

U.S. Lawful Permanent Resident Status for Members of the Professions Holding Advanced Degrees and Aliens of Exceptional Ability in the Sciences, Arts, or Business

(This packet is NOT for “Special Handling” cases. Please see www.ois.pitt.edu/pdf/LPRRequestPacketEB-2SpecialHandling.pdf if you are seeking “Special Handling” for those in tenure track teaching positions within 18 months of their initial letter of offer)



*University of Pittsburgh
Office of International Services*





Greetings!

The Office of International Services (OIS) at the University of Pittsburgh (Pitt) has prepared this packet of information to assist foreign nationals and their hiring departments at Pitt with the process of preparing an application for U.S. Lawful Permanent Resident (LPR) status for adjudication by the U.S. Citizenship & Immigration Services (USCIS).

The process is lengthy and complex, potentially involving various state and federal government agencies. In order to ensure that everything goes smoothly, it is extremely important that you read the materials in this packet very carefully and that you follow the instructions. This will avoid delays in the processing of your case.

Please be advised, however, that any estimated processing times referenced in this packet are subject to change without notice due to changes in the regulations/laws and/or due to backlogs within a particular government agency. OIS cannot control delays of this nature.

Commonly Used Acronyms or Abbreviations in the H-1B1 Request Packet

EB-2	The second preference level of an employment-based immigrant petition
INA	Immigration and Nationality Act
LPR	Lawful Permanent Residence
Pitt	University of Pittsburgh
OIS	Office of International Services
RFE	Request for Evidence
USCIS	U.S. Citizenship & Immigration Services

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Basic LPR Information

What is LPR Status?

- Lawful Permanent Resident status is reserved for foreign nationals who intend to reside in the United States permanently. Such individuals may also be referred to as **immigrants, green card holders, or resident aliens**. These terms may be used interchangeably throughout this packet.
- An individual can become a Lawful Permanent Resident through a variety of avenues. There are three principal bases to qualify for LPR status: (1) Family, (2) Employment, or (3) Public/Humanitarian Policy. The Office of International Services (OIS) at the University of Pittsburgh only facilitates applications for LPR based on **employment** and which require the University to function as the employer sponsor/petitioner on behalf of the foreign national.
- The U.S. Immigration & Nationality Act currently limits the total number of employment-based immigrants to 140,000 per fiscal year [INA 201(d) and 203(b)]. These 140,000 slots are divided between five employment-based “preference” categories as follows:
 - (1) FIRST Preference (EB-1): Aliens with Extraordinary Ability, Outstanding Professors and Researchers, and Certain Multinational Executives and Managers.
 - (2) **SECOND Preference (EB-2): Members of the Professions Holding Advanced Degrees and Aliens of Exceptional Ability in the Sciences, Arts, or Business.**
 - (3) THIRD Preference (EB-3): Professionals and Skilled Workers (requiring two or more years of specific education, training, or experience) and Other (Unskilled) Workers.
 - (4) FOURTH Preference (EB-4): Certain Special Immigrants.
 - (5) FIFTH Preference (EB-5): Employment Creation, for immigrants who invest in a new commercial enterprise that will benefit the U.S. economy and create at least 10 full-time jobs for U.S. workers.
- This packet has been created exclusively for assisting departments with the **SECOND Preference (EB-2)** category for “members of the professions holding advanced degrees or aliens of exceptional ability in the sciences, arts, or business.”

Which Faculty Members Qualify for EB-2?

- The individual must hold an advanced degree, defined as any academic or professional degree or foreign equivalent above the U.S. baccalaureate. In some cases, a baccalaureate plus five years of appropriate experience can be counted as a master's degree.
- The individual's employment at the University of Pittsburgh must meet university policy for sponsorship of a Lawful Permanent Residence petition. See <http://www.ois.pitt.edu/pdf/LPRSponsorshipGuidelines.pdf> for more information.

