



Visa Sponsorship

Policy HR026

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Responsible Administrator: Vice President for Human Resource Management and Labor Relations

Responsible Office: Office of Human Resource Management and Labor Relations

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Policy Statement

FIT values the expertise and talents of international artists and scholars and supports sponsorship of foreign nationals for both nonimmigrant and immigrant visas, as outlined in this policy. Visa sponsorships are based on the needs of the college and at the sole discretion of FIT.

Reason for the Policy

This policy facilitates FIT's strategic recruitment, development, and retention of outstanding faculty and select senior administrators from across the globe, as well as assisting in the development of a visiting faculty/distinguished practitioner program that complies with U.S. immigration law. This policy assists in the development of those goals and establishes the process by which FIT files petitions for foreign nationals for temporary employment visas and/or permanent residency based on their positions at FIT.

Who is Responsible for this Policy

- Office of Human Resource Management and Labor Relations
- International Student Services
- Office of International Programs

Who is Affected by this Policy

- All foreign nationals requiring immigration sponsorship (at the sole discretion of FIT, this would typically include faculty and select senior administrative positions)
- Any FIT School or Department seeking to hire a foreign national

Definitions

Where used in this policy, the following terms are defined as:

- **Foreign National (FN):** a person not a United States citizen who will require sponsorship by FIT for a visa/immigration status permitting employment with FIT, or a current FIT employee seeking permanent residency or other types of visa support.
- **Eligible Dependents:** an FN's spouse and/or FN's unmarried child(ren) under the age of 21 who are or will be accompanying the FN in the United States.

- **Legal Permanent Resident (LPR):** a person who has been granted lawful permanent residence in the United States, typically with the accompanying right to live and work permanently anywhere in the United States. Often referred to as a “Green Card.”
- **Non-Immigrant Visa (NIV):** any temporary U.S. visa that allows an FN to be employed in the United States for a limited time and for a specific purpose. Examples of nonimmigrant classifications used by FIT include: H-1B, TN, O1, E-3, F-1, and J-1.
- **Permanent Residency Process:** the process by which an FN employee becomes a permanent resident alien, commonly referred to as obtaining a “green card.” In this policy, this refers to such a process where FIT is the effective sponsor under the employment-based immigration categories and not under any family-based, self-petition or other means of obtaining U.S. permanent resident alien status.
- **United States Citizenship and Immigration Services (USCIS):** the federal agency that processes nonimmigrant, immigrant, and naturalization petitions in the United States.
- **United States Department of Labor (DOL):** the federal agency that certifies Labor Condition Applications (LCAs) for purposes of H-1B and other petitions and determines whether an FN would be displacing a U.S. worker during the Labor Certification step of the employment-based permanent residency sponsorship.
- **United States Department of State (DOS):** the federal agency that determines the eligibility of a FN to enter the United States when issuing a visa.
- **Customs & Border Protection (CBP):** the federal agency that is tasked with maintaining border security and inspection of those seeking entry to the United States.

Principles

- **Sponsorship**
Services rendered to and on behalf of employees under any aspect of this policy are at the sole discretion of FIT. No right or entitlement accrues to an employee by virtue of this policy, or by virtue of having received any services or sponsorship under this policy.

Because the approval of either nonimmigrant or immigrant status is made at the discretion of United States immigration authorities, FIT cannot guarantee the success of any petition filed on behalf of a FN employee. Offers of U.S. employment are contingent upon receiving appropriate and timely approval of petitions and applications by U.S. immigration authorities.

The Office of Human Resource Management and Labor relations (“OHR”), along with International Student Services as appropriate, will coordinate and oversee the processing of nonimmigrant and permanent resident employment-related processes for FN employees seeking to work at FIT. Upon acceptance of the position by the FN employee and receipt of the signed offer letter from the department, HR will initiate the visa sponsorship process.

Responsibilities

N/A

Procedures

Because employment-based visa sponsorship is a complicated and technical matter, in all cases HR, and International Student Services and the Office of International Programs as appropriate, will have primary responsibility for guidance and application of the policy, in conjunction with FIT-retained immigration legal counsel. As such, this is not intended to be a full outline of the actual visa sponsorship process or the responsibilities of the various offices at the college during that process. Decisions not covered by this document will be made on a case-by-case basis by Human Resources in consultation with the President's office, International Student Services, the Office of International Programs, the Office of Academic Affairs, the Office of General Counsel, the Division of Finance and Administration, or other FIT departments as appropriate.

