



New Jersey Institute of Technology

Effective Date: February \_\_, 2024

University Policies

Sponsoring Functional Area: Office of Global Initiatives

Subject: Procedures for Obtaining and Sponsoring Non-Immigrant Work Visas and Permanent Residency Applications

## NON-IMMIGRANT WORK VISAS

1. **J-1 Exchange Visitor Program** – the purpose of the J-1 Exchange Visitor Program is to “provide foreign nationals with opportunities to participate in educational and cultural programs in the United States and return home to share their experiences, and to encourage Americans to participate in educational and cultural programs in other countries.” 22 CFR 62.1(b).
  - a. **Costs** – the one-time SEVIS fee and visa application processing fee are usually paid by the J-1 Exchange Visitor. The fees for mailing the immigration paperwork must be covered by the host department. Also, if the prospective scholar needs to be interviewed by NJIT’s ESL department to verify the scholar’s English proficiency, the interview fee is \$200, which must be paid by the host department. (See Appendix A: Costs and Expenses Associated with Non-Immigrant Visas and Permanent Residency). The I-901 Fee for J-1 visa sponsorship is paid for by the J-1 Exchange Visitor.
  - b. **J-1 Categories:**
    - i. ***Professor*** – an individual primarily teaching, lecturing, observing, or consulting at post-secondary accredited educational institutions, museums, libraries, or similar types of institutions. A professor may also conduct research, unless disallowed by the host department.
    - ii. ***Research scholar*** – an individual primarily conducting research, observing, or consulting in connection with a research project at research institutions, corporate research facilities, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions. The research scholar may also teach or lecture, unless disallowed by the host department.
    - iii. ***Short-term scholars*** – a professor, research scholar, specialist, or a person with similar education or accomplishments coming to the United States on a short-term visit for the purpose of lecturing, observing, consulting, training, or

demonstrating special skills at research institutions, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions.

- c. **Eligibility** – the minimum qualifications for these categories are a Ph.D. with appropriate experience in the field in which research is to be conducted. If the degree is below a Ph.D. an explanation of the experience is required. It is the host department's responsibility to review the Exchange Visitor's resume/CV, references, publications, and objectives; determine the Exchange Visitor's English proficiency; and interview the Exchange Visitor. The final decision would be made by the Office of Global Initiatives. The Exchange Visitors must be professionals in their fields whose careers will benefit from the proposed program at NJIT and whose experience will enhance the faculty of the host department. In addition, the following requirements must be met:
- d. **English Proficiency Requirement** – The host department must use an objective measure to determine whether the Exchange Visitor is proficient in English, then complete the *English Proficiency Verification Form* included in the DS2019 Request Package. Acceptable measures are:
  - i. Evidence of having obtained the minimum required scores on one of the following recognized English language tests taken within the last two years:
    1. IELTS overall score of 6.5 or higher.
    2. TOEFL (internet-based) overall score of 79 or higher.
    3. TOEFL (computer-based) overall score of 213 or higher.
    4. TOEFL (paper-based) overall score of 550 or higher.
    5. Duolingo 105.
  - ii. Evidence of having obtained a degree from a post-secondary institution whose language of instruction is English (including U.S. institutions).
  - iii. For degrees from U.S. institutions, evidence must be in the form of a transcript or diploma showing the degree conferred. No additional documentation indicating the language of instruction is English is needed for degrees from U.S. institutions.
  - iv. For degrees from non-U.S. institutions, evidence must be in the form of a transcript in English showing degree conferred and English as the language of instruction.
  - v. If the transcript from a non-U.S. institution does not note English as the language of instruction, an official letter from the institution's registrar stating the individual attended the institution and the medium of instruction was English can be submitted with the transcript.
  - vi. Interview with a member of NJIT's English as a Second Language (ESL) Program. The interview can be conducted in person, or via video conference.

