

UCR Employment- Based Immigration Visa Policy 4/17/2007

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¹ The SEVIS fee is collected by US embassies for the purpose of establishing a J visa program for various J visa categories. The SEVIS fee is normally paid by the J visa beneficiary.

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II. Policy Objective and Overview

According to federal regulations, universities may sponsor international academic and staff employees for nonimmigrant and immigrant employment-based visas for the purpose of providing a basis for lawful presence and lawful employment in the United States. Therefore, UCR shall assume certain responsibilities to ensure the lawful employment of international academic employees and staff employees as outlined in the following policy.

III. Policy Implementation and Review Responsibility

The International Scholar Center (“ISC”) is charged with the responsibility of applying the UCR Immigration Policy to all immigration matters to ensure equity for international academic employees and staff across campus and to ensure compliance with federal immigration laws.

Appeals to decisions made in accordance with the UCR immigration policy may be as follows:

1. Appeals to decisions on academic employees may be made to the Vice Provost of Academic Personnel.
2. Appeals to decisions on staff may be made to the Vice Chancellor for Administration.

IV. Academic Employees

A. Lawful Permanent Residence

² United States Customs and Immigration Services (“USCIS”) required the payment of filing fees for all employment-based visa petitions. All fees may be viewed at www.uscis.gov and are subject to change.

i. Overview

The ISC shall provide immigration services for immigrant visa categories available to international academic and staff employees, in accordance with the policy, for the purpose of obtaining Lawful Permanent Residence (“LPR”). The ISC shall work with the University of California Office of the President (“UCOP”) approved attorneys to select employment-based LPR visa categories on a case by case basis and to prepare all UCR sponsored LPR petitions.

ii. Eligibility and Financial Responsibility

UCR currently assumes financial responsibility for expenses incurred by ladder-rank faculty for Lawful Permanent Residence (“LPR”) petitions prepared by attorneys who have been approved by UCOP for the representation of UCR interests in immigration matters³. UCR shall not assume financial responsibility nor shall UCR sponsor LPR petitions prepared by attorneys who have not been subject to UCOP approval procedures.

UCR shall not be financially responsible for the immigration costs of other academics and dependents, but the ISC shall provide assistance for those individuals seeking LPR.

iii. Ladder-Rank Faculty LPR petitions

LPR petition expenses, including attorney fees, filing fees and ISC fees, shall be funded by the Dean’s office of the college in authority over the department employing the international faculty member and should not exceed \$8000. If the LPR case expenses exceed \$8000⁴, then the LPR petition beneficiary/faculty member shall be responsible for such additional charges. The ISC shall be responsible for collecting all fees in excess of \$8000 from the international faculty member.

iv. Other Permanent Positions

³ A list of UCOP-approved attorneys is available at the International Scholar Center website, www.internationalscholars.com.

⁴ Immigration allowance amount for tenure-track faculty set for the 2007-2008 academic year.

For academic positions deemed ineligible for financial support by the college dean's office, or other control unit, those individuals in academic positions which have the expectation of permanency may assume financial responsibility, including attorney fees, filing fees, and ISC fees, and may receive UCR sponsorship and assistance in immigration matters for LPR petitions, for a fee.

v. Temporary Positions

Individuals in temporary academic positions are ineligible for UCR sponsorship for LPR petitions, but may contact ISC directly for assistance in developing immigration strategies.

B. Non-Immigrant Visas for Academic Positions

The ISC shall provide immigration services for nonimmigrant visa categories available to international academics, in accordance with UCR policy for the purpose of obtaining lawful presence in the United States and temporary employment status for international academics.

i. Eligibility

The ISC shall provide immigration services to ladder-rank faculty as well as to permanent academic and temporary academic positions to procure the following categories of nonimmigrant visas: H-1B, J-1, E-3, TN and O-1. The ISC shall determine the appropriate visa selection based on the visa request and other factors. The increments of time available in each visa category vary. Therefore, the ISC shall determine the appropriate duration for the visa application based on the request and immigration laws.

UCR shall not sponsor nonimmigrant visa applications or provide University funds for immigration matters for dependants of faculty or other academics. However, the ISC may provide administrative assistance to international academics to procure lawful status for dependants, for a fee.

ii. Financial Responsibility

a. UCR assumes financial responsibility for nonimmigrant visa fees, including filing fees and ISC fees, for senate faculty and other academic positions.

b. If the position held by the beneficiary of the NIV is not that of a senate faculty member, appropriate and lawful fund sources shall be determined by departments in consultation with other campus units, as necessary.

c. Temporary Academic Positions for O-1, J visa, and F1/OPT⁵ to J-1 visa

For temporary academic positions, the appropriate unit or the international scholar may assume financial responsibility for nonimmigrant visa processing fees, including ISC processing fees and USCIS filing fees, for the O-1 visa, and F-1/OPT to J-1 visa if the following conditions are met:

- (i.) the initial appointment has the potential funding for at least one year.
- (ii.) the international scholar or faculty holds the position of:

1. Professor
2. Professional Researcher
3. Postdoctoral Scholar
4. Academic Coordinator
5. Project Scientist
6. Staff Research Associate
7. Specialist

d. No UCR funds shall be used for the payment of the J visa SEVIS fee which is the financial responsibility of the international scholar.

iii. Temporary Academic H-1B Eligibility and Financial Responsibility

a. For H-1B petitions for temporary academic positions, the appropriate unit may assume financial responsibility for certain USCIS filing fees and ISC fees if the following conditions are met:

- (i) the initial appointment has the potential funding for at least one year.
- (ii) the international scholar or faculty holds the position of:

1. Professor (Assistant, Associate, Full, Acting, Visiting or Adjunct)
2. Professional Researcher
3. Postdoctoral Scholar
4. Academic Coordinator
5. Project Scientist

⁵ F-1/OPT to J-1 is the process of changing status for the student visa holder to J research scholar status within the United States.

