Policy
All applicants for the University of Wisconsin-River Falls positions must be eligible to work in the United States. All new hires must submit documentation establishing both identity and work authorization.

Under certain limited conditions, the University of Wisconsin-River Falls, working through its Human Resource Department, will submit paperwork to petition for work authorization on behalf of individuals. This will only be done for new tenure-track faculty except in exceptional circumstances and at the sole discretion of the Director of Human Resources, in consultation with the Provost/Chancellor/or Vice Chancellor. Exceptional circumstances are considered to exist when the long-term services of such an employee are deemed to be in the best interests of the University and would serve to further the University’s missions of instruction, research and public service. In addition, there must be assurances of a long-term commitment on the part of both the employing department and the employee.

Authority
The UW-River Falls Chancellor issues this policy in accordance with the Administrative Policy process.

The Assistant Chancellor for Business and Finance is responsible for the administration of this policy. Request an exception to this policy by writing to administrative-policy@uwrf.edu.

Sanctions and Appeals Process
Failure to adhere to the provisions of this policy may result in appropriate disciplinary action as provided under existing procedures applicable to students, faculty, and staff, and/or civil or criminal prosecution.

Procedure for H-1B Petitions

1. The employing college/department initiates the process with Human Resources by completing a Department Request Form for New and Amended H-1B Applications. Please note there is a minimum of a five to six month processing time from the date the H-1B process is initiated with Human Resources until the petition is approved by USCIS.

2. The interested Faculty or staff member completes and submits the Beneficiary Information Form to Human Resources.

3. The hiring Department completes the Actual Wage Determination and Certification form and the Actual Wage Comparison Chart and submits to Human Resources.

4. Once the Beneficiary Information Form, the Actual Wage Determination and Certification Form, and the Actual Wage Comparison Chart are submitted to Human Resources, the Prevailing Wage will be filed by Human Resources, which is the first step of the H1B petition process.

5. Once the prevailing wage comes back from USCIS, the hiring Department will complete the Labor Condition Application Authorization form and submit to Human Resources.
6. Human Resources will then complete the Labor Condition Application form and submits electronically to USCIS.

7. Upon approval of the Labor Condition Application (LCA), Human Resources works with the Department and Accounting Services to cut appropriate checks (as outlined below). With assistance from the hiring Department, Human Resources will complete the I-129 Application for H1-B status and submit to USCIS. The hiring Department must show that the position is in a “specialty occupation,” and that the individual possesses the necessary degree(s) and other credentials. The Department must post a copy of the initiated Labor Condition Application (LCA) and return the notice of posting the LCA to Human Resources.

FEES: All checks must be separated

- H-1B Petitions= $460.00 (department check only) *
- H-4 Petitions= $290.00 (personal check only) *
- Fee for Initial UW-River Falls H-1B (portability included) = $500.00 (department check only)*
- OPTIONAL-Premium Processing= $1,225.00 (department check only—this is optional in situations where there is a short time line to receive the approval. It may shorten the response time by up to six weeks.)*

All checks must be payable to the US Department of Homeland Security. Fees are subject to change at the discretion of the US Department of Labor. * Check with Human Resources for current fees.

8. Human Resources will receive the original H-1B Approval Notice (I-797A) from USCIS. Human Resources will notify the Department. If the prospective employee is within the United States, Human Resources will provide the original approval notice to him/her. The individual may not begin legal employment until the petition has been approved by USCIS except in portability cases. (Portability refers to holding H-1B status with another employer. Human Resources will work with the Department and the prospective employee to determine portability.) In the case of H-1B extension of the same position within UW-River Falls, the Faculty/Staff member may continue employment for up to 240 days after the expiration date of the previously authorized stay if an extension request was submitted USCIS prior to the end of the previous H-1B period.

a. If the prospective employee is not currently in the U.S., Human Resources will arrange to mail or express mail the original H-1B approval to the individual. USCIS will directly notify the appropriate U.S. consular post of the approval of the petition (as designated in the petition). The H-1B Approval Notice should be used to apply for the H-1B visa stamp as the U.S. consular post abroad. As with any visa application, the decision to grant or deny an H-1B application is made by the consular official and there is no guarantee that the visa will be issued. In addition, mandatory background checks and personal interviews are creating significant delays in visa issuance at many consular offices. Individuals who receive the H-1B visa stamp may enter the U.S. form a foreign country in H-1B classification up to 10 days before the begin date on the Approval Notice. The individual should not enter the United States until he/she obtains the H-1B visa stamp in the passport. Canadian citizens do not need a visa stamp, but do need the I-797 and I-94.
Procedure for Permanent Residence Petitions

1. An application for permanent residence involves filing numerous forms and extensive documentation in several steps. The individual must demonstrate eligibility under one of the permanent residence categories by filing the appropriate form(s) and supporting documents. The government assigns a “priority date,” corresponding to the date of receipt of the first packet of required Department of Labor (DOL) or USCIS forms.

The priority date determines when USCIS (or Department of State (DOS) in the case of a person residing outside the U.S.) will accept and/or process the final packet of an individual's permanent residence application under a visa quota system established by Congress. Each month, the DOS issues a bulletin listing priority dates of applications currently being processed in each permanent resident visa category, which can be found at: http://travel.state.gov/content/travel/english.html

Visa availability is based on the individual's country of birth, not current citizenship or residence. Each country has an annual limit of 20,000 visas available to its nationals. Applicants born in certain countries may face long waits due to the large number of petitions from that country.