1. The host department should contact the Office of Global Initiatives to inform them that the scholar has chosen the interview option. The interview fee is \$200 per interview and should be paid for by the department.
  2. Potential J-1 scholars who obtain a score of B2 or better will meet NJIT's English proficiency requirement. The proficiency scale is explained in the *J1 Exchange Visitor English Proficiency Requirement Policy*.
  3. If a potential J1 scholar does not obtain the minimum score, the host department can request another interview one (1) month from the date of the first interview, or use one of the other aforementioned methods to establish English proficiency.
- e. **Mandatory Insurance Requirements** – the United States Department of State requires all exchange participants, and accompanying family members to demonstrate coverage for sickness and accident for the duration of the exchange period. Minimum coverage shall include (1) medical benefits of at least \$100,000 per person per accident or illness; (2) repatriation of remains in the amount of \$25,000; and (3) expenses associated with medical evacuation of exchange visitor to his/her home country in the amount of \$50,000 with a deductible of no more than \$500 per accident or illness.
- i. Visiting scholars / courtesy appointments are required to purchase insurance coverage pursuant to the requirements above for the entire duration of their program.
  - ii. Exchange Visitors employed by NJIT may enroll in benefits provided by NJIT if their program is scheduled to last longer than one year. Please note that NJIT benefits are effective 60 days after commencing employment, so the Exchange Visitor must purchase insurance from an outside carrier for the first 60 days of employment. After the 60 days, the Exchange Visitor must purchase coverage for repatriation of remains and medical evacuation for the duration of the program since these are not included in NJIT's benefits. **Please note: NJIT insurance does not include repatriation of remains and needs to be purchased separately to maintain J-1 Status.**
- f. **Bars to Participation for Professors and Research Scholars** – there are several bars that would prevent a professor or research scholar from participating in the J-1 program. Professor and Research Scholars must:
- i. Not be a candidate for a tenure track position;
  - ii. Not have participated in and completed a professor or research scholar program within the last 24 months preceding the beginning date of their new program's commencement;

- iii. Not have participated in a J-1 Visa program for all or part of the 12 month period immediately preceding the start date of a professor or research scholar program unless they meet one of the following exceptions:
  - 1. The participant is currently in a professor or research scholar program and is transferring to another institution in the United States to continue their current J-1 program;
  - 2. The participant's prior physical presence in the U.S. on a J-1 visa program was less than six months in duration; and
  - 3. The prior participation was as a short-term scholar.
  
- g. **Immigration and Nationality Act §212(e) 2-Year Home Country Physical Presence Requirement** – those who receive direct or indirect U.S. or home government funding, or who are studying in fields considered in short supply in the Exchange Visitor's home country (referred to as the "Skills List"), are subject to a "two-year home country physical presence requirement," where at the completion of the J-1 program, the Exchange Visitor is required to return to his or her home country for two years before returning to the U.S. on a H or L visa, or permanent resident card.
  
- h. **Length of Program** – the length of the exchange program varies by category:
  - i. **Professors** – minimum of three (3) weeks and maximum of five (5) years.
  - ii. **Research scholars** – minimum of three (3) weeks and maximum of five (5) years.
  - iii. **Short-term scholar** – no minimum, maximum of six (6) months.
  
- i. **J-1 Sponsorship Procedures:**
  - i. **Visiting Scholars / Courtesy Appointments** – these Exchange Visitors are either professors or researchers who are employed by a foreign university. Visiting scholars are not compensated by NJIT, nor are they eligible for benefits provided by NJIT.
    - 1. Host departments interested in inviting a visiting scholar to NJIT must first complete the courtesy appointment forms found on the Office of Research page as well as the DS-2019 request form. For more information and access to the required forms, please visit: <http://www5.njit.edu/research/scholars/>.
    - 2. Once the courtesy appointment forms and DS-2019 request form is completed, the documents are then sent to OGI for review and processing. Office of Global Initiatives will review the documentation and, if appropriate, generate a DS-2019 form that will be signed and sent to the Exchange Visitor. The Exchange Visitor will need this

DS2019 form to apply for a visa from the nearest U.S. consulate or embassy in his or her home country. For more information about the J-1 visa application process, please visit <http://j1visa.state.gov/>.

