

## Permanent Residence Sponsorship Process at NC State University

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### Brief Overview

Any department or unit within NC State University may decide to pursue permanent residence (PR) sponsorship for a foreign national employee, if all of the following preliminary conditions are met:

1. Sponsorship is considered and evaluated in a non-discriminatory manner for all potential candidates
2. The employee is already in a temporary employment authorized status sponsored by NC State (such as H-1B status)
3. The position is permanent or indefinite in nature (i.e. not time limited or temporary), and is at 1.0 FTE (must be full-time) – **NC State University CANNOT sponsor Postdoc positions for permanent residence.**
4. The department or unit is willing to be the sponsor, and to undertake certain legal obligations (and pay for certain filing fees) to sponsor the employee for permanent residence. The employee cannot pursue permanent residence through NC State University on his/her/their own, and in most situations no outside attorney can be hired (by the employee or the sponsoring unit) to prepare this process on behalf of the university (pursuant to North Carolina General Statute 147-17; please see Question and Answer #5 below for more information)

### Frequently Asked Questions

**Question 1:** How does a department or unit start the permanent residence (or “green card”) sponsorship process for an employee who is already in H-1B or O-1 status with that unit?

**Answer 1:** The sponsoring unit must go to <https://ie.hr.ncsu.edu/permanent-residence/> and click on the red link that says “Initiation of Permanent Residence Form” midway down the screen. Once that form is completed and signed by the appropriate people on page two, it should be sent to the International Employment Manager via email ([jill\\_blitstein@ncsu.edu](mailto:jill_blitstein@ncsu.edu)) or campus mail (IE, CB 7210). Once the IE Manager receives the form, she will review the person’s immigration file for permanent residence options, and will reach out to the HR person in the unit/department to set up a meeting with the foreign national employee, the HR person, and the PI and/or Department Head to discuss options, costs, timelines, etc.

**Q2:** Can the employee initiate the PR process himself/herself/themselves?

**A2:** No, the employee cannot start the green card process on behalf of his/her/their sponsoring unit. If the employee is interested in receiving permanent residence sponsorship from the unit, he/she/they should first speak with the PI and Department/Unit Head, to determine whether the unit is willing to start the sponsorship process. The employee CANNOT start the process directly with the International Employment unit – IE will not start any green card process without first receiving the PR Initiation Form directly from the unit/department.

**Q3:** How long will the green card process take?

**A3:** Different green card processes take different amounts of time, and before the IE Manager receives the PR Initiation Form, there is no way she can guess how long the process might take. All green card processes sponsored by NC State are either two or three step processes with the federal government, so it is never a fast or immediate process. A general estimate is that for the majority of employees, the process will take approximately 2 years. For employees from India and China, due to government backlogs, the process can take many years, and possibly even decades to be completed. Updated information about timeline and costs will be provided at the in-person meeting that will be scheduled once the unit sends the PR Initiation Form to the IE Manager.

Additionally, please note that the International Employment unit has limited staff and resources, and it must be equitable in how it allocates resources and schedules work on each green card case initiation that it receives, so there may be delays in getting started or at other points in the process due to finite resources with the International Employment unit.

**Q4:** How much does the permanent residence process cost?

**A4:** It depends upon which path is chosen, and whether multiple paths are pursued simultaneously or sequentially. Updated information about timeline and costs will be provided at the in-person meeting that will be scheduled once the unit sends the PR Initiation Form to the IE Manager. The cost to the unit/department typically runs between \$1,000-\$3,000, and will be towards the higher end if Premium Processing (an optional process whereby for an extra filing fee of \$2,500, USCIS will review the petition in 15 days instead of many months) is used when the I-140 Immigrant Petition is filed with USCIS.

The foreign national employee is responsible for the last step in the process (the I-485 application, which must be filed separately for each member of the family pursuing a green card with the principle employee applicant), because it is legal property of that person and not the university, unlike the other steps in the process which are legal property of the university and for which the sponsoring unit directly pays the required costs. International Employment does not prepare the last step for the employee (or any family members), and the employee needs to pay all required filing fees. If the unit/department wants to pay the filing fee for the employee (it is NOT allowed to pay any filing fees for any family members, per guidance from the Office of General Counsel), it must complete the Payroll Non-Salary Compensation Form and possibly receive authorization from the Board of Trustees. The unit/department should note that the cost of the payment will be taxed to the unit/department and is also taxable income to the employee (which must reported to the IRS), so it is highly discouraged and is appropriately the employee's contribution to his/her/their own green card process.

**Q5:** Can the employee hire his/her/their own attorney to prepare the permanent residence documents?

**A5:** If the unit/department is sponsoring the PR process for the employee, then the employee CANNOT hire his/her/their own attorney. North Carolina General Statute 147-17 strictly limits the ability of an outside attorney to be hired to represent any state agency, which includes public universities like NC State, without approval from the UNC System Office and the Vice Chancellor & General Counsel at NC State University. Because the International Employment office exists at the university and has the expertise and experience to prepare green card cases for our employees, permission has never been

granted for an outside attorney to prepare any permanent residence documentation on behalf of NC State.