2. Filing for Permanent Residency

The employing department initiates the process with Human Resources. To initiate the process, the department completes the Dean's Authorization and Department Request forms, the Prevailing Wage Determination form, and the Beneficiary Information form and submits them to Human Resources. Human Resources cannot commence processing the application until the forms, completed and signed, have been received.

a. Human Resources submits the Prevailing Wage Request form to the DOL. Once DOL makes its determination, Human Resources reviews the prevailing Wage Determination with the Department to ensure compliance.

b. The Department posts a copy of the Prevailing Wage and the DOL Notice Requirement in two places in the Department for 10 consecutive working days, and re-posts the Position Vacancy Notice for a minimum of 30-days for tenure-track faculty positions. Note: This must be done early enough to permit filing the ETA-9089 within the 18-month deadline. The ETA-9089 cannot be filed less than 30 days after the end of the Position Vacancy Notice posting.

c. Human Resources completes and submits ETA-9089 electronically to DOL when all supporting documentation is received from the academic department.

d. The Department of Labor will certify or deny ETA-9089 and return or send an audit letter.

e. The beneficiary (staff member) signs certified ETA-9089 immediately upon receipt from DOL.

f. The Department submits a check from the employee for $700 to Human Resources for processing of the I-140. The check is made payable to the US Department of Homeland Security for the filing fee. Additional supporting documentation may be required. Per UW policy, the individual must pay the filing fee, not the Department.

g. Human Resources, in partnership with the Department, prepares the form I-140 and prepares application packet and submits to USCIS.

**NOTE:** The I-140 must be filed within 180 days of the date of the ETA-9089 was certified by the DOL. Failure to file within the deadline will result in the automatic cancellation of the Labor Certification.

h. The final step in the permanent residency process is the responsibility of the foreign scholar, who must gather documentation and submit it to USCIS for “Adjustment of Status” to permanent resident, or submit an application for an immigrant visa to a U.S. consulate abroad for “consular processing.” In most cases, foreign scholars at UW-River Falls will apply for “Adjustment of Status”, since they are already present in the U.S. Scholars may file their
application for adjustment concurrently with the University’s I-140, later with a copy of the I-140 receipt notice, or after the I-140 has been approved. The priority date, which was established when the Labor Certification application was filed with the DOL, determines if the application for adjustment of status can be filed immediately, or if there is a waiting period. Human Resources can advise the scholar about cut-off dates, or the scholar can check the Visa Bulletin on the State Department web site at: http://travel.state.gov. For complete information on this step of the process, see “Adjustment of Status” under: http://www.ohr.wisc.edu/ifss/PR/index.htm.

University Responsibilities
Department of Human Resources

Department/Unit Responsibilities
College Dean
Qualified Faculty/Staff Member

Overview of Permanent Residence and H-1B Visa Petitions

1. **Permanent Residence** is a status granted by the U.S. government to citizens of other countries. It allows an individual to remain permanently in the U.S. The process is also known as obtaining a "green card" or "immigrant status." Permanent residence is not the same as U.S. citizenship, although permanent residents may become eligible to become "naturalized" U.S. citizens after a certain number of years as a permanent resident.

   a. The decision to file a permanent residence application must be authorized by the appropriate Dean’s office in consultation with Human Resources. No promises can be made to current or prospective employees that the University will obtain permanent residence on their behalf. The petitioning process is lengthy, involving up to three government agencies, and the final decision to grant the permanent residence must be made by U.S. Citizenship and Immigration Services which will be referred to as USCIS for the remainder of this document. It is never a certainty that the permanent residence will be approved, and therefore cannot be promised as an enticement. Therefore, those involved in the hiring process need to make it clear that the University’s role is only to submit the application for a visa.

   b. The Chancellor working in cooperation with the Department of Human Resources has authority for filing permanent residence petitions on behalf of UW-River Falls.

2. **H-1B Visa** classification may be granted to a foreign national who will perform services (work) in a "specialty occupation." See INA §101(a) (15) (H). A specialty occupation requires theoretical and practical application of a body of highly specialized knowledge to fully perform the required duties, and the attainment of a bachelor’s or higher degree in the specific field as a minimum for entry into the occupation. H-1B status is for temporary workers. Although the position may be a permanent one, the individual must be filling it temporarily, meaning for a period of up to a maximum of six years. Tenure-track and tenured faculty may be accorded H-1B status.

   a. Teaching faculty who intend to apply for permanent residence status MUST file for Labor Certification (the first step of the process) within 18 months of having been offered the initial position (even if it was initially a visiting appointment), meaning the date the initial offer letter
was signed, not the starting date of the appointment nor the date of any subsequent amendments to the initial offer.

b. All UW-River Falls Departments should consult with Human Resources before initiating any H-1B petition. **It is of utmost importance to initiate the processing of H-1B petitions with Human Resources with as much lead time as possible, allowing a minimum of five to six months.**

c. Wisconsin state law does not permit state institutions to retain private counsel to advise or represent the institution’s interests; therefore, the use of private immigration attorneys for filing UW-Madison sponsored H-1B petitions is prohibited. Please see Wis. Stat. § 14.11(2).

d. The Chancellor working in cooperation with the Department of Human Resources has authority for filing H1-B temporary worker petitions on behalf of UW-River Falls.

e. The role of Human Resources is limited to those aspects of document preparation and submission that are directly related to the University's interests and responsibilities as an employer.

f. Due to cost, time and length of the application process, UW-River Falls will not seek work authorization for University Staff, employees in training, instructional academic staff, lecturing positions, non-instructional academic staff positions or visiting professors, except in highly unusual situations and at the sole discretion of the Director of Human Resources, in consultation with the Provost/Chancellor/or Assistant Chancellor.

**Contact**

Please direct questions about this policy to administrative-policy@uwrf.edu.