- ii. **J-1 Exchange Visitors Hired by NJIT** – the host department must submit a position request form and work with HR to recruit and identify a candidate and ultimately present an offer. The Hiring Manager will then need to complete the DS2019 Request Package for a J-1 Exchange Visitor who will be paid by NJIT. Once the official offer is made and accepted, the DS2019 Request Packet and all required documents are sent to the Office of Global Initiatives, they will generate a DS2019 form that will be signed and sent to the Exchange Visitor. The Exchange Visitor will need the DS2019 to apply for a visa from the nearest U.S. consulate or embassy in their home country. For more information about the J-1 visa application process, please visit <http://j1visa.state.gov/>.
2. **H-1B Program** – the H-1B Program applies to employers seeking to hire workers in specialty occupations. A specialty occupation is one that requires the application of a body of highly specialized knowledge and the attainment of at least a Bachelor’s degree or its equivalent. The intent of the H-1B provisions is to help employers who cannot otherwise obtain needed business skills and abilities from the U.S. workforce by authorizing the temporary employment of qualified individuals who are not otherwise authorized to work in the United States.
- a. **Costs** – Per federal regulations, H-1B sponsorship is required to be paid by the institution. For faculty on the tenure-track, fees will be processed by the Office of the Provost per their negotiated start-up package. For non-tenure-track instructional staff and other staff members, fees will be paid by the home department per their negotiated offer. (Invoices received from our outside counsel must be paid by the appropriate department within 30 days of receipt.)
  - b. **Eligibility** – To be eligible for H-1B Sponsorship the employee must fit the criteria defined by USCIS. For more information please refer to the link: <https://www.uscis.gov/working-in-the-united-states/h-1b-specialty-occupations>.
  - c. **Additionally:**
    - i. If the employee was sponsored on a J-1 visa prior, they must show evidence the 212(e) 2-year home residency requirement was completed:
      1. Previous J-1 visa showing they were not subject to the 212(e) requirement.
      2. I-612 Waiver of the Foreign Residence Requirement Approval notice.
      3. Documented proof they have completed their 2-year residence requirement.

- ii. The position must be a minimum of 1 calendar year from the start date of the H-1B petition.
    - iii. The department must be able to commit 3-years of funding to the position in which the visa holder will be employed.
  - d. **H-1B Sponsorship Procedures** – if a department is interested in sponsoring a foreign national for H-1B status, the department must first get approval from the Dean/Area Vice-President/Provost, as applicable, then email the Office of Global Initiatives stating its intent to cover the legal and processing fees associated with filing a H-1B petition. The Office of Global Initiatives will then send questionnaires that the department and the foreign national must complete and return to the Office of Global Initiatives. These questionnaires will be used by immigration counsel selected by the Vice President of Human Resources with the authorization of the General Counsel and Vice President for Legal Affairs to draft the H-1B petition. The Office of Global Initiatives will also send an invoice from the attorneys to the department, and the department must transfer the funds directly into the Department of Human Resources' account/index number (*See* "Costs and Expenses Associated with Non-Immigrant Visas and Permanent Residency"). Once the petition is drafted it will be sent to the United States Citizenship and Immigration Services (USCIS).
  - e. **Outside Counsel** – all H-1B petitions sponsored by NJIT will be processed by counsel selected by the Office of Global Initiatives and Human Resources with the authorization of the General Counsel and Vice President for Legal Affairs. Only immigration counsel selected by NJIT has the authority to represent NJIT in H-1B petition and to sign a Form G-28 (Notice of Entry of Appearance as Attorney or Accredited Representative). NJIT will not recognize the validity of a H-1B petition filed by an outside attorney purporting to represent NJIT.
  - f. **Duration of Status** – the H-1B status is usually valid up to three (3) years, with the option to extend up to an additional three (3) years.
    - i. The H-1B is valid only for a specific position at a specific location with a specific employer. Any changes made to these characteristics require that a new petition be filed and acknowledged by USCIS as received before any such changes occur.
3. **O-1 Visa** - The O-1 classification allows individuals with "an extraordinary ability in the sciences, arts education, business or athletics" to work temporarily in the United States. Extraordinary ability is defined as a level of expertise that is indicative of an individual who is in the top of their field of endeavor. The candidate must demonstrate extraordinary ability by providing evidence of sustained national or international acclaim. An initial application may be made for a period of up to 3 years. The O-1 visa status may be extended in yearly increments after the initial period.
- a. **Cost:** Per federal regulations, O-1 sponsorship is required to be paid by the institution. For faculty on the tenure-track, fees will be processed by the Office of the Provost per their negotiated start-up package. For non-tenure-track instructional staff

