

INTRODUCTION TO

Immigration Sponsorship at Rutgers RBHS Faculty Affairs

International Student and Scholar Services
RUTGERS GLOBAL

global.rutgers.edu

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- **To introduce university policy on the employment of Foreign Nationals**
- **To provide an overview and framework of Rutgers sponsorship process and timeframes for permanent residence requests**
- **To review J-1 and H-1B visa categories and common issues**

ISSS Policy on Employing Foreign Nationals –

60.1.2

Rutgers encourages international educational exchange initiatives and recognizes the need for worldwide recruitment for both long and short-term positions. However, the University is not only constrained by the regulations of the Department of State (DOS), Department of Homeland Security (DHS), and Department of Labor (DOL); but also by resources.

Purpose of Policy:

- Establish standard set of HR job titles that qualify for sponsorship
- Ensure proper vetting of sponsorship decisions
- Provide guidance to hiring departments
- Communicate departmental responsibilities

ISSS Employing Foreign Nationals – Policy 60.1.2

- **What does it cover?**
 - What is New?
 - Eligible HR Titles by Visa Category
 - Policies/Procedures for Temporary Work Visas and Permanent Residence Sponsorship

ISSS EFN Policy Appendix

APPENDIX – Employment of Foreign Nationals Policy

(“LEGACY” RUTGERS and RUTGERS BIOMEDICAL AND HEALTH SCIENCES (RBHS))

Note: “RBHS” in this Appendix applies to faculty whose *primary* appointment is to a legacy UMDNJ school, department, Center, Institute, or program in RBHS, but not to faculty whose *primary* appointment is in legacy Rutgers.

HR Titles	J-1 Sponsorship (Exchange Visitor)	H-1B (Temporary Worker)	O-1 (Extraordinary ability)	Legal Permanent Residence (LPR) Sponsorship
<u>Tenured/Tenure-Track faculty</u> – All Ranks, Assistant Professor and above, tenure-track or tenured. ¹	N/A	✓	✓ If candidate is subject to the two-year home residency requirement, s/he must share a plan to fulfil this requirement before the first extension.	✓ Candidate must not be subject to the two-year home residency requirement.
<u>Non Tenure Track (NTT)</u> – Assistant Professor rank and above	N/A	✓	✓ If candidate is subject to the two-year home residency requirement, s/he must share a plan to fulfil this requirement before the first extension.	✓ Candidate must not be subject to the two-year home residency requirement. S/he must have been at Rutgers for a minimum of one year and reappointed for at least three years with guaranteed funding.
Research Associate (Legacy RU only; NTT Faculty Position)	✓	✓	N/A	N/A
RBHS Instructor	N/A	✓	N/A	N/A
RBHS Lecturer (Max. six years) ²	N/A	✓	N/A	N/A
Visiting Faculty (NTT), all ranks, including Instructor and Lecturer	✓	N/A	N/A	N/A
Post-Doc Fellow	✓	N/A	N/A	N/A
Post-Doc Associate (Legacy RU only)	✓	✓	N/A	N/A
Student Intern (Legacy RU only)	✓	N/A	N/A	N/A

¹ **RBHS Titles:** Assistant Professor, Associate Professor, Professor, and Distinguished Professor on Tenure Track; and Associate Professor, Professor, and Distinguished Professor for Tenured. **Legacy Rutgers Titles:** Assistant Professor, Assistant Extension Specialist, County Agent III, Librarian III; Associate Professor, Associate Extension Specialist, County Agent II, Librarian II; Professor, Librarian I, County Agent I, Extension Specialist (Professor I); Distinguished Professor, Extension Specialist (Prof. II), Professor II, University Professor, Special Professorial Titles

² **RBHS Policies and Guidelines:** The six year maximum is related to the Federal Government requirements for this visa type not the maximum per the RBHS Policies and Guidelines Governing Appointments, Promotions, and Professional Activities of the Faculty

ISSS EFN Policy Appendix

STAFF POSITIONS	J-1 Sponsorship (Exchange Visitor)	H-1B (Temporary Worker)	O-1 (Extraordinary ability)	Legal Permanent Residence (LPR) Sponsorship
For Legacy RU: With rare exception, Senior IT level staff appointed to permanent positions (grade 08 or above & MPSC positions grade 09 or above)	N/A	✓	✓ If candidate is subject to the two-year home residency requirement, s/he must share a plan to fulfil this requirement before the first extension.	✓ Candidate must not be subject to the two-year home residency requirement.
For RBHS: - Research Teaching Specialist Series (Levels III through I) - Research Associate series (Levels III through I) - Some Senior level IT titles	N/A	✓	N/A	✓ With rare exception. Candidate must not be subject to the two-year home residency requirement.
For RBHS: - House Staff (PGY/Residents - Teaching/Clinical) ³	✓	N/A	N/A	N/A

- Students on F-1 Optional Practical training (OPT) or J-1 Academic Training (AT) could apply for the appropriate title listed above, and if eligible, be sponsored on one of the applicable statuses.
- For positions not listed on this table, please contact the [International Students and Scholars Services office](mailto:globalservices@global.rutgers.edu) at globalservices@global.rutgers.edu.