- **Payment of Fees**
 - As required by federal law, should FIT choose to sponsor an FN employee for permanent residency, FIT will pay for all costs related to the labor certification process. This includes costs of recruitment and legal fees. FIT will pay for all costs associated with the H-1B petition, including legal fees and USCIS filing fees. In addition, FIT will pay for premium processing fees if deemed appropriate for FIT business purposes; postal/courier costs; and costs of translations and credential or experience evaluations as needed.
 - FIT may ask the FN to pay the filing fees, or any other costs related to the immigration status of any accompanying or following-to-join dependent. FIT may, in certain circumstances, pay filing fees or costs related to immigration status for any dependents. FIT will pay legal fees for any accompanying dependent for an application which is filed concurrently with USCIS.
 - The following are non-reimbursable expenses:
 - Costs related to travel or immigration of a spouse, partner, child, parent, or other family members or accompanying individuals or relocation of personal property;
 - Travel needed to qualify for objectives (e.g., travel to home country, if needed, to obtain visa) travel of FN employee or applicant to meet with FIT's immigration counsel or USCIS/DOS officials;
 - Costs of physical examinations, medical exams and tests, photographs, or other costs associated with a visa application or permanent residence application.
- **Nonimmigrant Visa Sponsorship (NIV)**
 - **Work Visa Categories**

FIT may seek to sponsor qualified FNs for work authorization in the United States through temporary work-authorized visas. FIT, in consultation with its immigration counsel, will determine the most appropriate temporary visa category for the FN. Typically these categories include the H-1B, O-1, E-3, F-1, and J-1 visas, and TN status, although other available NIV categories may be considered, depending upon individual circumstances.

- **J-1 Exchange Visitor Program**
Sponsorship for a J-1 visa may be appropriate for a professor or research scholar, providing the appointment is deemed temporary under FIT policies and not tenure track, and where FIT determines that cultural or educational exchange activities are integral to the FIT program.

- **Choice of Counsel**
Because FIT acts as the NIV sponsor and must make representations to various United States government agencies, FIT retains the authority to select and enlist the professional services of outside immigration counsel to manage the nonimmigrant petition process for FNs. HR will oversee the contact attorney's work done for FIT. While an FN FIT employee may not retain counsel to serve as a representative of the college, the employee may decide to engage his or her own counsel for advice on individual or dependent immigration matters at no cost to the college.

- **Visa Stamping Appointments**
Responsibility for preparing for and scheduling of visa interviews at U.S. consulates outside of the U.S. is that of the employee and his/her accompanying individuals, not that of either FIT or its retained counsel. If the employee wishes to retain FIT's immigration attorney for consular guidance, then the employee, not FIT, shall be responsible for any associated costs.

- **Charges Incurred Related to U.S. Consulates Abroad.**
 - If the FN employee's job assignment requires international travel, a visa stamp obtained at a consulate outside the U.S. is required. Therefore, the expenses related to obtaining the stamp (travel, per diem, and consular filing fees) will be reimbursed to the employee by FIT, per the college's reimbursement procedures.
 - If the FN employee's job assignment does not require international travel, it is expected the FN will obtain a visa stamp during her/his next scheduled trip outside the U.S. Any associated costs are to be borne by the FN employee.
 - All costs related to an FN FIT employee's dependents, parent, or other family members or accompanying individuals or property are to be paid by the employee.

- **H-1B Transfers**
With respect to FN employees currently holding H-1B status with another U.S. employer, FIT will not permit the employee to commence work activities or to be placed on its payroll until FIT has received sufficient proof from USCIS that the H-1B petition has been properly filed and assigned a receipt number, and the employee is lawfully entitled to work for FIT.

- **Termination of Employment**
If an FN's employment with FIT ends for any reason, sponsorship ceases on the day of termination/resignation, including access to legal representation by FIT's immigration counsel. FNs whose employment with FIT ends are advised to obtain independent legal advice regarding their U.S. immigration status.