Which Positions Qualify for EB-2 – “Permanent” Positions

The position must be full-time and “permanent,” defined by applicable regulations, which means either tenured, tenure-track, or “for a term of indefinite or unlimited duration, and in which the employee will ordinarily have an expectation of continued employment unless there is good cause for termination” [8 CFR 204.5(i)(2)]. Employees holding the title of Postdoctoral Scholar or Postdoctoral Associate do not

qualify for this category, since they are training positions and considered temporary positions at Pitt. Note that the Department of Labor defines “full-time” as requiring at least 36 hours or more per week.

Administrative Information

Processing Times

Your LPR request will go through three stages:

- **Permanent Labor Certification.** The international and/or department must retain the services of a outside immigration attorney to complete the Permanent Labor Certification. Approval for use of an outside immigration attorney is granted only by the Director, OIS, and must be given prior to formally engaging the attorney. See (<http://www.ois.pitt.edu/pdf/OutsideImmigrationCounselGuidelines.pdf>). Consult the attorney for the best estimate of the time frame for this procedure.
- **Form I-140 Immigrant Petition for Alien Worker.** Either the pre-approved outside immigration attorney or your assigned OIS Immigration Specialist will prepare the EB-2 immigrant petition. This usually **takes up to six weeks after submission of complete paperwork**. If **retrogression** is not an issue, the I-485 will be submitted at the same time. See “Priority Dates and Retrogression” on page 8.
- **Form I-485 Application to Adjust Status.**

The USCIS will adjudicate the EB-2 immigrant petition and I-485. USCIS processing times for an I-140 or I-485 vary greatly. A general rule of thumb is that Lawful Permanent Residence is most often granted within a year of filing (when **retrogression** is not an issue), but numerous cases can take significantly longer than a year.

When judging the total processing time of an LPR case request, it is important to keep the following factors in mind:

- **Time to gather documents.** Remember that OIS’ six week processing time does not start until we receive complete paperwork.
- **Retrogression.** See “Priority Dates and Retrogression” on page 8 for more information.
- **Requests for Evidence.** See “Requests for Evidence (RFEs)” on page 7 for more information about Requests for Evidence, but be aware that an RFE will delay adjudication, possibly by several weeks or more.

An Immigration Specialist can help you to determine a tentative timeline for a specific case.

Fees

When preparing to pay fees for an LPR petition, keep the following in mind:

- All fees must be paid, except where noted, in the form of a check or money order made payable to “**U.S. Department of Homeland Security.**”
- All checks or money orders should be submitted to OIS with all other application materials and should NOT be sent directly to USCIS.

- Separate checks must be submitted for each fee.
- For internal check processing purposes at Pitt, please use the following address information for all checks (but again, do NOT send checks directly to this address; send to OIS):

**USCIS Texas Service Center
4141 North St. Augustine Road
Dallas, TX 75227.**

Fees that must be paid by the department

- I-140 application fee: **\$475**
- OIS Cost Recovery Fee: **\$1,200** (NO CHECK NECESSARY. This fee is processed via an internal transfer of funds using a department budget number. The department will be asked for this account number in the INS Zoom Department Questionnaire, and will receive email confirmation of the charge.)
- Fee payable to the outside immigration attorney for processing the Permanent Labor Certification – this fee may vary and cannot, by law, be passed on to the international employee.

Fees typically paid by the applicant

- I-485 application fee: **\$1,010**
- Additional I-485 fee for dependents: **\$1,010** for each dependent 14 years of age and older / **\$600** for each dependent *under* 14 years of age.
- Form I-765: **No fee if filed with or while I-485 is pending** (*Optional. Consult with OIS Advisor.*)
- Form I-131: **No fee if filed with or while I-485 is pending** (*Optional. Consult with OIS Advisor.*)

Fees that may be paid by either the department or the applicant

- I-907 premium processing fee (I-140 petition only): **\$1,000**

ALL USCIS FEES ARE SUBJECT TO CHANGE WITHOUT NOTICE.

EB-2 Process Overview

Part 1: Assessment

The foreign national and his/her faculty sponsor must review the University's Policy Statement Regarding Sponsorship for U.S. Lawful Permanent Resident Status (<http://www.ois.pitt.edu/pdf/LPRSponsorshipGuidelines.pdf>) to determine if he/she meets the University criteria. If the international is found to be eligible for sponsorship, the LPR process can move forward.