- 6. Staff Research Associate
- 7. Specialist

b. The international scholar may assume financial responsibilities for USCIS filing fees for the H-1B if certain conditions are met as follows:

- (i) The department is willing to request the visa based on the international scholar's appointment for at least one year.
- (ii) The department is willing to pay the USCIS fraud fee in the amount of \$500⁶, but only for New Employer H-1B and Change of Employer H-1B applications.
- (iii) All other filing fees are paid by the international scholar so long as UCR can still demonstrate that the international scholar will receive a salary which meets the Department of Labor prevailing wage requirement after deducting the filing fees paid by the scholar from the salary amount declared in the Labor Condition Application as part of the H-1B application.

c. The international scholar may assume financial responsibility for ISC fees so long as the department is willing to request the visa based on the appointment for at least one year.

V. Staff Positions

A. Lawful Permanent Residence

i. Eligibility

Individuals in staff positions **considered critical to the UCR academic research mission** may be eligible for LPR sponsorship. The ISC shall determine which staff positions are eligible for UCR sponsored LPR petitions based on immigration laws. "Permanent staff", for immigration purposes, is defined as those positions which have the "expectation of permanency" notwithstanding definite or indefinite funding for the salary of the position.

⁶ The USCIS fee is prohibited from payment by the scholar as federal regulations establish this fee as a requirement to be paid by the employer due to the nature of the fee. The fee establishes funding to prevent H-1B fraud. The \$500 amount required for the fraud fee is as of the year 2007 and is subject to change.

UCR shall not assume financial responsibility nor shall UCR sponsor LPR petitions prepared by attorneys who have not been subject to UCOP approval procedures for representation of UCR in immigration matters

ii. Financial Responsibility and Funding Sources for Permanent Staff Positions

UCR units may assume financial responsibility for career positions at the discretion of the college dean's office, or other control unit. Appropriate and lawful fund sources for LPR petitions for staff positions shall be determined by departments in consultation with other campus units as necessary.

UCR shall not be financially responsible for the immigration costs of dependents, but the ISC shall provide assistance with dependents of staff seeking LPR, for a fee.

iii. ISC Assistance for Staff Positions Ineligible for UCR financial Support

For staff positions deemed ineligible for financial support by the college dean's office, or other control unit, those individuals in staff appointments, which have the expectation of permanency and are considered critical to the UCR academic or research mission, may assume financial responsibility, including attorney fees, filing fees, and ISC fees, and may receive UCR sponsorship and assistance in immigration matters for LPR petitions, for a fee.

iv. Temporary Staff Positions

Individuals in temporary, staff positions are ineligible for UCR sponsorship for LPR petitions, but may contact ISC directly for assistance in developing immigration strategies.

B. Nonimmigrant Visas

i. Overview

The ISC shall provide immigration services for nonimmigrant visa categories available to staff positions in accordance with UCR policy for the purpose of obtaining lawful presence in the United States and temporary employment status.

ii. Eligibility

The ISC shall determine the appropriate visa selection based on the visa request and eligibility in accordance with immigration laws. The ISC shall provide immigration services to staff positions to procure the following categories of nonimmigrant visas: H-1B, E-3, TN and O-1. In each visa category, the increments of time available vary. Therefore, the ISC shall determine the appropriate duration for the visa application based on the request and immigration laws.

UCR shall not sponsor nonimmigrant visa applications or provide UCR funds for immigration matters for dependants of staff. However, the ISC may provide administrative assistance to international staff to procure lawful status for dependants, for a fee.

iii. Financial Responsibility

a. For H-1B petitions for staff positions, UCR units may assume financial responsibility for certain USCIS filing fees and ISC fees if the initial appointment has the potential funding for at least one year.

b. The beneficiary may assume financial responsibility for all immigration fees, including USCIS filing fees, attorney fees, and ISC fees.

The beneficiary of the H-1B petition may assume financial responsibilities for USCIS filing fees for the H-1B if certain conditions are met as follows:

- (i) The department is willing to request the visa based on the staff member's appointment for at least one year.
- (ii) The department must be willing to pay the USCIS fraud fee in the amount of \$500, but only in New Employer H-1B and Change of Employer H-1B applications.
- (iii) All other filing fees may be paid by the international staff member so long as UCR can still demonstrate that the staff member will receive a salary which meets the Department of Labor prevailing wage requirement after deducting the filing fees paid by the scholar from the salary amount declared in the Labor Condition Application as part of the H-1B application.

IV. Assumption of Responsibility for Errors in Processing by the ISC

The International Scholar Center will assume financial responsibilities for those costs, limited to federal filing fees and attorney fees, resulting from those errors made solely by ISC staff, or agents of the ISC, as deemed by the Director. Those costs will not include fees that would otherwise be incurred by the benefitting party(ies) notwithstanding the error in question.