

## Provost Policy/Process/Guidance for Employment-Based Permanent Residency

In order to comply with federal regulation regarding employer sponsorship of foreign nationals for permanent residency and to provide clarity regarding the University's internal policy of such sponsorship, the following guidance is provided concerning permanent residence sponsorship.

Because obtaining permanent residence for a University employee requires a substantial commitment of University resources, sponsorship for permanent residence should be requested only when there is an institutional need. Consequently, in accordance with federal requirements, the University of North Dakota (the "University") will sponsor a foreign national for permanent residence only when there is a reasonable expectation that the individual will continue to be employed by a component university for a substantial period of time.

1. In those instances where the University decides to sponsor an employee for permanent residency, there is no guarantee that permanent residency can be obtained. The process depends upon approval by multiple agencies, employee eligibility, and factors outside of the University's control.

**No one is authorized to promise a current or prospective employee that the University will obtain permanent residency on the individual's behalf. The petitioning process is lengthy, and the final decision to grant the permanent residency must be made by the U.S. Citizenship and Immigration Services. It is never a certainty that permanent residency will be approved, and therefore it cannot be promised.**

2. Eligibility Criteria. The University will sponsor an employee for permanent residency only when doing so is in the best interests of the University.
  - a. Positions with temporary funding or those positions funded by grants with definite short-term expiration dates of less than four years will not be considered eligible for sponsorship.
  - b. The University will sponsor full-time, tenured or tenure-track faculty for employment-based permanent residency.
  - c. The University will sponsor full-time research positions, provided the department or unit can comply with subsection A above and the incumbent can demonstrate a record of exceptional research during their employment at UND and recognition as outstanding within their academic field.
  - d. The University may sponsor full-time, benefitted staff under limited and unique circumstances.
    - i. Requests for Sponsorship of an eligible staff employee must provide evidence of the following additional minimum requirements:
      - i. The long-term services of the employee are deemed to be in the best interests of the University and would serve to further the University's mission of instruction, research, and public service;

- ii. The position requires a bachelor's or higher degree and its equivalent and specialized and complex knowledge;
  - iii. The uniqueness of the position has made it difficult to recruit qualified applicants; and
  - iv. There is sufficient justification that the proposed foreign national is uniquely qualified through experience, skill, and background for the position.
- ii. If one or more of the above conditions is not met, exceptions will be approved only if endorsed by the appropriate Vice President responsible for the department in which the individual is employed.
- e. The foreign national must be an employee of the University for a minimum of four (4) consecutive years (i.e., completed four consecutive years). This requirement may be waived if the request is endorsed in writing by the responsible Dean or unit supervisor, and approved by the appropriate Vice President.
- f. The University may sponsor the following categories of permanent residency:
  - i. EB-1: Outstanding Researcher/Professor;
  - ii. EB-2: Advanced Degree Holder; Exceptional Ability in the Sciences, Arts, or Business; and
  - iii. EB-3: Professional or Skilled Worker

University employees whose circumstances foreclose using the categories described above may self-petition through other categories, such as Alien of Extraordinary Ability (EB-1) or the National Interest Waiver (EB-2). Employees in this situation are encouraged to consult with competent legal counsel (not UND's SAG appointed counsel)\about their individual situation.

Any employee choosing to self-petition may ask supervisors for a letter of reference for their petition, the employee's department should confirm that the petition is not signed or filed on behalf of the University or in reliance on an existing or future position.

3. Positions the University Will Not Sponsor. The University does not sponsor part-time faculty, non-tenure track faculty, non-exempt staff positions, postdoctoral appointments, lecturers, graduate teacher or researchers positions.
4. Process. Only a University department or unit, not an employee, may initiate the sponsorship process.
  - a. Faculty and Non-faculty/Staff. The Chair/Supervisor of the employee's department will initiate the request form and obtain all appropriate signatures before submitting to the Academic Affairs Officer. ("Request for Employment of a Foreign National") The request should include the following attachments:

- i. The individuals curriculum vitae
  - ii. A memo outlining the employee's evidence of eligibility and likelihood of continued University employment.
5. A State Attorney General appointed attorney will represent the University in employment-based immigration matters. University departments or colleges are not authorized to hire an immigration attorney on their own. A foreign national may retain individual counsel to obtain legal advice on their own behalf provided the counsel is expressly independent from the University representation in the application process for permanent residency.
6. Costs associated with this process typically will be borne by the employee, except that costs the employer is required to pay by law. The employee's department or college shall pay the costs of the employer. [Permanent Residency Cost Breakdown](#)
7. University sponsorship does not have any impact or barring on the sponsored employee's status as an at-will employee no is it a guarantee of tenure.
8. University sponsorship is not an entitlement. Decisions are based solely on institutional need for the unique skills and expertise the foreign national employee possesses. The final decision to sponsor the employee will be based on the best interest of the University.