



## Office of Human Resources

# PROCEDURE FOR VISA SPONSORSHIP

## Visa Sponsorship

### REASON FOR PROCEDURE:

Utica College welcomes a large number of foreign nationals from around the world to study, research, and work at the institution. The College assists newly hired full-time faculty in acquiring or maintaining lawful presence in the United States and eligibility to work at Utica College. Foreign nationals may lawfully enter the United States pursuant to a non-immigrant or immigrant visa issued at a U.S. Consulate or document issued by the U.S. Citizenship and Immigration Services (USCIS).

Utica College officially supports H1B visas for academic positions only.

### PROCEDURE:

It is the policy of Utica College, as the employer, to sponsor an application for a non-immigrant visa on behalf of qualified candidates who are foreign nationals after it makes an offer of full-time employment. Before the date of first employment, the College determines the most appropriate visa category. Typically, an H-1B visa application is prepared. The sponsorship process begins, however, by filing a Labor Condition Application ("LCA") with the Department of Labor ("DOL").

The form that is filed with the DOL to obtain a certified LCA is called Form ETA 9035E Labor Condition Application. The Assistant Vice President of Human Resources (or other authorized College official in his/her absence) signs this form and presents it to the DOL, attesting that the wage shall be the greater of the actual wage rate or the prevailing wage for the position. The College is also required to "post" a notice regarding the filing of the LCA for ten (10) consecutive business days, and to maintain a "public access" file for possible government inspection.

The College must obtain an approved LCA in order to file an H-1B visa application on behalf of a faculty member. The approval of an LCA is a prerequisite for filing the H-1B visa petition to the USCIS Regional Service Center. The College must receive approval of the H-1B petition from the USCIS before employment can begin. While the College handles all documents in a timely and expeditious manner, it cannot predict governmental response times. Obtaining approval for an H-1B petition generally takes up to six months. Premium processing options are always considered when the mutual interests of the College and beneficiary can be best served. After the College receives the initial approval of the an H-1B petition for a period of up to three years, H-1B status can be renewed by the College on behalf of the faculty member for up to an additional three years.

### Fee Schedule:

The typical costs for obtaining an H-1B non-immigrant visa is approximately \$2,500-\$3,500, and this cost plus fees is paid in full by the College for Faculty and staff.

- H1B Initial – \$1,700 plus I-129 filing fee of \$325.00 and \$500.00 anti-fraud fee
- H1B Extension - \$1,700 plus filing fee of \$325

Expenses for an immigrant visa petition range between \$8,000 and \$15,000 and the cost is shared by both the faculty member and the College. Outside counsel is used to assist with this process on behalf of the College, and they will prepare a retainer agreement that sets forth the costs associated with the faculty member portion of the process.

- Green card/Permanent Resident
  - 1) \$2,000 plus advertising (labor certification process) will be paid in full by the College
  - 2) \$1,500 legal fee and \$580 USCIS filing fee (I-140 Immigrant Visa Petition) will be paid in full by the faculty member
  - 3) \$1,500 plus \$1,070 USCIS filing fee (I-485, Application to Adjust Status) will be paid in full by the faculty member
  - 4) Additional flat fee of \$500 per dependent application will be paid in full by the faculty member

The College, as petitioner, shares in these expenses on behalf of the faculty member who stipulates a commitment to continue working for Utica College once the petition is approved. Unless otherwise agreed in writing, the College will not be responsible for (1) obtaining visas for additional family members; (2) any unusual situations which require the College to pay fees or legal expenses beyond the normal range.

The College selects and retains the services of outside counsel as needed to assist in the processing of non-immigrant and immigrant visa applications. In the event the faculty member retains private counsel at personal expense, she/he will be expected to work closely with College counsel to produce necessary and appropriate documents in order to obtain an employment-based visa. Private counsel cannot file papers on behalf of Utica College without College counsel's approval. The College is not responsible for monitoring the services or managing any process undertaken by privately retained counsel. The College also reserves the right not to sign documents that do not conform to College procedures and standards.

#### **INTERNAL PROCEDURE FOR INITIATING AND EXECUTING SPONSORSHIP:**

- A. Once offer of full time employment is made, the search chair must communicate with the Office of Human Resources immediately that there is a need for visa sponsorship.
- B. The PAF (Personnel Action Form) for the hire must also note that the offer includes College sponsorship of visa and be circulated for signatures.
- C. The Office of Human Resources will prepare appointment letter and proceed with necessary filing steps, working closely with outside counsel and incoming faculty member.
- D. Outside counsel will prepare and send to the faculty member a retainer agreement that sets forth the costs associated with the faculty member portion of the process.
- E. The Office of Human Resources will initiate renewal of H1B visa prior to expiration for the second term. During the first year of the second term, the permanent resident process will be initiated.

**DEFINITIONS:**

A comparison of the most commonly used non-immigrant visa categories is provided below:

**NON-IMMIGRANT VISAS (TEMPORARY RESIDENCE)**

Non-immigrant visas are categorized by the U.S. Citizenship and Immigration Service (USCIS) as follows:

F-1 Student (curricular and optional practical training)

H-1B Specialty Occupation (professional worker)

J-1 Exchange visitor

TN NAFTA Treaty Worker (e.g., Canadian and Mexican citizens)

H-4 Spouse/dependent of H-1B visa holder (note that an H-4 visa holder may not be employed)

With a non-immigrant visa, a foreign national is issued a Form I-94 (Arrival/Departure Record) which reflects the foreign national's visa status and is the necessary document to demonstrate eligibility for employment at Utica College for a specified period of time. Please note that the Office of International Education processes the F-1 and J-1 non-immigrant visas types and may be contacted at 792-3340 for further information.

**IMMIGRANT VISAS (PERMANENT RESIDENCE)**

An immigrant visa is commonly known as a "green card." The holder of this visa is a lawful permanent resident ("LPR"), authorized to live and work in the United States indefinitely, and remains so provided the resident is not absent from the United States for more than one year. After five years as an LPR, the resident can apply for United States citizenship (three years if the LPR acquired the immigrant status through a marriage to a U.S. citizen).

More information may be found at <http://www.uscis.gov>.

**RESOURCES/QUESTIONS:**

For questions regarding this procedure, employees may contact the Employment Manager in the Office of Human Resources at (315) 792-3276 or via e-mail at [hr@utica.edu](mailto:hr@utica.edu).