

# Questions and Answers for DOL Recruitment Requirements

Applicable only to permanent full-time tenured/tenure-track teaching faculty positions with actual classroom teaching duties

## **Q: Are hiring units required or obligated to sponsor a work visa and/or PR for a selected FN?**

A: No, it is the hiring unit's choice.

## **Q: Are there other ways a FN can apply for a green card other than being sponsored by the university?**

A: Yes, provided the FN meets the eligibility criteria. Please see details at <http://ip.wsu.edu/depts/hosting/permanent-residency.html>

There are no approval guarantees for PR applications (either self-sponsored or sponsored by a U.S. employer) as the decision is subject to a U.S. government officer's adjudication.

## **Q: What are Department of Labor (DOL) recruitment requirements for such job ads?**

A: If an employer chooses to sponsor permanent residence (PR, also known as green card) for a selected foreign national (FN), the employer is required to file Labor Certification application for permanent employment to attest to DOL:

1. There are not sufficient U.S. workers who are able, willing, qualified (most qualified, in the case of college/university teachers) and available to do the job;
2. The employment of the FN will not adversely affect the wages and working conditions of similarly employed U.S. workers; and
3. The FN must have met all requirements (minimum and preferred if preferred was listed in the job ad) before the FN was hired into the position.

In the event it may happen, the regular job ad for such positions can integrate DOL requirements which include:

1. The name of the employer and job location (Pullman, Spokane, Vancouver, Tri-Cities, etc.).
2. Job title and the type of job (Assistant/Associate/Full Professor, permanent full-time tenured/tenure-track).
3. Job duties, actual classroom teaching duties must be included.
4. Requirements: minimum requirements must be included. Preferred qualifications are discouraged, they are treated as requirements if you list them.
5. The application process and the means to contact the employer: what to submit and how to submit.
6. University required EEO/AA statement.

## **Q: Why does the WSU Office of International Programs, Department of Global Services (IP-GS) review job ads for full-time tenured/tenure-track teaching faculty positions?**

A: The job ads are reviewed prior to advertisement to ensure DOL compliance in the event a FN who is more qualified than U.S. workers is selected and the hiring unit chooses to sponsor PR for the elected FN.

## **Q: Do hiring units need to integrate DOL requirements into the regular job ad?**

A: If an academic hiring unit expects/intends to hire and sponsor PR for a FN, yes. Some hiring units choose not to integrate DOL requirements in the regular job ad and will need to communicate this decision to IP-GS.

## **Q: What if a hiring unit integrates partial or no DOL requirements into a job ad?**

A: The hiring unit will not be able to sponsor PR for the selected FN who will have to leave the U.S. when exhausting the means to stay in the U.S. legally (for example, self-sponsored PR, etc.). If the hiring unit chooses to sponsor PR for the FN, the hiring unit will need to conduct a full bona fide recruitment and selection process and retain all recruitment documents that meet specific DOL requirements, and the FN must be re-selected as more qualified than U.S. applicants within a reasonable timeframe to accommodate PR processing.

## **Q: In what situations does the hiring unit have to conduct a new recruitment and selection process if the hiring unit wishes to sponsor PR for the FN employee?**

A: Commonly:

- The FN employee was selected without going through an eligible competitive recruitment process.
- The job ad(s) was not reviewed by IP-GS for DOL compliance and/or did not integrate the DOL requirements before advertisement, recruitment process and/or documents do not meet specific DOL requirements.
- Missing the 18-month deadline to file Labor Certification application for permanent employment, which is one step of the multi-steps of PR process. This may happen when the selection (job offer issuance date) was made too early before the actual employment start date. DOL requires the sponsoring employer file the Labor Certification application within 18 months from the hire/selection date (NOT employment/appointment start date). Therefore it is recommended the job offer be made six (6) months prior to the actual employment start date to ensure all parties involved (the hiring unit, the FN beneficiary and IP-GS) have the reasonable time to complete mandatory DOL pre-filing requirements.
- When the position requires a PhD degree in a specific field but a FN ABD was hired into the position, a FN ABD who needs an employer's H-1B and PR sponsorship is not eligible for a position that requires a PhD degree; such individual must have possessed the required PhD degree before he/she was hired into the position in order to be sponsored for H-1B and PR. Using the special handling Labor Certification procedure for college/university teachers for PR sponsorship purpose, a FN ABD must be more qualified than U.S. workers – that means the employer CANNOT proceed to PR sponsorship if there were U.S. applicants who have possessed the required PhD degree. Having possessed a PhD degree means a transcript showing the date the PhD degree was awarded/conferred and/or a PhD diploma. The common workaround for an ABD will not work for a FN ABD who needs to go through an immigration process.