- **Cost of Return Transportation for H-1B FNs**
As required under federal law, FIT will pay for the reasonable cost of return transportation to the last place of foreign residence for the employee who holds H-1B status accorded under an FIT petition and whose employment is terminated before the end of his/her authorized stay for H-1B employment with FIT. Travel arrangements for return transportation will be at economy class and made through FIT's travel provider. The obligation for return transportation does not extend to an H-1B employee's eligible dependents, parent(s), other family members, or accompanying individuals, or the employee's property and belongings, nor does it extend to those situations where an H-1B employee voluntarily terminates employment with FIT.
- **Permanent Residence Sponsorship**
 - **Sponsorship**
FIT may sponsor qualified FN FIT employees for United States legal permanent residence ("LPR", commonly known as "green card"). The decision to sponsor an FN employee is solely at the discretion of FIT.
 - **Timing**
An FN employee must have completed at least six (6) months of service with FIT before FIT will consider sponsoring the individual for employment-based LPR. Any exceptions must be approved by HR. For teaching faculty only, due to federal guidelines and FIT policy, departments should begin the permanent residence sponsorship process between six (6) and 12 months from the date of hire.
 - **Minimum Education Requirements**
The minimum education requirements for the position must be the same as those used to fill similar positions at FIT.
 - **Permanent residence sponsorship:** costs, including legal and agency fees, will be borne by FIT.
 - **Personal Costs.** The FN employee is responsible for miscellaneous out-of-pocket costs, including but not limited to: medical examinations, photographs, fingerprints, vaccinations, and obtaining various documents including educational and professional credentials, translations and biographic information for the spouse, partner, child, parent, or other family members or accompanying individuals or costs related to relocation of any personal property.
 - **Adjustment of Status (AOS)**
Because of issues of unpredictability, cost, and timing, FIT will sponsor foreign nationals for legal permanent residency through the Adjustment of Status (AOS) application process completed in the United States. FIT generally does not support consular processing abroad for employment-based immigrant visas. The only exception to this practice will be a compelling business reason, which must be approved by HR. If an FN elects consular processing, s/he will be responsible for all costs over and above those normally associated with adjustment of status.

- **Employment-based Preference Category**
FIT, in consultation with its immigration counsel, will determine the most appropriate employment-based permanent residency preference category.
- **Copies of LPR Documents**
Whether during or post termination of employment, FIT will provide to an FN employee copies of the receipt and approval notices but under most circumstances not the Labor Certification (Form 9089) or Immigrant Petition (I-140).
- **Family-Based Petitions**
Family-based permanent residency sponsorship (e.g. U.S. citizen spouse sponsoring a non-citizen spouse) is a personal matter unrelated to the FIT employee's scope of employment. As a result, FIT does not generally become involved in such cases and does not cover or otherwise reimburse any associated legal fees or costs related to family-based permanent residence.
- **Maintaining Permanent Residence or U.S. Citizenship Eligibility**
FIT will be responsible for legal fees and agency filing fees associated with an employee maintaining permanent residence status such as obtaining a reentry permit or preserving residence for naturalization purposes where the employee is required to reside outside of the United States pursuant to FIT employment. Other costs, such as maintaining a U.S. or foreign residence, are not the responsibility of FIT. An employee who elects to engage in a sabbatical outside of the United States will be responsible for any costs associated with maintaining permanent residence or citizenship eligibility during, or as a consequence of, the sabbatical.
- **Citizenship Sponsorship**
FIT does not sponsor FN employees for U.S. naturalization/citizenship, and does not reimburse FN employees for any costs incurred in the naturalization/citizenship process unless FIT determines that such status would be in FIT's interests.
- **Termination of Employment**
If an FN employee's employment with FIT ends for any reason, FIT sponsorship ceases as of the date of termination/resignation, including access to legal representation by FIT's immigration counsel. FN employees whose employment with FIT ends are advised to obtain independent legal advice regarding their immigration status.

Violations

N/A

Related Policies

N/A

Related Documents

- [SUNY Visa Sponsorship Policy](#)

Contacts

- **Office of Human Resource Management and Labor Relations**
humanresources1@fitnyc.edu
(212) 217-3650
- **Vice President for Human Resource Management and Labor Relations**
humanresources1@fitnyc.edu
(212) 217-3650
- **International Student Services**
fit_oisa@fitnyc.edu
(212) 217-3700
- **Office of International Programs**
studyabroad@fitnyc.edu
(212) 217-5380