H-1B to Lawful Permanent Residence (LPR) for Faculty

**H-1B petition processes**

**H-1B petition**
- for up to 3 years of H-1B employment
- (or up to employee’s maximum of 6 years eligibility for H-1B status)

**H-1B extension petition**
- for up to 3 additional years, to employee’s 6-year maximum stay in H-1B status.

**“7th Year” H-1B extension petition**
- for an additional 12 months of H-1B employment

**Subsequent 12-month H-1B extension petitions**
- if necessary, until Adjustment of Status application approved

**Subsequent 3-year H-1B extension petition**
- if necessary, until Adjustment of Status application approved

**SPECIAL HANDLING**
- Must be commenced immediately upon hire so that DOL filing can be made within 18 months of the initial appointment letter date.

**Reduced recruitment for the position**
- (1month)

**File application with DOL and receive response**
- (estimated 2-3 mos. to receive response*)

**If response is audit letter**
- Submit response to audit letter and receive approval (processing times cannot be estimated at present)

**If response is approval**
- I-140 Petition to employ foreign national on a permanent basis
  - Filed upon approval of Labor Certification application

**Employee’s Adjustment of Status (“AOS”) Application**
- May be filed and processed concurrently with I-140, if an immigrant visa is currently available.

**“EAD card” and Advance Parole**
- Employee receives work and travel permits valid for 12 mos. (renewable while AOS pending).

**AOS application approved**
- Employee and any dependents become Lawful Permanent Residents (roughly 1 yr. after filing the AOS application*).

**PERM Labor Certification Application**
- May be commenced at any time. Should be filed before 5th anniversary of employee’s stay in H-1B status, to allow 7th year H-1B extension, if needed.

**Recruit for the position**
- (3-4 mos.*)

**File application with DOL and receive response**
- (estimated 2-3 mos. to receive response*)

**If response is audit letter**
- Submit response to audit letter and receive approval (processing times cannot be estimated at present)

**If response is approval**
- I-140 Petition to employ foreign national on a permanent basis
  - Filed upon approval of Labor Certification application

**Employee’s Adjustment of Status (“AOS”) Application**
- May be filed and processed concurrently with I-140, if an immigrant visa is currently available.

**“EAD card” and Advance Parole**
- Employee receives work and travel permits valid for 12 mos. (renewable while AOS pending).

**AOS application approved**
- Employee and any dependents become Lawful Permanent Residents (roughly 1 yr. after filing the AOS application*).

**H-1B status is limited to a maximum of 6 years. Any previous H-1B employment counts toward the 6-year maximum. Ability to continue employment beyond the 6th year is dependent upon the H-1B employer having taken timely steps to obtain LPR status for the employee.**

**The employee cannot apply for AOS, the final step of the process, unless an immigrant visa is currently available. Availability of visas is based on the date of filing of the Labor Certification application, with earlier filing dates having priority over later ones.**

*EB1 and EB2 (outstanding and exceptional ability) categories follow different processes, but are limited to rare LPR cases due to the high burden of proof.

12/2006