and other staff members, fees will be paid by the home department per their negotiated offer.(Invoices received from our outside counsel must be paid by the appropriate department within 30 days of receipt.)

b. **Eligibility:**

- i. Full-Time Faculty or Tenure-Track Faculty positions only unless approved by the area Vice President/Provost and Human Resources.
- ii. Individuals must demonstrate sustained international and national acclaim; as well as evidence that s/he is in the top of the field of endeavor.
- iii. If subject to the foreign residency requirement pursuant to a J-1 visa and applying for a change of status in the United States, an approved I-612, Application for Waiver of the Foreign Residence Requirement or evidence that the two year requirement has been met must be provided.

c. **O-1 Sponsorship Procedures** – If a department is interested in sponsoring a foreign national for O-1 status, the department must first get approval from the Area Vice-President/Provost and Human Resources, as applicable, then email the Office of Global Initiatives stating its intent to cover the legal and processing fees associated with filing an O-1 petition. The Office of Global Initiatives will then contact outside counsel to initiate the O-1 process of gathering information and preparing required documents. The outside counsel will assess the documents provided and will determine if the foreign national is eligible for O-1 visa sponsorship. If outside counsel does not believe it will be a strong case of approval, we will determine the best next steps. The department and the foreign national must complete and submit the documents to the Office of Global Initiatives and outside counsel as explained. The Office of Global Initiatives will also send an invoice from the attorneys to the department, and the department must transfer the funds directly into the Department of Human Resources’ account/index number (*See “Costs and Expenses Associated with Non-Immigrant Visas and Permanent Residency”*). Once the petition is drafted it will be sent to the United States Citizenship and Immigration Services (USCIS).

d. **Outside Counsel** – all O-1 petitions sponsored by NJIT will be processed by counsel selected by the Office of Global Initiatives and Human Resources with the authorization of the General Counsel and Vice President for Legal Affairs. Only immigration counsel selected by NJIT has the authority to represent NJIT in O-1 petition and to sign a Form G-28 (Notice of Entry of Appearance as Attorney or Accredited Representative). NJIT will not recognize the validity of a H-1B petition filed by an outside attorney purporting to represent NJIT.

e. **Duration of Status** – the O-1 status is usually valid up to three (3) years, with the option to extend annually.

4. **T/N Visa Visitors under the North American Free Trade Agreement (TN)** - Canadian and Mexican citizens qualified to practice a profession listed in the North American Free Trade Agreement (NAFTA) may enter the United States for periods of up to twelve (12) months in the TN visa category. Most academic titles and many scientific research titles are included in the agreement, although the TN is not appropriate for tenure-track, tenured, or staff positions, since those types of appointments have permanent intent.

a. **Duration:** The TN is renewable in increments of up to twelve (12) months at the discretion of the issuing authority (i.e., a DHS officer for Canadians or United States visa officer for Mexicans). Petitions for extension of TN status made within the United States are cumbersome and often more costly than those affected by departure to Canada or Mexico and subsequent reentry to the United States. In any case, the University does not file TN extension petitions with the USCIS; individuals employed at NJIT in TN status must leave the United States and reenter to effect an extension of stay.

