

Illinois Institute of Technology Faculty Immigration Sponsorship Policy

Section 1. Purpose and Scope

Illinois Institute of Technology (“Illinois Tech” or “University”) retains the right to make decisions about sponsorship for work authorization on behalf of its current employees and applicants for employment. As set forth in this faculty Immigration Sponsorship Policy (“Policy”), when aligned with business needs, Illinois Tech may elect to sponsor foreign nationals for H-1B status, or for a permanent residence (“Green Card”) visa, but only within the employment classifications listed in this Policy.

Immigration sponsorships are based on the needs of the University, and are generally for specialty occupations only, as defined by United States Citizenship and Immigration Service (“USCIS”). The applicant or employee must have the appropriate educational and professional background. The filing of an immigrant petition with USCIS is not a guarantee of new or continued employment, tenure, or any other fixed-terms or conditions of employment, nor does it supersede or interfere with any contractual, policy, or legal obligations governing such employment. Illinois Tech may end or withdraw its sponsorship at any time in its sole discretion, consistent with applicable law.

The filing of an immigration application does not guarantee approval by USCIS, who has sole discretion and legal authority to approve or deny the application. It is important that no promises or assurances be made by an academic unit to an applicant for employment or employee that any immigration application will be successful. All offers of employment with the University are contingent upon the applicant providing proof of eligibility to work in the United States prior to beginning work.

Section 2. Employment Classifications Eligible for Immigration Sponsorship

Illinois Tech will only sponsor the following full-time classifications, as described in [Section IV of the Faculty Handbook](#), unless an exception is approved in advance by, and at the sole discretion of, the Provost:

- Tenure and Tenure Track Faculty (Section IV.B.1);
- Teaching Faculty (Section IV.B.2); and
- Research Faculty (Section IV.B.3.b, c, & d).

Visiting scholars and visiting faculty are not eligible for visa sponsorship under this Policy.

Section 3. Definitions

Where used in this Policy, the following terms or phrases are defined as:

- **Employee:** a person who is currently employed by Illinois Tech.
- **Applicant:** a person who has applied for employment with Illinois Tech or is a candidate being considered for employment. This includes a person who has been extended a contingent offer of employment who has not yet commenced employment with Illinois Tech.
- **Sponsorship for Work Authorization:** when an employer agrees to support, which is legally referred to as “sponsor,” a foreign national employee in securing the appropriate work authorization in order to employ that individual.
- **Foreign National (FN):** a person who is not a United States citizen who will require sponsorship by Illinois Tech for an immigration status that permits them to be employed by Illinois Tech, or a current Illinois Tech employee seeking legal permanent residency (LPR) or other types of support to permit them to remain employed by Illinois Tech.
- **Eligible Dependents:** a FN’s spouse, and/or a 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 Status (LPR):** a FN who has been granted lawful permanent residence as a resident alien in the United States, typically with the accompanying right to live and work permanently anywhere in the United States for any employer for no set time limit. Often referred to as a “Green Card.”
- **Non-Immigrant Visa Status (NIV):** any temporary U.S. visa that allows a FN to be employed in the United States for a limited time and for a specific purpose. Examples of non-immigrant classifications include: H-1B status, TN status, J-1 status, and O-1 status, among others.
- **H-1B Status:** a category of non-immigrant status for individuals who qualify for “specialty occupation” positions. Typically issued for three-year increments for a total of six years and can be renewed under certain circumstances. The status is dual-intent, it is not permanent in and of itself, but it allows for the FN holding the status to pursue permanent resident status.
- **Labor Certification:** an administrative process required for many employment-based permanent residence categories. For faculty, “Labor Certification” must be sought within 18 months of the faculty member’s appointment decision being made. Some faculty may be exempt from the “Labor Certification” process due to their exceptional scholarly record. For non-teaching positions, it requires extensive evidence of unsuccessful recruitment for qualified U.S. workers.

- **Specialty Occupation:** an occupation that requires theoretical and practical application of a body of highly specialized knowledge and attainment of a bachelor’s degree or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the U.S.
- **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 a 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.

Section 4. Illinois Tech Office of Global Services

The Illinois Tech Office of Global Services (“OGS”) handles all immigration sponsorship applications for University employees and applicants for employment with the University. OGS is the University’s liaison with immigration authorities and outside counsel, in coordination with the Office of the Provost (OP) and the Office of General Counsel (OGC).

Section 5. Retention of Immigration Counsel

Illinois Tech’s OP, as well as OGS and OGC at the behest of the OP, are permitted to engage University approved immigration counsel to assist with the USCIS process and filings for faculty members. The counsel engaged will represent Illinois Tech and, to the extent not inconsistent with such representation and if approved by Illinois Tech, shall also represent the applicant or employee. Should an applicant or employee engage counsel independently, the University will not reimburse the applicant or employee for any legal fees incurred, and such engagement will not replace the need for counsel to Illinois Tech in any application process as contemplated by this Policy.

