professor petitions)
- (4) Any non-immigrant petition (including H-1B petitions which have traditionally been prepared in house)

Legal Representation in Immigration Matters (Continued)

Foreign nationals are not permitted to find and pay for an attorney to represent the University in any immigration matter or otherwise hire an attorney to prepare immigration filings for the University.

Foreign nationals may find and hire their own attorneys only in cases where permitted to self-petition and personally sign the I-140 (e.g., EB-1 extraordinary ability self-petitions; national interest waivers) or to represent their *individual* interests in immigration matters.

Immigration petitions filed by the University will be signed by a designated official of the Human Resources Department and no employee of the University has the authority to sign any immigration related petitions on behalf of the University without the express consent of the Human Resources Department.

We're Here to Help You

If you have questions please
contact us!

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