b. **TN Visa Procedure:**

- i. **Canadian citizens** do not require a visa and may make admission directly at a port of entry or pre-flight clearance facility.
- ii. **Mexican citizens** must apply for and obtain a TN visa at a United States consulate before applying for admission to enter the United States.
- iii. If a department is interested in hiring a Canadian or Mexican Citizen for a position and the employee has received their official offer letter. The employee and the department should contact the Office of Global Initiatives and request a letter of support for the TN visa.
- iv. The information needed for the support letter must have the following:
  1. Job title.
  2. Job duties and responsibilities.
    - a. If teaching include program numbers and description.
  3. Appointment dates (no more than 1 year).
- v. Once contacted, OGI will determine whether the TN or H-1B is more appropriate for any given situation, and whether the job title is one covered under NAFTA.
- vi. **For Canadian citizens:** the employing department issues a letter to the prospective employee outlining the job title, salary, dates (the appointment must be temporary), and job responsibilities. The letter must state the specific credentials required for the job. The employee must present the letter and proof that they possess those credentials at the time of entry to the United

States. There is a fee collected by the immigration service from the employee upon entry in TN status.

- vii. **For Mexican citizens:** the employing department issues a letter to the prospective employee outlining the job title, salary, dates (the appointment must be temporary), and job responsibilities. The letter must state the specific credentials required for the job. The employee must present the letter and proof that they possess those credentials at the time of application for the TN visa as well as at the time of entry to the United States.

## 5. **PERMANENT RESIDENCY:**

- a. **Permanent Residency / Green Card Applications** – a permanent resident is a person who has been granted authorization to live and work in the United States on a permanent basis. As proof of that status, a person is granted a permanent resident card, commonly called a "Green Card."
  - i. **Costs** – the filing and attorneys' fees are typically paid for by the host department, however, certain fees may be excluded pursuant to a negotiated arrangement with the beneficiary. This (*See Appendix A: Costs and Expenses Associated with Non-Immigrant Visas and Permanent Residency*). (Invoices received from our outside counsel must be paid by the appropriate department within 30 days of receipt.)
  - ii. **Employment-based Immigrant Visa Categories** – NJIT may sponsor a prospective or current foreign national employee currently residing in the United States or in a foreign country, and who qualify under one or more of the employment-based (EB) immigrant visa categories. The NJIT-sponsored visa categories are listed below:
    1. **EB-1 Priority Workers** – this category is reserved for individuals with extraordinary ability in the sciences, arts, education, business, or athletics; outstanding professors and researchers; or multinational executives and managers.
    2. **EB-2 Professionals with Advanced Degrees or Persons with Exceptional Ability** – this category is reserved for individuals who: because of their exceptional ability in the sciences, arts, or business, will substantially benefit the national economy, cultural, or educational interests or welfare of the United States; or are members of professions holding advanced degrees or the equivalent.
    3. **EB-3 Professional or Skilled Workers** – This category is reserved for professionals with a baccalaureate degree; and individuals capable of performing skilled labor (requiring at least 2 years of training or experience) for which qualified workers are not available in the United States.

- iii. **Eligibility** – The following prospective or current foreign national NJIT employees who meet the criteria below are eligible for NJIT sponsorship of their permanent residency applications:
1. Tenure-track faculty members in good stand who have been employed with NJIT for 1- year and received a positive annual review.
  2. Employees who have held a highly specialized or technical position as defined by the Bureau of Labor Statistics at the university for at least one (1) year, be in good performance standing with a positive performance evaluation on file and with the authorization of the Executive Director of Global Initiatives, in conjunction with the Vice President of Human Resources.
  3. Administrative support staff are not eligible for sponsorship.
  4. Minimum of a Bachelor's Degree plus 5 years of post-baccalaureate experience.
  5. Employees sponsored by NJIT for permanent residency must commit to a minimum of 2 years employment after the approval of their Permanent Residency.
- iv. **Permanent Residency Sponsorship Procedures** – if a department is interested in sponsoring an employee's permanent residency application, first it must get approval from the Dean/Area Vice-President/Provost, as applicable, then contact the Department of Human Resources to discuss whether the sponsorship is suitable for the position. If the employee meets the minimum requirements, the Office of Global Initiatives will work with the employee, the host department's Chair, and outside counsel to initiate the permanent residency process.
- v. **Outside counsel** – all permanent residency applications will be processed by counsel selected by the Office of Global Initiatives with the authorization of the General Counsel and the Vice President for Legal Affairs. Only immigration counsel selected by NJIT has the authority to represent NJIT in permanent residency applications and to sign a Form G-28 (Notice of Entry of Appearance as Attorney or Accredited Representative). NJIT will not recognize the validity of a permanent residency application filed by an outside attorney purporting to represent NJIT.
- vi. **Filing deadlines** – the permanent residency process should begin at least two years in advance of the expiration of the H-1B's maximum period authorized for employment.

