Immigration 101

International Faculty & Staff Visa/Status Categories

- J-1 Exchange Visitor
- H-1B Specialty Occupation
- F-1 Students on Optional Practical Training
- TN Professionals
- B-1/ WB Business Visitors
- PR Permanent Residence
  - EB-1 – Outstanding Professors and Researchers
  - EB-2 – Special Handling for Teaching Faculty

Introduction:
The Office of International Students & Scholars (OISS) provides comprehensive visa services to bring international students, faculty, and researchers to the University of Nevada, Reno. There are over 660 international students and 250 international scholars representing over 70 nations who contribute to this university’s world-wide impact. As programs at this institution draw the world’s attention, searches become increasingly global in scope. The OISS assists departments in procuring the proper visa for international faculty, researchers, visitors, and postdoctoral scholars. The OISS is a fee-for-service operation; we provide immigration expertise at significantly reduced rates compared to immigration attorneys. When hiring international faculty, it is wise to point out that we have an office on campus that can assist them with their immigration needs. Departments can also offer to cover some or all of these fees as a negotiating strategy that is very attractive to prospective international faculty. Below is a summary of visa categories and permanent residence options (green cards) processed by the OISS:

1. J-1 Exchange Visitor Program
   - Administered by the U.S. Department of State. Established in 1961 “to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchanges”
   - J-1 Program at UNR – available categories
     - Professor and Research Scholar: duration up to 5 years
     - Short term Scholar: duration up to 6 months
     - Specialist: duration up to 1 year

   - Application Process:
     - Obtain DS-2019 Request form and general info at www.unr.edu/oiss
     - Complete the request form and submit with $300 processing fee & passport page (IPO or personal check to “Board of Regents”)
OISS will process within 2 days if request is complete

The department sends the DS-2019 form and the invitation letter to the visitor

- **J-1 Other Considerations**
  - The program may carry a 2-year home residency requirement for its participants
  - J-1 Exchange Visitors and their dependents must have health insurance
  - J-2 dependents can apply for work authorization
  - Visa processing times are high for certain countries and professions
  - Offers more flexibility if salary/hours will fluctuate
  - Can change status to J-1 from other visa status
  - Not suitable for tenure track-positions
  - No advertising or recruitment requirements
  - No financial or compliance obligations

2. **H-1B Specialty Occupation**
   - Defined as an occupation that requires a “theoretical and practical application of a body of highly specialized knowledge”
   - Position must require a minimum of a bachelor degree and the employee must have at least a bachelor degree in the field required for the position
   - Validity up to 6 years (may go longer if permanent residency application is pending)
   - Application Process:
     - OISS secures the prevailing wage
     - The department must be able to pay the HIGHER of: the prevailing wage or actual wage
     - The department must post LCA Announcement for 10 business days
     - The department submits to OISS documentation listed under Department Forms at [www.unr.edu/oiss](http://www.unr.edu/oiss)
     - The employee provide all documentation and information listed under Employee Forms

**H-1B Fees**
- OISS Processing Fee of $1200.00
  - OISS fee is negotiable – IPO sent directly to OISS, or if paid by employee – check to the Board of Regents
- Immigration Fees are subject to the type of petition and processing requested:
  - Regular Processing (2-3 months) - $325.00
  - Premium Processing (2 weeks) - $1,225.00 in addition to $325.00
  - Anti-Fraud Fee - $500.00 only for petition requesting new employment in H-1B status
- $325 processing fee must be paid by the department – request for payment sent to Accounts Payable – the department needs to follow up on the check to see when it’s ready.

**H-1B special considerations:**
- The salary must meet the prevailing wage established by the Department of Labor (DOL)
DOL data and classifications change every year

Not to assume UNR salary will always match DOL requirements

- Duration of what the department can request at one time varies (can request for up to 3 years even if the appointment is renewable on an annual basis). Must be extended if the person continues employment.
- The department is liable for paying the cost of return transportation to the home country if appointment is terminated by the employer prior to the requested end date on H-1 petition

3. F-1 Students on Optional Practical Training (OPT)
OPT is one-year employment authorization issued by the immigration service once the student completes a program of study. The student will have an Employment Authorization Document (EAD card). Before the card expires, he/she must change status to H-1B or J-1 in order to continue employment.

