Procedures for Permanent Residency Sponsorship Applications
to the Office of Visa and Immigration Services

Dartmouth College will agree to sponsor a non-U.S. citizen hire for an employment-based U.S. permanent residency application, if the position and the employee meet certain qualifications. An agreement to sponsor does not guarantee an approval by the U.S. government. Sponsorship only verifies that the College, as the employer of record, will agree to sign all immigration forms and petitions required to apply for U.S. permanent residency. Please refer to the PR Sponsorship Policy for additional information on required qualifications.

1. Consultation with the Office of Visa and Immigration Services (OVIS) prior to beginning a search, recruiting or hiring, regarding DOL requirements for position advertising and search documentation is recommended. This may serve to expedite the permanent residency (PR) application process, if a non-U.S. citizen is selected as the best candidate.

2. All advertising and job searches for open positions should conform to College policies as set by Human Resources and the Office of Institutional Diversity and Equity (OIDE).

3. The department and/or search committee should discuss the College permanent residency policy with the prospective employee. This will help to avoid any misunderstandings regarding Dartmouth’s ability or obligation to sponsor or pay for a permanent residency application. The hiring department should never guarantee that permanent residence will be acquired by the College on behalf of the employee, as the ultimate determination will be made by Citizenship & Immigration Services (CIS), the Department of Labor (DOL) and/or the Department of State (DOS), based on the candidate’s qualifications, personal background and immigration history.

4. If a position is tenured, tenure-track, or otherwise “permanent” the sponsorship is automatic, and no application (referred to in # 5 of this list) need be made to the International Office. Notification to the Office in writing that a PR sponsorship will be started is sufficient. Skip to # 6

5. If the position is not tenured or tenure-track, or otherwise considered to be “permanent”, the hiring department or school should file the PR Sponsorship Request Form with OVIS. This form is available upon request from OVIS.
   a. In order to qualify for sponsorship by the College, the offered employment should be for long-term employment in a full-time position, generally with the minimum requirement of at least a Bachelor’s degree in a certain field. Grant funded and annually renewable positions will qualify, if the expectation is long-term employment, subject to availability of funds.
   b. Upon receipt of the sponsorship request form, the OVIS advisor will arrange a meeting with the sponsoring department representative, and then make a recommendation to approve or deny College sponsorship. This decision will be based on whether or not the position offered meets CIS, DOL and DOS criteria for approval of employment-based permanent residence applications, and whether the employee’s immigration history is conducive to a sponsorship request.
6. If a College sponsorship is approved, the OVIS Director will serve as signatory on all forms and petitions filed in the name of the College on behalf of the employee.

7. If sponsorship is approved, it may only be rescinded if the employment ends, or if the hiring department and OVIS agree that the circumstances of employment have changed significantly, so to affect the probable outcome of the application.

8. There are five categories of employment-based PR applications. Depending on which category the employment qualifies for, as determined by the immigration attorney, a labor certification may need to be filed with, and approved by, the DOL for the application to proceed. This process entails an online application to the Department of Labor, called “PERM”. Following the initial search and hire, if a new recruitment process and job advertising is required for the labor certification (called “testing the labor market”), the hiring department or school will need to work closely with the attorney, OIDE and HR to ensure a valid and fair search process. If a qualified U.S. worker is found through this search process, the labor certification and the PR application cannot be continued. Please see this online article for more information on the PERM process: http://curranberger.com/content/view/60/66/ Note that as of July 18, 2007, if an employer sponsored PR application is processed through the labor certification category, all related filing and legal fees must be covered by the hiring department or school. In addition, all cv’s and applications collected through this “job market test” advertisement and search must be maintained by the hiring department or in College Archives for a minimum of five years. Please flag these files as such, when they are placed in archives.

9. The Office of General Counsel will resolve any questions relating to College sponsorship.

The PR application process can take anywhere from a year or two, up to six or seven years, given current government backlogs. For employees with appropriate work authorization and on-going Dartmouth appointments, the International Office will make every effort to assist the employee in maintaining a legal status while permanent resident applications are pending. Employee requests for extensions of underlying non-immigrant visas will be reviewed by the International Office, in conjunction with the consulting attorney if necessary.

Considerations:

Employment Obligations:
An agreement to sponsor a non-U.S. citizen employee for permanent residency does not guarantee future employment. Continuing employment at any time depends upon adequate job performance. As noted above, sponsorship will only be approved if the length of employment is permanent, and for more than three years into the future. If the employment is terminated during the green card application process, it may possible for the departing employee to maintain the PR application, but this will have to be determined by the consulting attorney and the International Office.

Wage Level
The wage paid to the employee will be subjected to the scrutiny of CIS, the State Workforce Agency (SWA) and DOL. If OVIS finds that the wage will not meet DOL standards for that particular position and experience level, the request will be denied.

Payment of Legal Fees
Unless otherwise stated in a written agreement signed by the department or College hiring authority and the employee, and with the exception of Labor Certification applications, the
employee will be responsible for all legal fees and government filing fees associated with a permanent residency application. As of July 18, 2007, all filing and legal fees relating to a labor certification application must be covered by the hiring department or school. Each Dean’s Office or Professional School may have additional policies regarding payment of legal fees. Please contact the appropriate office for information on these policies. Any reimbursements to employees for legal or filing fee payments from the College may be taxed as a benefit under U.S. tax laws.

**Time Frame**

Lengthy delays can be involved in DOL and CIS applications. There is no way to guarantee permanent residency within a certain time frame. It is advantageous however to begin the process as soon after hiring as possible. Delays of many years are not uncommon. The hiring department and the individual should work closely with OVIS to ensure maintenance of a valid immigration status for the duration of the permanent residency application.
Approved Law Firms:
If the College is sponsoring an employee for permanent residency under either of the above two tracks, the employee must use one of the following law firms, and inform OVIS, in writing, of that choice. We will then provide the attorney with any required document copies from the non-immigrant file. Any petition or paperwork filed by any other outside firm or agency will be withdrawn or cancelled by the College.

College-approved Law Firms:

Dan Berger, Esq., Curran & Berger Assoc.
74 Masonic St., Northampton, MA 01060
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http://www.klaskolaw.com/index.php

Immigration Considerations for a Post-Dartmouth World
http://www.klaskolaw.com/events-calendar.php?action=view&id=177