- The foreign national AND his/her faculty sponsor and/or senior administrator in the department must meet with an Immigration Specialist in OIS (see <http://www.ois.pitt.edu/pdf/SchoolDeptAssign.pdf> for a complete listing of Immigration Specialists) to review the foreign national's eligibility relevant to the University sponsorship policy, as well as the USCIS eligibility criteria, and to explain the application process in detail if the foreign national is found to be eligible for sponsorship.

At this time, the Immigration Specialist will also make a recommendation about what category of immigrant petition may be appropriate – EB-1, EB-2, EB-2 with “Special Handling,” etc. and will provide Cover Sheets to assist you in gathering required documentation.

Part 2: Permanent Labor Certification

The international and/or department must retain the services of an attorney to complete the Permanent Labor Certification. The department must carefully follow the guidelines set forth in the “Guidelines Regarding the Use of Outside Immigration Attorneys” (see <http://www.ois.pitt.edu/pdf/OutsideImmigrationCounselGuidelines.pdf> in order to retain the services of an outside immigration attorney.

Once an attorney has been retained, in full compliance with the previously referenced guidelines, the attorney will need to work closely with the department and with OIS. All official forms and documentation are to be signed by either the Director or Associate Director, OIS. **Department administrators and/or faculty are not authorized to sign these forms.** OIS retains the right to reject any documentation filed by an attorney that is not complete and/or that does not accurately represent the University of Pittsburgh. Although the attorney should guide you through this complex process, you may review the attached “Addendum:” on page 15 for some “insider” information about the process.

Part 3: Submission

If the pre-approved outside immigration attorney will continue to handle the permanent resident case beyond the permanent labor certification, then the department will follow the attorney's guidance and lead.

If, however, the department chooses to have OIS handle the EB-2 petition beyond the permanent labor certification, then

- The sponsoring department gathers all required supporting documents, both from the department and the international employee (see the document checklists later in this packet for a detailed list) and submits to OIS with the appropriate cover sheet (provided by your immigration specialist).
- The Immigration Specialist will send a Department Case Starter Kit email from INS Zoom to the department administrator and the Applicant Case Starter Kit email to the international employee, usually within 48 hours of submission of the cover sheet and required documentation.
- Both the department administrator and the international employee complete their respective INS Zoom questionnaires, which link from the case kit emails - don't forget to click the "Inform OIS" button to let us know when you're done!
- The outside immigration attorney or international employee forwards the original permanent labor certification to the Immigration Specialist for use in filing the EB-2 petition.

OIS will work with the department and the international to prepare the Form I-140 and review the Form I-485 and related forms (if the international is filing concurrently). In addition, OIS will review the Form I-765 Application for Employment Authorization and/or the Form I-131 Application for Travel Document (if applicable).

Part 5: Approval

- OIS will provide the international with a photocopy of the Form I-140 Receipt Notice and Approval Notice, upon receipt.
- The international must provide OIS with a photocopy of the Form I-485, Form I-131 and Form I-765 (if applicable) Receipt Notices for himself/herself, as well as for any dependents (if applicable), upon receipt.
- The foreign national must provide OIS with a photocopy of any approved Forms I-131 and EADs for himself/herself and any dependents, as applicable, upon receipt.
- Upon approval, the international must submit to OIS a legible photocopy of the I-551 stamp placed in his/her passport, as well as a legible photocopy of the Alien Registration Card (i.e., "green card") once it has been received by the international.

Requests for Evidence (RFEs)

When the USCIS adjudicates a petition, there are three possible results: approval, denial, or sending a Request for Evidence (RFE). An RFE means that the USCIS adjudicating officer wants more information or documentation before making a final decision. An RFE is not necessarily a bad thing, but it does cause an undesirable delay in petition processing.

Carefully following the instructions in this manual and consulting with your Immigration Specialist will minimize the likelihood of receiving an RFE.