4. TN Professionals
- Category based on the North American Free Trade Agreement (NAFTA)
- Open to citizens of Canada and Mexico
- Limited to occupations and qualifications specified in the appendix to NAFTA
- Duration - one year at a time, can be renewed in one-year increments, no limit on the number of extensions
- The person applies at the port of entry with the employment letter issued by the department and proof of degree (Applicants from Canada) or at a US Embassy or Consulate abroad (Applicants from Mexico) or may change status to TN while already in the US

5. B-1/WB Business Visitors
- To conduct temporary business or professional activities (consultations, participation in conferences & seminars, independent research)
- Cannot be employed in the U.S.
- Can receive an academic honorarium, reimbursement for incidental expenses and per diem
- Payment is limited to 9 days at a single institution
- Payments from 6 institutions allowed within a 6-month period
- The department should provide the visitor with an invitation letter outlining the purpose of his/her visit
- B-1 visitor applies for a B-1 visa at a consulate, WB visitor- visa waiver program applies for admission at the port of entry

6. Permanent Residence EB-1 – “Outstanding Professors and Researchers”
Employment Based, Level 1, “Outstanding Professors and Researchers” must meet the following criteria:

- The international faculty member must have a Ph.D. that is related to the position, and must have three or more years for full-time work experience.
- The international faculty member must have a permanent position (tenure-track or more than three years of funding. Postdocs are not permanent positions).
- International faculty must meet the criteria as detailed by immigration regulations – they must prove they are internationally recognized and have made a significant contributions to their field of study by proving that they meet at least 2 of the following criteria:
  - Evidence of receipt of major prizes or awards for outstanding achievement
  - Evidence of membership in associations that require their members to demonstrate outstanding achievement
  - Evidence of published material in professional publications written by others about the alien's work in the academic field
  - Evidence of participation, either on a panel or individually, as a judge of the work of others in the same or allied academic field
  - Evidence of original scientific or scholarly research contributions in the field
  - Evidence of authorship of scholarly books or articles (in scholarly journals with international circulation) in the field

- Can apply at any point once the criteria have been met.
- Please meet with OISS to further discuss the criteria, the applicant and the process.

There are two steps – 1) the employer petition, I-140, containing evidence of the criteria, and 2) the I-485 Adjustment of Status packet (for the international faculty and each member of his/her family).

The Department must sponsor and provide the I-140 $580 check for the Department of Homeland Security and the $3600 processing fee. Processing time – generally one year (Premium Processing is available for the I-140 portion guaranteeing adjudication in 2 weeks).

7. Permanent Residence EB-2 – “Special Handling for Teaching Faculty”

- Employment Based, Level 2, “Special Handling for Teaching Faculty,” must meet the following criteria:
  - The international faculty member must have a Ph.D. or Master's degree that is related to the position, and must have the minimum qualifications required by the position.
  - The position must include classroom teaching responsibilities (a combination of teaching and research is allowed).
  - The job must meet advertising criteria of USCIS, which includes print or web ad (web ads must be posted for 30 days and proof must be retained) in a professional journal or Chronicle of Higher Education.
Department must be able to show that the international faculty was “the best qualified candidate for the position”
The job must meet the prevailing wage determined by the Department of Labor
The international faculty member must have a permanent position (tenure-track or more than three years of funding)
The department must be willing to assist the OISS with the required documentation and must initiate the petition within 16 months of offering the position to the international faculty (this is the date that Human Resources has approved the hire)

- There are several steps in this process – 1) The prevailing wage determination with the Department of Labor, 2) the Labor Certification with the Department of Labor, 3) the I-140 petition for the U.S. Citizenship and Immigration Service, containing evidence of the criteria, and 4) The I-485 Adjustment of Status packet (for the international faculty and each member of his/her family)
- The Department must sponsor and provide the I-140 $580 check for the Department of Homeland Security. The $3600 processing fee must be paid by the department. Processing time - generally one and a half years.

**When deciding on the right type of visa category, consider the following:**
- Length of appointment
- Type of employment: temporary or tenure track
- Stability of funding
- Current immigration status and its limitations