³ **RBHS House staff:** Sponsorship of House staff on J-1 must be pursued through the [Educational Commission for Foreign Medical Graduates \(ECFMG\)](#)

ISSS Exceptions to HFN Policy

- **Exceptions to Policy – Extremely rare**
- **Factors that should be discussed prior to granting exception:**
 - Whether applicant can self-sponsor
 - Additional Advertising / Recruitment Requirements
 - Cost / Resources
 - Timing
 - Nature / Permanency of Position

ISSS Permanent Residence Sponsorship Basics

- **Permanent Residence Basic Policies -**
 - Initiated by Department – Not processed by HR
 - Can only initiate after foreign national onboarded
 - Cannot guarantee for specific categories during hiring
 - No promises should be made during recruitment (without prior consultation with ISSS)
 - Eligible Positions:
 - Tenure/Tenure-Track Faculty
 - Non-Tenure Track Faculty (Assistant Professor Level)
 - Rare Cases – Senior Staff in Permanent Positions
 - Ideally should have teaching responsibilities
 - TT & NTT faculty are expected to be on H-1B visa first
 - Processing Times Vary – 10 Months to 3+ Years
 - Recommendation – Initiate within first 3 months of start date
 - FN must maintain work authorization throughout process
 - Tenure won't become effective until after PR granted

- **PERM Labor Certification**
 - Who is this ideal for?
 - Junior faculty members
 - Teaching/Clinical roles that don't perform much research
 - Special provisions for college & university teachers
 - "Competitive Recruitment and Selection Process"
 - Must include advertisement in national professional journal
 - Must show that FN was "more qualified" than other applicants
 - Must be filed within 18 months after selection
- **Outstanding Researchers & Professors**
 - Who is this ideal for?
 - Researchers with 3+ years of post-doctoral experience
 - 3 Years of Post-Doctoral Experience
 - Outstanding Accomplishments
 - Int'l Reputation/Recognition
 - Documentation – Similar to Tenure Application (Publications, Reference Letters, Peer Review, Awards, Citations, etc.)

- **National Professional Journal for College/University Teachers – Print or Web-based**
- **Web-Based Ads –**
 - Must be posted for 30 days
 - Must be posted on journal's website (not third-party site)
- **Content Requirements –**
 - Name of Rutgers Hiring Department
 - Work Location (City, State)
 - Position Title
 - Detailed Job Duties –
 - Teaching Responsibilities
 - Subject being taught
 - Minimum Job Requirements
 - Degree and Field(s) of Study
 - NO PREFERENCES - ONLY MIN. REQUIREMENTS
 - Name and Contact Information of Department POC

- **Internal Promotions – Need to advertise in journal to preserve option of PERM**
 - Foreign National must formally apply to posting
- **Job Requirements/Preferences Too Specific -**
 - Foreign national must satisfy all advertised requirements/preferences as of start date
 - Issue – Degree requirements that only U.S.-educated applicants can satisfy
 - Issue – Licensure requirements
- **Degree Not Issued by Start Date**
 - Department of Labor doesn't recognize "All But Dissertation" as degree requirement
- **Assistant Research Professors**
 - Department of Labor has fairly broad definition of "teaching position"
 - Advertisement must list some type of teaching responsibility

- PERM
 - Must file within 18 month after selection
 - 4-9+ Months – Department of Labor approves PERM
 - File I-140 Immigrant Petition with USCIS
 - 12+ Months – USCIS approves I-140 Immigrant Petition (can be expedited for additional fee)
 - FN files I-485 Application
 - 12+ Months – Receive Green Card

- Outstanding Professor / Researcher
 - File I-140 Immigrant Petition with USCIS
 - 12+ Months – USCIS approves I-140 Immigrant Petition (can be expedited for additional fee)
 - FN files I-485 Application
 - 12+ Months – Receive Green Card

Legal Permanent Residence - Approval Process

- Department completes and submits the “Intake Form” and attaches requested information
- If approved by ISSS, Department proceeds with the process
- Chair/Director sends Letter of Support to Dean
- Dean endorses then forwards to Faculty Affairs (Meredith Mullane)
- Faculty Affairs (Meredith Mullane) coordinates with RBHS Chief of Staff to obtain his final approval
 - Packet received by Faculty Affairs should contain:
 - Beneficiary’s CV
 - Chair’s/Director’s Letter of Support
 - Dean’s Endorsement Letter
 - We recommend saving a copy of the letters for your records
- Faculty Affairs (Meredith Mullane) forwards all documents (including final endorsement from RBHS Chief of Staff) to ISSS

