

**UNIVERSITY-SPONSORED IMMIGRATION STATUS
EMPLOYMENT-BASED PERMANENT RESIDENT STATUS**

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AFTER YOU RECEIVE YOUR LAWFUL PERMANENT RESIDENT STATUS (GREEN CARD)

OVERVIEW

The University primarily sponsors employees for permanent residence in the employment category for professionals holding advanced degrees (EB-2), which requires the issuance of a labor certification by the Department of Labor. The Labor Certification is a finding by the Department of Labor that there are no U.S. workers willing, able, qualified, and available for the position offered and that the terms of the employment will not adversely affect wages and working conditions of current employees.

If the position includes classroom teaching, the University may be able to sponsor a faculty member for permanent residence through a process known as “special handling,” which requires that the labor certification application (ETA 9089) is filed within 18 months of the date of the job offer. Special handling entails an expedited labor certification process.

APPLICATION PROCESS

The three components of the employment-based permanent residence process for those employees in the United States—each of which is described in detail below—are:

1. The PERM Process
2. The University’s Form I-140 Petition for the employee beneficiary
3. The employee beneficiary’s Application for Adjustment of Status to Permanent Residence

The PERM Process

(1) Prevailing Wage Determination.

The University obtains a Prevailing Wage Determination from the Department of Labor. The prevailing wage is the appropriate minimum wage level required for the position in the specified geographic location, based on the job duties, minimum education and experience required. The University must pay the employee beneficiary at least the prevailing wage.

(continued)

(2) Recruitment

Regular Recruitment

The University must recruit for the position following Department of Labor regulations. Recruitment includes advertising the position for 30 days and an additional 30-day “quiet” period of receiving and reviewing applications. The University must respond promptly and appropriately to any applications. If the University recruitment yields willing, able, qualified, and available U.S.-worker applicants, the process must end with recruitment. If no willing, able, qualified, and available U.S.-worker applies to the position, the University moves on to file the Labor Certification Application.

Special Handling Recruitment

The University must only demonstrate that the employee was hired as a result of a competitive recruitment and selection process, and was determined to be the best choice for the position. The University may use the original advertisements posted for the position, and is only required to internally post a notice of opportunity for the position before observing the 30-day “quiet” period.

(3) Filing of Labor Certification Application ETA 9089

The University files ETA 9089, Application for Permanent Employment Certification to the Department of Labor. Applications are filed electronically in the U.S. Department of Labor's Program Electronic Review Management (PERM) system, which is why this portion of the permanent residency process is known as “PERM.”

Form I-140 Immigrant Petition for Alien Worker

Once the Application for Permanent Employment Certification is approved, the University files the Form I-140 Immigrant Petition for Alien Worker to the U.S. Citizenship and Immigration Services (USCIS). This petition demonstrates the employer’s intent to hire the employee for the certified position.

Application for Adjustment of Status to Permanent Residence

An approved I-140 Petition by the University allows the employee beneficiary to file for “adjustment of status” to permanent resident. The application is made on Form I-485, and is normally accompanied by an application for employment authorization (Form I-765) and travel authorization (Form I-131) during the pendency of the application.

Employment-based green cards are numerically limited by law; sometimes, the number of applicants for a green card in a particular category is greater than the number of green cards available. If that is the case, the employee must wait in a virtual line, based on his/her application’s priority date, until a green card is available, before filing the Form I-485 Application to Adjust Status. The priority date for an employment-based green card is the date on which the ETA 9089 is accepted for processing by the Department of Labor. The government publishes visa availability in each category monthly in the [Visa Bulletin](#).

If there is a green card immediately available to the employee beneficiary, the application for adjustment of status may be filed simultaneously with the University’s Form I-140 Petition.

For more information about the employment-based green card process, see the [USCIS website](#) and the [Department of Labor Office of Foreign Labor Certification website](#).

APPLICATION TIMELINE

Please note that these times are approximate and actual timing may vary significantly.

Planning & Preparation: 30-60 days

Prevailing Wage Determination: 6-7 months

Recruitment

Regular Recruitment: 30 days + 30 day “quiet” period

or

Special Handling: up to 30 days

ETA-9089 Adjudication: 6-7 months

Form I-140 Immigrant Petition for Alien Worker: 4 months

Wait for priority date to be current: 0 days to several years (see [Visa Bulletin](#))

Form I-485 Application to Adjust Status: 9-11 months from date of receipt (may be filed with I-140 if a green card is immediately available)

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U.S. Citizenship and Immigration Services outlines the [rights and responsibilities of green card holders](#) on its website.

Generally, you will be eligible to become a U.S. citizen, if you so desire, after five years in Lawful Permanent Resident Status.

If you have any questions about Lawful Permanent Resident status or the employment-based green card process, please contact the Assistant Counsel for Global Affairs ([ajcolber\[at\]sewanee.edu](mailto:ajcolber[at]sewanee.edu)).

DISCLAIMER: This information is intended to inform generally, not to advise in individual cases. Areas of law are rapidly changing. U.S. Citizenship and Immigration Services and the Department of State regularly change regulations and processing and filing procedures. For legal advice seek the assistance of an immigration attorney.