

Recruiting and Hiring

Recruiting and hiring requirements established by the DOL that must be observed are as follows:

- An ad **must** be placed in a print media appropriate to the profession or academic field.
- The ad **must** state the minimum requirements for the position including the Ph.D. and field of study or related fields.
- The individual hired **must** meet the requirements for the position before starting employment at the University, including the award of the Ph.D. if required.
- The University **must** file the Labor Certification within eighteen (18) months from the date of offer. (*The date of offer is determined by the letter from the VP for Faculty Affairs and Welfare officially offering the position to the faculty member.*)

Failure to observe any of these DOL requirements may mean that the University cannot proceed with a Labor Certification.

Once the Labor Certification is approved we file a "Petition for Alien Worker" with the U.S. Citizenship and Immigration Service (USCIS). When our petition is approved, the faculty member applies for Permanent Resident status.

Outstanding Professor or Research

Outstanding Professor or Research petitions can take a similar amount of time except there is no labor certification required. The petition is filed directly with USCIS. However, it must be documented that:

- 1) The position is "permanent" by USCIS standards,
- 2) The faculty or researcher beneficiary has a minimum of three years of teaching and/or research experience after receiving the Ph.D,
- 3) The beneficiary has an outstanding and international reputation in the academic field.

Documenting Outstanding and International Reputation

To document this outstanding and international reputation, we must establish that the beneficiary meets at least two out of six criteria used by USCIS to evaluate the petition:

1. Recipient of prestigious national or international awards,
2. Membership in organizations that require outstanding achievement to belong,
3. Work by the scholar judged by others to be outstanding in nature,
4. Participate as the evaluator of the work of others in the academic field,
5. Impact and contributions to the field,
6. Publication in international professional or scientific journals

Fees

Application fees for these petitions can amount to thousands of dollars and vary depending on the particular case. These fees include a recharge fee to Berkeley International Office for the services we provide, and the fees for the forms filed by the University and the beneficiary to the USCIS.

Conclusion

Both of these paths to permanent resident status require close collaboration between hiring departments and International Scholar Adviser(s) at Berkeley International Office. In this strict regulatory environment, no petition is guaranteed to be successful. However, we have been very successful filing petitions and a petition filed by UC Berkeley is rarely denied.

For more information, contact Phil de Neeve, International Scholar Adviser (510) 642-2818. or deneevph@berkeley.edu.

Also see our web pages dedicated to Permanent Resident status at http://internationaloffice.berkeley.edu/departments/Permanent/perm_residency.php

Gaining U.S. Permanent Resident Status:

A UC Berkeley Faculty Guide



Berkeley

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This guide is designed to introduce faculty and departments to the regulatory requirements governing the University's policies when recruiting and hiring potential international faculty and researchers. Because many of these faculty and researchers will be required to become permanent residents of the United States to remain at the University, we urge departments to consult with an International Scholar Adviser before the recruiting process begins.

Before We Begin: Important Considerations

Immigration laws and regulations are very complex. The International Scholar Advising staff in Berkeley International Office will provide information and guidance on questions of eligibility, timing and process. Advisers will also determine the proper temporary legal status for the faculty that will allow him or her to start and continue working at the University prior to and during the permanent resident application process.

The University of California, Berkeley assumes a considerable responsibility under immigration law when sponsoring an international faculty member or researcher for Permanent Resident status. The University must use its employment authority to obtain immigration benefits only when consistent with its goals, programs, and standards within the context of U.S. immigration laws.

Contact an International Scholar Adviser before beginning the hiring process to avoid complications later.

Who Is a Permanent Resident?

A permanent resident of the United States is someone who has acquired the legal right to remain in the United States indefinitely but is not a U.S. citizen. A permanent resident has similar, but not all, rights and privileges as a U.S. citizen such as employment. Although permanent residents may be allowed to vote in local elections depending on the local rules, they cannot vote in federal elections nor may they hold federal elective office.

Synonymous terms for a permanent resident in the United States are: *immigrant, green card holder, and resident alien.*



Eligibility For U.S. Permanent Resident Status

U.S. immigration laws and regulations carve several eligibility paths to permanent resident status. These are:

- Family membership, primarily for immediate family members of U.S. citizens or permanent residents of the United States
- Employment based on a shortage of workers in an occupation or, on the special skills, knowledge, and ability of the potential permanent resident
- Through Investment that creates employment opportunities for U.S. workers
- The Visa Lottery
- Humanitarian reasons (refugees, asylum seekers)

Categories of Sponsorship at UC Berkeley

Within employment-based permanent residency, two categories of sponsorship are available to University departments and institutes that hire a non-immigrant employee into a “permanent” position at UC Berkeley. Those two categories are:

- 1) **Labor Certification.** Primarily reserved for tenure track teaching faculty positions that were filled by a national competitive recruiting and hiring procedure (see details following).
- 2) **Outstanding Professor or Research.** Used for “permanent” research positions or for tenure-track or tenured faculty positions that were hired without the usual search (see details following).

If you have a situation that doesn't fit into these two categories, please contact Berkeley International Office to discuss it with an International Scholar Adviser

Labor Certification

Permanent resident status via **Labor Certification** usually takes anywhere from nine months to one and a half years or longer from the start of the process to the faculty member acquiring the “green card.”

The process involves filing a petition with the Department of Labor (DOL) documenting our hiring process and that:

- 1) the position was offered to all qualified and available U.S. workers but the beneficiary was the best qualified candidate and,
- 2) we are paying what is considered a “prevailing wage” for the occupation.