If the EB-2 petition does receive an RFE, the Immigration Specialist or outside immigration attorney, international faculty/staff member, and department must work to respond quickly yet comprehensively.

Priority Dates and Retrogression

The U.S. federal government places limits on the per-country and per-category adjustment of status applications (green card applications) every year. In some cases, there is a “wait list” to submit the I-485 based on the beneficiary’s **priority date**. This system of wait times is called **retrogression**. If there is no wait time then your Immigration Specialist can submit the I-485 **concurrently**, meaning that it will be filed at the same time and in the same envelope as the I-140. Consult your Immigration Specialist for more information.

Government Forms and Systems

All of the forms listed below are available on the web site of the U.S. Citizenship and Immigration Services – www.uscis.gov – by clicking “Immigration Forms.”

- **Form ETA 9089 (Application for Permanent Employment Certification)** – This form is accessible only by the employer or its designated representatives. When certified by the Department of Labor, the ETA-9089 forms the labor basis for proceeding with an EB-2 LPR petition.
- **PERM (Program Electronic Review Management)** – This is a method through which labor certification applications may be filed electronically with the Department of Labor through a dedicated web site.
- **Form I-140 (Immigrant Petition for Alien Worker)** – This form, along with supporting documents, is filed by the *sponsor* of the Lawful Permanent Residence petition, not by the beneficiary (the alien). This form establishes the eligibility for the alien to file an employment-based LPR petition, and it must be approved before the I-485 is adjudicated.
- **Form I-485 (Application to Register Permanent Residence or Adjust Status)** – This form, along with supporting documents, is completed by the *beneficiary* (the alien). The Form I-140 establishes a basis of eligibility for Lawful Permanent Residence and the I-485 is the actual application for adjustment of status to Resident Alien.
- **Form I-765 (Application for Employment Authorization)** – This form requests an Employment Authorization Document (EAD) from the USCIS, which allows the beneficiary (and certain dependents) to work in the U.S. Individuals with a pending I-485 are eligible for work permission in the U.S. as pending permanent residents. The I-765 can be filed concurrently (at the same time, in the same envelope) as the I-485.
- **Form I-131 (Application for Travel Document)** – This form allows a pending permanent resident (dependents included) to request Advanced Parole documents, which allow the beneficiary to travel internationally in advance of the green card approval. The I-131 can be filed concurrently (at the same time, in the same envelope) as the I-485.

Department Information and Responsibility

Please see “EB-2 Process Overview” on page 6 for the case steps for an EB-2 case, including those initiated by the academic department.

Document Checklist

The academic department submits documentation for requesting the Permanent Labor Certification and Form I-140; the I-485 is completed by the international faculty/staff member.

- Check(s) for the required fees made payable to U.S. Department of Homeland Security**

See “Fees” on page 4 for more information.

- Competitive Recruitment Report to support the request for permanent labor certification**

Format and supporting documentation will be stipulated by the outside immigration attorney.

- Employment Verification Letter (2 copies)**

See “Sample Outline of Employment Verification Letter” on page 10.

This letter is *not* an official offer of employment, but it must come from the person or persons in the department who are authorized by the University to extend an offer of employment or who otherwise have formal supervisory and/or hiring/firing authority over the foreign national. Even though the foreign national may already be working at the University, this letter is required. The letter must establish that the foreign national is employed, or will be employed, in a tenure or tenure-track teaching position or in a “permanent research position.”² The letter must also include the title and salary for the position that the foreign national now holds or the position that he/she will hold, a detailed job description, as well as an explanation of the foreign national’s qualifications for the position.

- INS Zoom Department Questionnaires [LPR]**

The questionnaire will be submitted online – you are not required to submit a printout of it.