**CROSS REFERENCE:**

- Policy on Sponsorship of Foreign Personnel for Permanent Residency
- Policy on Sponsorship of Foreign Personnel for Non-Immigrant Work Visas



## APPENDIX A

### COSTS AND EXPENSES ASSOCIATED WITH NON-IMMIGRANT WORK VISAS AND PERMANENT RESIDENCY

#### *J-1 Exchange Visitor Program*

- The Exchange Visitor must pay the SEVIS fee (\$220) as well as any fees associated with getting a visa. The Exchange Visitor will also be responsible for his/her travel and living expenses and insurance costs, as well as the travel, living, and insurance expenses of his/her dependents.
- The host department will be responsible for the fees for mailing paperwork to the Exchange Visitor.
- The host department will be responsible for the \$200 interview fee if the Exchange Visitor chooses to verify his/her English proficiency by interviewing with NJIT's ESL staff.
- The host department may opt to pay the SEVIS fee on behalf of the participant. To pay the fee, the host department must complete the I-901 form based on the information included in the participant's DS2019 form. For more information, see <https://www.fmjfee.com/i901fee/desktop/index.jsp?view=desktop>.
- The host department is responsible for obtaining the check to pay the SEVIS fee. The Department of Human Resources will NOT process these payments.

#### *H-1B Petition*

- **The host department at NJIT will be responsible for:** base filing fee; AICWA fee; Fraud prevention & detection fees; the education and training fee imposed on certain employer petitions for H-1B workers; attorneys' fees for the preparation and filing of a H-1B petition when the attorney represents both the employee and NJIT; and premium processing fee (optional \$2,500 fee). Total costs start at approximately \$5,000 without premium processing. For faculty on the tenure-track, fees will be processed by the Office of the Provost per their negotiated start-up package. For non-tenure-track instructional staff and other staff members, fees will be paid by the home department per their negotiated offer.
- **The employee will be responsible for:** filing and attorneys' fees for spouse and/or dependents; visa fees; travel and living expenses; insurance costs; and attorneys' fees for additional services provided solely for employee's benefit except as otherwise prohibited by law.

#### *O-1 Petition*

- **The host department at NJIT will be responsible for:** base filing fee; AICWA fee; Fraud prevention & detection fees; the education and training fee imposed on certain employer petitions for O-1 workers; attorneys' fees for the preparation and filing of a O-1 petition when the attorney represents both the employee and NJIT; and premium processing fee (optional \$2,500 fee). Total costs start at approximately \$7,500 without premium processing. For faculty on the tenure-track, fees will be processed by the Office of the Provost per their negotiated start-up package. For non-tenure-track instructional staff and other staff members, fees will be paid by the home department per their negotiated offer.
- **The employee will be responsible for:** filing and attorneys' fees for spouse and/or dependents; visa fees; travel and living expenses; insurance costs; and attorneys' fees for additional services provided solely for employee's benefit except as otherwise prohibited by law.

**Permanent Residency / Green Card Application**

- **The host department at NJIT will be responsible for:** filing fees and attorneys' fees for the preparation and filing of a PERM labor certification application or an I-140 petition; and premium processing fee (optional). Total costs start at approximately \$9,500.
- **The employee will be responsible for:** filing and attorneys' fees for spouse and/or dependent applications; travel and living expenses; insurance costs; and attorneys' fees for additional services provided solely for employee's benefit.

*Please note that the fees are subject to change. Contact the Office of Global Initiatives for updated information.*