- (If PERM) ISSS works with Academic Labor Relations (ALR) to notify union and obtain prevailing wage letter from union
- (If PERM) Academic Labor Relations (ALR) confirms prevailing wage and forwards documents to ISSS
- ISSS processes Permanent Residence petition

ISSS J-1 Visa Basics

- The Exchange Visitor (J) non-immigrant visa category is for individuals to participate in cultural exchange visitor programs to teach, study, or conduct research for periods ranging from a few weeks to several years and engage in cultural exchange.
- J-1 Exchange Visitor Program administered by U.S. Department of State
- Rutgers' J-1 Exchange Visitor Programs:
 - Professors and Research Scholars: 5 years
 - Short Term Scholars: 6 months
 - Visiting Research Students: 2 years
 - Student Interns: 1 year
- Intended for Visiting Faculty Positions - Not meant for Tenured, TT, or Regular NTT Faculty Positions
- Can be on RU Payroll or funded by external institution

ISSS J-1 House Staff

- International House Staff are sponsored for J-1 status by Educational Commission for Foreign Medical Graduates (ECFMG)
- Rutgers is only the host (**NOT** the sponsor)
- Graduate Medical Education (GME) Offices at Rutgers are responsible for administering the program
- All J-1 physicians sponsored by ECFMG for clinical training are subject to the two-year home country physical presence (foreign residence) requirement of §212(e) of the INA

ISSS §212(e) 2-Year Foreign Residence Requirement

- Some J-1 Exchange Visitors are subject to § 212(e) 2-Year Foreign Residence Requirement
- Cannot change to H-1B status or apply for Legal Permanent Residence unless:
 - Foreign National spends two (2) years (in the aggregate) in home country; or
 - Foreign National obtains waiver
- Multiple Types of Waivers
 - Most relevant for Clinical Faculty - Conrad 30 waiver (for foreign medical graduates)
 - Need bona fide, full-time employment contract to practice medicine in H-1B nonimmigrant status for at least 3 years at a health care facility located in an area designated by U.S. Department of Health and Human Services (HHS) as a Health Professional Shortage Area (HPSA), Medically Underserved Area (MUA), or Medically Underserved Population (MUP) or serving patients who reside in a HPSA, MUA, or MUP.

- Rutgers cannot advise on Waiver Process (inconsistent with role as approved Exchange Visitor Sponsor)
 - FN can hire attorney to assist with Waiver (but RU files H-1B petition)
 - Rutgers role is usually limited to issuing employment contract, liaising with outside counsel, and then filing H-1B
- Licensure - Must have required license(s) before Rutgers can sponsor for H-1B status
- Must have 212(e) Waiver Approval before Rutgers can sponsor for H-1B status – Can take several months

ISSS H-1B Basics

- The H-1B non-immigrant visa category is for the temporary employment of workers in a “specialty occupation”
- Eligible Job Titles:
 - Assistant Professor or higher (Tenured, Tenure-Track, NTT)
 - Instructor / Lecturer
 - Research Teaching Specialist (III through I)
 - Research Associate (III through I)
 - Some Senior IT Positions (Grade 35 or higher)
- Time Limit – 6 Years Max; Approved in Increments up to 3 Years

ISSS H-1B Restrictions

- **Restrictions**
 - Employer-Specific
 - Job Title/Duty-Specific
 - Salary-Specific
 - Location-Specific – Must disclose ALL worksites
- **Generally need to file amended petition if there are any changes**
 - Except for normal salary increases
- **USCIS conducts Site Inspections to verify that all terms of employment are consistent with those listed in H-1B petition**

ISSS H-1B Common Issues

- **Offer Letters**
 - Start dates cannot leave gap in immigration status (if FN is processing in the U.S.)
 - Salary must be accurate, exact, and not subject to change or grant funding
- **Multiple Worksites**
 - All worksites must be disclosed to and approved by USCIS – Cannot work at additional locations without amended petition
- **Salary Changes / Variable Compensation**
 - Department must be able to guarantee faculty practice salary for full requested validity period
- **Early Terminations / Resignations (Prior to End of H-1B Approval)**
 - Must be reported to USCIS

ISSS Travel for Nonimmigrant Visa Holders

- Generally need visa in order to return to USA (except Canadian citizens)
- Current Travel Issues
 - International travel strongly discourages during COVID pandemic
 - Two (2) Proclamations in Effect
 - Region-Specific Travel Bans (China, Iran, European Schengen Area, U.K., Ireland, Brazil)
 - Ban on issuance of H-1B visas
- Alerts available on RU Global Website
- Alerts also sent via email to Faculty/Scholars and Departments
- Monthly Newsletter – Updates on travel issues