Sample Outline of Employment Verification Letter

The letter should be addressed to:

U.S. Citizenship & Immigration Services
Texas Service Center
4141 North St. Augustine Road
Dallas, TX 75227

Do *not* send the letter directly to USCIS. The letter must be submitted by the foreign national and/or his/her department to OIS for inclusion with all other application materials for mailing to USCIS. The letter should contain the elements included in the sample letter below:

- I am writing this letter in support of the US Lawful Permanent Resident petition for [NAME OF FOREIGN NATIONAL].
- He/she has worked at the University of Pittsburgh since [DATE OF HIRE] as a [POSITION TITLE].
 - **FOR TENURE/TENURE-STREAM POSITIONS** – Be sure to include language in this letter that makes clear this is a tenure/tenure-stream positions.
 - **FOR OTHER “PERMANENT RESEARCH POSITIONS” THAT ARE GRANT-FUNDED** – You must include the following language in your letter: **“This is a full-time, permanent position of indefinite duration, as defined at 8 C.F.R. § 204.5(i)(2), in which [NAME OF FOREIGN NATIONAL] will have the expectation of continued employment.”***

* **IMPORTANT NOTE**: This specific language **MUST** be included in the letter.

Additionally, a separate letter should be attached that includes evidence of past grants, current grants, and applications for future grants. And, if applicable, the department should also include the following language: “The [DEPARTMENT NAME] will guarantee/pay [NAME OF FOREIGN NATIONAL]’s salary regardless of the grant funding availability.”

- **FOR OTHER “PERMANENT RESEARCH POSITIONS” THAT ARE NOT GRANT-FUNDED** – You must include the following language in your letter: **“This is a full-time, permanent position of indefinite duration, as defined at 8 C.F.R. §**

204.5(i)(2), in which [NAME OF FOREIGN NATIONAL] will have the expectation of continued employment. This position is not based on grant funding.”*

* **IMPORTANT NOTE**: This specific language **MUST** be included in the letter.

- The minimum requirements for this position are [DEGREE LEVEL] in [DISCIPLINE OR FIELD OF STUDY] or related field, and [#] year(s) of research experience in the field of [DISCIPLINE OR FIELD OF STUDY].
- [NAME OF FOREIGN NATIONAL]’s current annual salary is [\$].

His/her job duties include [BRIEFLY DESCRIBE THE NATURE OF THE POSITION, INCLUDING MAJOR RESPONSIBILITIES AND DUTIES].

Applicant Information and Responsibility

I-140 Document Checklist

The Form I-140 (Immigrant Petition for Alien Worker) is filed by the University of Pittsburgh as the sponsor of your employment-based request for lawful permanent residence. You must submit the following documents to OIS to support your I-140.

Two copies of all listed documentation are required. Unless otherwise listed, you should provide the original document and a photocopy. For items marked “copy,” provide two copies – the original document is not required.

Original certified ETA-9089 (provided by the outside immigration attorney).

Current Curriculum Vitae (CV)

Copies of all education credentials (i.e., diplomas).

With official translation if not in English

Credential evaluation (if applicable)

If your highest relevant degree is from a non-U.S. institution, you will need to submit a credential evaluation. For information regarding evaluations of educational credentials from all countries of the world, please consult one of the following web sites: <http://www.wes.org> or <http://www.aacrao.org/credential/index.htm>, <http://www.aice-eval.org>, or <http://www.naces.org>.

INS Zoom Questionnaires [I-140 (Applicant)]

Once the supporting documentation has been gathered, your department administrator will submit a request for an LPR petition through OIS’ INS Zoom software. You will then receive an email from your Immigration Specialist with a link to the online Questionnaire, which you will need to complete and submit.

The questionnaires will be submitted online – you are not required to submit a printout of it.

Please note that your Immigration Specialist will prepare the Form I-140 – you do not need to submit one.

I-485 Document Check List

The I-485 (Application to Register Permanent Residence or Adjust Status) is your application for Lawful Permanent Resident status. All of the below-listed forms are available on the USCIS web site – www.uscis.gov – by clicking “Immigration Forms.” You must submit the following documents to OIS to support your I-485.

Two copies of all listed documentation are required. Unless otherwise listed, you should provide the original document and a photocopy. For items marked “copy,” provide two copies – the original document is not required.