There are two ways in which a person is allowed to “self petition” for a green card, meaning that NC State is NOT the legal sponsor and does not file any paperwork in its name for the employee. In a “self petition” process, the employee individually is filing the paperwork in his/her/their own name, with no employer as the official sponsor. The employee may hire an attorney to help prepare a “self petition” process, but per federal immigration regulations, the ONLY two ways in which a person can “self petition” for an employment based green card is in the Extraordinary Ability or National Interest Waiver categories. The department or unit in which the employee works cannot provide any financial assistance with the cost of this PR “self petition.”

**Q6:** If the employee wants to “self petition” for a green card, can the unit/department still also sponsor the person?

**A6:** Yes, a person may have multiple green card petitions or applications on file with USCIS and/or the U.S. Department of Labor (DOL), **as long as** all petitions and applications are filed in different categories. If the employee self-petitions in the Extraordinary Ability category, then NC State could not also prepare and file a petition in the same category. However, if NC State decided to pursue sponsorship in a different category (Outstanding Researcher, for example), then it could do so if the unit/department was willing to undertake such sponsorship.

Please note that if an employee “self petitions” for a green card, NC State faculty members are able to provide recommendation letters for that process, but these letters are limited to being individual statements from those specific faculty members, and these letters do NOT constitute employment sponsorship or any legal responsibility for that process by NC State University.

Please also note that the International Employment unit cannot provide any help or guidance to an employee if he/she/they is preparing a “self petition” green card case. The person is undertaking that process on his/her/their own, so aside from potentially receiving recommendation letters from NC State faculty in their own individual capacities as experts, no other assistance or resources can or will be provided by the University or the International Employment unit.

**Q7:** Can the PI or Department/Unit Head sign immigration forms for submission to USCIS or DOL on behalf of NC State University?

**A7:** No, only the International Employment Manager, or an attorney in the Office of General Counsel, has delegated authority and the expertise to sign and submit immigration forms on behalf of NC State University. Any immigration form submitted to the federal government subjects the university to potential legal liability and specific immigration and employment obligations, so only specifically designated individuals, who understand the complexities and nuances of the federal immigration process and who also have the ability to submit consistent and accurate immigration information regarding NC State University, have the authority to sign and file immigration documentation with the federal government on behalf of the institution.

**Q8:** Once the unit/department initiates green card sponsorship, can it change its mind and stop the process at any point?

**A8:** Yes, a sponsoring unit can change its mind and end the sponsorship process, as long as it has a non-discriminatory reason for this decision, including (but not limited to) reasons such as loss of funding, loss of the position, disciplinary or performance reasons, change in leadership of the unit, etc. Submission of the PR Initiation Form to IE does not obligate the unit to continue with the process if at any point it has a valid business reason to reverse that decision.

**Q9:** If the employee is in a Postdoc position, can the unit/department initiate green card sponsorship?

**A9:** No, the University cannot sponsor anyone in a Postdoc position for permanent residence. Since Postdoc positions are not permanent or indefinite (as required by federal immigration regulations), the University cannot sponsor these positions for a green card. USCIS knows that a Postdoc position is not a career-long type of position, so it will not approve any Postdoc petitions or applications filed by NC State University. If an employee is "self petitioning," he/she/they can potentially be successful even while in a Postdoc position, because a "self petition" does NOT require that the person have a specific job or specific employer – the person is essentially convincing USCIS that his/her/their skills are so important to the U.S. government that it does not matter what the exact job title or duties are, or who the exact employer is, and that it should grant permanent residence anyway. Any petition sponsored by NC State University is directly tied to a specific position with specific duties and a specific job title, and per immigration rules, that position must be permanent and indefinite in nature.

**Q10:** If the employee already knows what employment based green card category he/she/they wants to pursue, can that employee just tell International Employment what petition to prepare?

**A10:** No. The International Employment Manager is a licensed immigration attorney with over 23 years of full-time immigration experience, so after she receives the PR Initiation Form from the sponsoring unit, she will review the employee's background and credentials, and determine which one or two options will provide the greatest likelihood of success. At the meeting with the unit and the employee, the IE Manager will explain which options she recommends and why, and ultimately the decision regarding which category (or categories) to pursue will be made by the PI or Department/Unit Head in consultation with the IE Manager. The employee will certainly have the opportunity to provide input and express a preference, but since it is the unit/department that is providing sponsorship and paying for the fees for the first one or two steps of the process, it (in consultation with the IE Manager) gets to make the final decision.

**Q11:** Can the International Employment unit help an employee pursue a family based green card application?

**A11:** No. The IE unit cannot provide any resources or assistance for any family based permanent residence processes. The employee can hire his/her/their own immigration attorney or file the paperwork on his/her/their own, but the IE unit is not authorized to provide any assistance for any non-employment based process.

**Q12:** Can I hire the IE Manager to be my personal immigration attorney?

**A12:** No. The IE Manager does not serve as a personal immigration attorney for anyone at NC State, including those individuals whom her unit has helped obtain temporary or permanent employment based immigration status. The IE Manager is an employee of the University, and serves in an administrative role as the manager of International

Employment within University Human Resources. She does not represent the University as an (immigration) attorney, and only attorneys working in the Office of General Counsel have that authority.