Section 6. Costs and Fees Associated with Immigration Sponsorship

If Illinois Tech elects to sponsor an applicant or employee under this Policy, Illinois Tech will cover the costs and fees associated with sponsorship as set forth in Section 8 (H-1B) and Section 9 (LPR) below, including fees that the employer is required to pay by law. Premium processing fees will be covered on a case-by-case basis only where premium processing is a business need as determined by the OP. Premium processing fees may also be paid by the applicant or employee.

Section 7. Dependents

Illinois Tech is not responsible for the immigration needs of the foreign national’s dependents, which are the sole responsibility of the applicant or employee. Illinois Tech does not file the

immigration sponsorship application, nor does it cover any costs and fees associated with the filing of applications, for dependent family members including, but not limited to, Form H-4 (application for dependent spouse of H-1B Employee), extensions, and Form I-485 (application to adjust status). An employer is never required under federal regulation to pay the immigration expenses for an applicant or employee's family members including, without limitation, their spouse, domestic partner, and children. Additionally, Illinois Tech does not track the expiration dates or status of dependent family members.

Section 8. Sponsorship for Non-Immigrant H-1B Visa

Foreign workers classified as professionals in a specialty occupation may be eligible for H-1B status. H-1B status is a temporary, non-immigrant classification that is employer-sponsored and employer-specific. The employer is the petitioner and the foreign worker is the beneficiary; i.e. the employer “owns” the petition. A person in H-1B status is authorized to work only for the petitioning employer.

a. *Process for Approval of Sponsorship*

The Provost shall have the authority to approve requests for H-1B sponsorship initiated by the hiring Dean. As soon as an offer of employment is intended to be made, the Dean shall initiate a written request to the OP regarding the potential hire and the need for H-1B sponsorship. The scholar’s curriculum vitae and job description should be attached to the written request. The Provost or the Provost’s designee will determine whether or not to approve the request for sponsorship.

b. *Eligibility and Sponsored Positions*

Illinois Tech will utilize the H-1B (temporary worker) visa for eligible new hires. H-1B status is a specialty occupation status for temporary employment, and the applicant or employee must have the appropriate educational and professional background. To secure an H-1B status, the University must demonstrate that the job in question is one that requires special preparation, and that the person being sponsored has the required preparation and education. H-1B sponsorships are available only for positions which require at least a bachelor's degree. At the sole discretion of the Provost in circumstances deemed appropriate, Illinois Tech may request that the employee or applicant first use any OPT and/or STEM OPT time that is available to them prior to Illinois Tech filing to sponsor them for H-1B status.

The H-1B status is valid for up to three years, and can be extended for one period of three years. Transferring an H-1B visa from another employer is a process similar to securing an H-1B. If the University hires someone who is working for another employer on an H-1B visa, it still must go through the H-1B application process.

c. *Time Frame*

The process for securing H-1B status typically takes a minimum of four (4) to seven (7) months.

d. *Payment of Legal Services, Expenses, and Filing Fees*

If the university decides to sponsor an applicant or employee for the H-1B status, Illinois Tech will pay all business expenses associated with the preparation of the petition, including legal fees and filing fees, to the extent it is required to do so by law. The University may, in its sole discretion, voluntarily pay fees that it is not otherwise required to pay by law if approved by the Provost or the Provost's designee, who will make such determination on a case-by-case basis.

The OP will pay the costs associated with H1-B applications for tenured and tenure-track faculty and teaching faculty, while an academic unit or college may elect to pay such costs for a research faculty member. The applicant or employee is responsible for paying any costs related to obtaining a visa stamp at their local embassy or consulate. As stated in Section 6, the applicant or employee may be required to pay the premium processing fee if such processing is desired.

Section 9. Sponsorship for Lawful Permanent Residency (LPR)

a. *Process for Approval of Sponsorship*

The Provost shall have the authority to approve requests for permanent residency sponsorship. The Provost or the Provost's designee will confirm with the appropriate Dean the University's sponsorship of the applicant or employee for purposes of filing the Labor Certification.

Sponsorship for LPR must be in the best interest of Illinois Tech as determined by the Provost, and should be based on whether Illinois Tech's best interests require the need for the person's unique skills and expertise and if such immigration status is necessary for them to perform their essential job functions and duties for the University. The decision whether to sponsor an applicant or employee for LPR will be made by the Provost in the Provost's sole discretion. In order to secure LPR for an applicant or employee, the University might be required to demonstrate that no qualified U.S. citizen is available for the position. The decision to pursue LPR status for an applicant or employee is a serious and expensive undertaking and should not in any way be viewed as a gesture of good-will or undertaken to facilitate a desire, rather than necessity, for permanent residence.

b. *Eligibility and Sponsored Positions*

Consistent with immigration regulations, Illinois Tech may sponsor an applicant or employee for permanent residence if the offered position or continued employment meets the following two conditions:

1. The position is full-time and permanent (i.e. not temporary); and
2. The applicant or employee intends to remain in the position indefinitely. In other words, the offered position or continued employment has no anticipated end date on the part of Illinois Tech or the applicant or employee. Please note that although no end date is anticipated, employment, continued employment, and tenure at Illinois Tech is not guaranteed.