- Form I-485**
- Form I-693 Medical Exam and Form I-693 Supplement.** (See www.uscis.gov for the Civil Surgeon Locator in order to find local physicians designated to complete this form.)
- Form G-325A** (Biographic Information)
- 2 photos that meet USCIS specifications.**
To view the specifications, go to: <http://www.travel.state.gov/passport/pptphotos/index.html>. Include the name, Social Security Number, and I-94 number on the back of each photo.
- Photocopy of all passports held while in the United States**
Introductory page(s) and any and all stamped pages
- Photocopy of birth certificate**
With translation if not in English.
- Photocopy of approval (Form I-797) of Form I-140 (Immigrant Petition for Alien Worker)**
This is not applicable if filing I-140 and I-485 concurrently.
- For prior J-1 Exchange Visitors who were subject to the “two-year home country physical presence requirement” [INA 212(e)], a photocopy of the approval of a waiver of that requirement (Form I-612).**
- Photocopy of both sides of the Form I-94**
- Photocopy of evidence of having maintained an uninterrupted nonimmigrant status at all times while in the United States**
Photocopies of any I-20s, IAP-66s, DS-2019s, I-797s, etc.
- For foreign nationals who have held F-1 or J-1 *student* status, a photocopy of academic transcripts for the entire period of study in the United States.**
- Photocopy of marriage certificate and/or divorce certificate (if applicable)**
With translation if not in English

Optional Forms

See “Government Forms and Systems” on page 8 for more information. Note that additional supporting paperwork will be required if you are not filing these concurrently with the I-485.

- Form I-765** Application for Employment Authorization (**Note: Must use updated form after July 8, 2008**)

- **2 photos that meet USCIS specifications.** To view the specifications, go to: <http://www.travel.state.gov/passport/pptphotos/index.html>. Include the name, Social Security Number, and I-94 number on the back of each photo
- **Form I-131** Application for Travel Document
 - **2 photos that meet USCIS specifications.** To view the specifications, go to: <http://www.travel.state.gov/passport/pptphotos/index.html>. Include the name, Social Security Number, and I-94 number on the back of each photo

NOTE: Internationals in O-1 status, or any nonimmigrant status other than H or L, are *required* to apply for Employment Authorization using Form I-765 and for Advanced Parole using Form I-131. **It is *not* optional for those individuals.**

Dependents

If you are filing with dependents (spouse or child under the age of 21), each of your dependents should submit each of the documents on the I-485 check list as well. A separate Form I-485, with supporting documents and filing fee, must be submitted for each family member.

Addendum: Permanent Alien Labor Certification Process Overview

While an outside immigration attorney must process the Permanent Alien Labor Certification (PALC), OIS is pleased to provide the following information about the process to help departments at Pitt have a general understanding. The immigration attorney should review all of this general information with you during the process in one form or another.

This is for informational purposes only. If you have specific questions about your case, you must direct them to the immigration attorney who has been retained to process the PALC.

(NOTE: The Program Electronic Review Management (PERM) System has significantly changed various aspects of this labor process. You should always check with the immigration attorney who is processing your PALC to ensure you have the most up-to-date information.)

- **Assessing position status**

The hiring department (i.e., chair, dean, director, or administrator) must identify the existence of a bona fide job opening, which is full-time and permanent. The regulatory definition of “permanent” employment as a researcher takes into account the fact that research funding is often in the form of grants and other “soft” money. “Permanent,” in reference to a research position and as defined by applicable regulations, means either tenured, tenure-track, or “for a term of indefinite or unlimited duration, and in which the employee will ordinarily have an expectation of continued employment unless there is good cause for termination” [8 CFR 204.5(i)(2)]. Employees holding the title of Postdoctoral Scholar or Postdoctoral Associate do not qualify for this category, since they are training positions and considered temporary positions at Pitt. Positions that meet the criteria will include staff positions, research associates, tenure-track and full professors. However, these positions must require an advanced degree (master's degree or higher). Exceptions to this rule are rare and should be made in consultation with the attorney and OIS.

- **Submitting a job description**

A detailed job description must be provided to the attorney. The job description must state the **minimum requirements for the position** – do not describe the background and qualifications of the alien worker in your job description.

