

# **POLICY ON FOREIGN SCHOLARS**

## **Introduction**

Tulane's policy on hiring foreign scholars requires all departments and/or scholars to contact the Office of the General Counsel or the Office of International Students and Scholars when contemplating employing foreign scholars, obtaining visas and visa extensions, providing information to outside attorneys for visa applications, signing documents on behalf of foreign scholars, and any matter involving the employment or training of foreign nationals.

The alien employment process is very complex and governed by several federal agencies. Failure to involve either of the above named offices could increase the risk of Tulane being in violation of these federal procedures. Penalties for violations may include loss of the right to hire and train foreign scholars, failure to obtain approved visas and labor certifications and assessment of monetary fines. In order to protect Tulane from possible violations and reduce the confusion and unnecessary legal fees, please observe our policy on hiring foreign nationals.

The Office of International Students and Scholars (OISS) handles the following immigration matters:

- nonimmigrant student visas (F-1)
- temporary worker visas (H-1B)
- oversees the exchange visitor program (J-1)
- provides various other services in facilitating the process of obtaining other visa types that have not been specifically named above

The Office of the General Counsel handles the following immigration matters:

- prepares, files and maintains the Labor Condition Application for H-1B visas
- monitors the University's alien employment process
- monitors the documents prepared by outside counsel on behalf of Tulane's foreign scholars seeking permanent residency

Should the services of an outside attorney become necessary, the scholar is so notified. In all cases, the scholar, not the hiring department, is responsible for the filing and legal fees and costs. Employment under an H-1B is not a guarantee of obtaining permanent residency status nor is Tulane obligated to financially assist in obtaining a permanent residency.

If you require additional information regarding Tulane University immigration matters, please contact the Office of International Students and Scholars at 862-5208 or the Office of the General Counsel at 865-5783.

## **H-1B Temporary Workers in Specialty Occupations**

### **Steps to filing an H-1B Application:**

1. The hiring department requests the H-1B Sponsorship Package from OISS, consisting of the Department section and the Prospective Employee section. The department completes their section, and the department head and sponsoring faculty member sign the package and return to OISS. The prospective employee completes his/her section and submits all requested paperwork to OISS.
2. OISS determines the prevailing wage. If the proposed salary does not meet the prevailing wage, the departments must file a new PAF showing the proposed salary matches or exceeds the prevailing wage or the H-1B application process is stopped.
3. Once the prevailing wage is met, Human Resources confirms the employee meets the qualifying requirement for H-1B classification and confirms “actual wage” information for employees in the same/similar position. If the actual wage is not met, the department must file a PAF showing the proposed salary matches or exceeds the actual wage or the H-1B application process is stopped.
4. The Office of the General Counsel will draft and file the Labor Condition Application ETA-9035E and arrange for posting of the Notice of Filing of a Labor Condition Application. The Office of the General Counsel maintains the H-1B public inspection file.
5. OISS will file the H-1B nonimmigrant visa petition and supporting documentation with the United States Citizenship and Immigration Service (USCIS).
6. After USCIS approval, the applicant acquires H-1B status.

TULANE UNIVERSITY IS RESPONSIBLE FOR FILING H-1B PETITIONS FOR OUR FOREIGN SCHOLARS AND STAFF. APPLICANTS SHOULD BE NOTIFIED SO THEY DO NOT INCUR OUTSIDE LEGAL COSTS.

## **Lawful Permanent Resident (LPR or Green Card)**

You must have written approval of your department head or chair and dean before initiating the permanent residency process (green card application) based upon your employment at Tulane. Tulane makes no guarantee of obtaining permanent residency status nor does Tulane financially assist employees in obtaining legal counsel.

1. Tulane requires foreign scholars obtain the assistance of an outside immigration attorney. The foreign scholar is responsible for selecting and paying for the outside immigration attorney.
2. The foreign scholar's outside immigration attorney is responsible for drafting, filing, supplementing, and tracking the application. The General Counsel will verify the information contained in the application and execute the application on behalf of Tulane University. The General Counsel is the only person designated to execute permanent residency applications on behalf of Tulane University.

Since this process may take a year or more to complete, the applicant must make certain the necessary passport and visa documents remain current. Tulane University will assist in permanent residency applications by cooperating with outside counsel for the applicant and will assist with documentation regarding employment. Tulane will not advise the scholar or prepare the required forms for obtaining permanent residency status. The applicant is individually responsible for all attorney and filing fees and costs.