In addition, the foreign national must be eligible for sponsorship by being in appropriate non-immigrant status, and must be able to satisfy all USCIS and Department of Labor requirements.

c. *Time Frame*

The process of applying for permanent residence can be complex, detailed and very time-consuming. It is, therefore, important to begin the application process within a reasonable period to avoid an interruption in employment. It is not unusual for an application to take two to three years to complete. During the processing period, the applicant must maintain valid non-immigrant status, if in the U.S., and be able to satisfy I-9 requirements, until either temporary employment authorization is granted pursuant to the filing of the adjustment of status application, or the attainment of lawful permanent residence.

d. *Sponsored Positions*

Illinois Tech will consider LPR sponsorship only for Tenured and Tenure Track faculty positions. Non-tenured teaching and research faculty positions as well as visiting scholars and visiting faculty are not eligible for LPR sponsorship, nor will Illinois Tech sponsor part-time, temporary, or post-doctoral fellow positions, as they are not considered full-time, permanent positions.

If an applicant is eligible to file for LPR under two different categories under federal regulation such as, for example, a national interest waiver and outstanding professor or researcher, Illinois Tech will only sponsor one type of permanent residence application at the election of Illinois Tech.

e. *Payment of Legal Services, Expenses, and Filing Fees*

In accordance with the law, there is no obligation on the employer to pay for the processor of the application for employment-based permanent residency status beyond the Labor Certification stage. The foreign scholar will be responsible for fees and costs associated with filing an “Immigrant Petition for Alien Worker” (Form I-140) and an “Application to Adjust to Permanent Resident” (Form I-485). If during this process Illinois Tech must extend the foreign scholar’s H-1B status in order to maintain work eligibility, the fee associated with extending H-1B status, including the premium processing fee (if determined necessary by the University) is a business expense that the University will pay. Illinois Tech will not reimburse any academic unit, or any individual, for expenses incurred outside this Policy, in whole or in part, unless approved in advance by the OP.

The amount of legal fees for the LPR application process will vary depending on the particulars of the case. Upon request, OGS can seek to obtain an estimate at the start of the application, but all involved must recognize that fees and expenses may exceed any estimate. An applicant for LPR who departs Illinois Tech, including resignation and dismissal, within three years of the attainment of permanent residence will reimburse Illinois Tech for all costs associated with the LPR application, to the fullest extent allowed by law. *Payment of LPR sponsorship costs and fees is subject to, and conditioned up, the employee or applicant agreeing in writing to the terms of the Payback Clause in Section 9(f) of this Policy.*

f. *Payback Clause for LPR Immigration Sponsorship Costs*

In consideration of the LPR immigration sponsorship provided by Illinois Tech, the sponsored FN is required to agree, in writing, to reimburse the University for certain immigration-related costs incurred on their behalf if they voluntarily terminate their employment or it is involuntarily terminated within three years of their immigration sponsorship approval. If the FN does not agree to the reimbursement, then the University may choose not to sponsor them, which may result in being unable to work for the Illinois Tech.

In all instances, Illinois Tech will cover, but only to the extent required by law, the advertising fees and legal fees for the first stage of LPR sponsorship (the PERM labor certification process). The foreign national applicant or employee may be required to either cover in the first instance, or alternatively reimburse Illinois Tech, on a pro-rata basis, should their employment terminate (voluntarily or involuntarily), the government filing fees and/or legal fees for the remaining stages of this sponsorship, specifically the I-140 petition (stage two) and the I-485 Adjustment of Status application (stage three). Note that, in some instances, the PERM process may be bypassed entirely and, in these instances, Illinois Tech and/or the foreign national applicant or employee may cover the remaining portions as articulated above.

The repayment amount shall be calculated based on the total applicable immigration-related costs incurred on behalf of the sponsored foreign national.

Section 10. Sponsorship for Other Types of Visas

With the prior approval of the Provost or the Provost's designee, the University may, in its sole discretion, sponsor other types of work-related visas, not addressed in this Policy, for applicants and employees in certain positions.

This Policy for internal purposes only and may be altered, modified, or rescinded at any time at the discretion of Illinois Tech. The information contained in this Policy is not intended to be legal advice and should not be relied upon as such.