- **Requesting a Prevailing Wage Determination**

The attorney must obtain a new prevailing wage from the State Employment and Security Agency (SESA) of the Pennsylvania Department of Labor and Industry.

- **Advertising**

The PERM (Program Electronic Review Management) system requires **two** different Sunday ads placed more than 30, but not more than 180 days, before the filing. The ads must be placed on consecutive Sundays. If the job is located in a rural area with no Sunday edition, the employer may use the edition with the widest circulation. If the job requires experience and an advanced degree, an employer may use a professional journal in lieu of one of the Sunday ads.

Three additional recruitment steps are required for professional jobs. The list of permitted additional recruitment steps in the PERM regulation include:

- job fairs
- employer's web site
- job search web site other than employer's. Further, a web page generated in conjunction with a print ad now counts as a website other than the employer's
- on-campus recruiting
- trade or professional organizations
- private employment firms
- an employee referral program, if it includes identifiable incentives
- a notice of the job opening at a campus placement office, if the job requires a degree but no experience
- local and ethnic newspapers, to the extent they are appropriate for the job opportunity
- radio and television advertisements.

The additional recruitment steps must take place no more than 180 days before filing. (NOTE: A professional job is a job for which the attainment of a bachelor's or higher degree is a usual education requirement. DOL published a list of professional occupations in Appendix A to the PERM rule. If the occupation is listed on Appendix A, the employer must follow the recruitment regimen for professional occupations.)

All advertisements must contain:

- Job title
- Name of Employer (physical address not required)
- Ad must direct applicants to send resumes or report the employer as appropriate
- Geographic area of employment
- Minimum qualifications and special requirements for the position (not the employee's qualifications)
- Salary (optional *if* the salary exceeds the prevailing wage)

● **Posting the position**

The job opportunity must be displayed for at least 10 consecutive business days in a conspicuous place within the department. The department supervisor must sign a statement describing whether this posting generated any responses or interest. If there were respondents, the following must be documented:

- The number of people who responded
- The names, addresses, phone numbers and resumes of those interviewed
- The lawful, job related reason for not hiring each applicant who applied

- **Interview process**

A representative with hiring authority from the department (e.g., Chair, Director, supervisor) must review the resumes of all applicants responding to the advertisements as soon as possible. Delaying for even two weeks may be taken by DOL to be indicative that the job opportunity may not really be open to U.S. workers. Although applicants that clearly do not have the major minimum qualifications will probably not have to be interviewed, some cautious employers choose to interview apparently unqualified applicants over the phone, to rule out the possibility that they may possess the minimum qualifications. The process of reviewing the applications, calling the applicants, and arranging interviews should be standardized as much as possible. If there is difficulty in reaching persons who meet the minimum qualification then the employer must document every effort made including the submission of a certified letter.

Applicants who are not U.S. workers do not require consideration in the interview process. However, U.S. workers must be included and counted as a respondent. U.S. workers are defined as U.S. citizens, lawful permanent residents, refugees, and asylees. It is lawful to ask for someone's eligibility to work in the United States. However, the same question must be asked of ALL persons being interviewed for the same position. If you have concerns about the manner in which you should interview, please contact the University's Office of General Counsel.

- **Documenting the recruitment efforts**

The department supervisor responsible for hiring the employee will be required to summarize in writing the entire recruitment process. This report must describe the recruitment steps taken and the results. The recruitment report must include the number of hires and the number of US workers rejected, categorized by the lawful job-related reasons for rejection. The employer may, after reviewing the employer's recruitment report, request copies of the US workers' resumes, sorted by the reasons for rejection. The department must sign the recruitment report. In response to numerous comments from employers who receive a large volume of unsolicited resumes, the final rule does not require the employer to identify the individual U.S. workers who applied for the job opportunity.

- **Completing the forms**

The attorney will complete Form ETA 9089 on behalf of the employer. However, the Form ETA 9089 must be signed by an OIS designated advisor and the foreign worker. The ETA 9089 must have an original signature and accompany the Form I-140 when it is filed with USCIS. A copy must be retained in a separate file created by OIS.