



Job Posting Best Practices for Permanent Residency and H-1B Sponsorship

Sponsorship for an H-1B and permanent residency (PR) is never required. The University (UW) is under no obligation to file an H-1B petition or PR for any of its new hires. There are options for the employee to obtain permanent residency or work authorization on their own. For PR, they can file under an employment-based category (Alien of Extraordinary Ability or National Interest Waiver) or under a family-based category (marriage to a U.S. citizen or permanent resident or through other qualifying family members). Based on their situation, there may be other options available to them as well.

If it is known at the time of recruitment that the unit is willing to provide sponsorship if an international candidate is selected, certain conditions need to be met in regards to how the job posting (PVL) is written and advertised. This document outlines best practices to writing and advertising a job posting to help ensure it qualifies for PR and H-1B.

If the University wants to consider sponsoring permanent residency, the applicant must be qualified for the job at the time of offer. Meaning, the applicant must meet all education, training, experience and other qualification requirements **on or before the date of the initial offer letter**. If the applicant can complete the education, required training, experience and other qualification requirements by the start date, then that needs to be stated in the PVL and advertisements. Sample language is provided below.

Individuals hired using PVL waivers may be eligible for H-1B sponsorship.

Individuals hired using PVL waivers are not eligible for the EB-2 permanent residency sponsorship because no national recruitment was conducted.

Writing the Job Posting (PVL)

The below outlines the important information to include in each tab of the PVL in JEMS, which creates the job posting. Enter the job requirements in the appropriate fields. Do not enter the same requirement in multiple sections.

Core Tab:

- For PR
 - The position must be permanent and full-time per federal law
- For H-1B
 - The position can be either renewable or terminal

Salary/Title Tab:

- For PR, the salary qualifier should be 'negotiable'
 - If the salary qualifier is 'depending on qualifications' the job posting will advertise the minimum salary. If the salary listed is below the prevailing wage which is set annually by the U.S. Department of Labor (DOL), the UW cannot use that recruitment as the basis for the permanent residency petition.
- For H-1B, the UW must agree to pay at least the prevailing wage set by the DOL. As best practice, be consistent with how the salary is listed on other job postings for the same title. Consider the budget and the salary range quartiles. If the UW is required to pay more to file the H-1B and/or PR, IFSS will reach out with options.



Position Description Tab > PD Details > Education/Experience Tab:

- Education/Education Details:
 - Post the minimum degree needed to successfully perform the job by the start date of the position
 - Examples:
 - Ph.D. in [FIELD OF STUDIES/MAJORS APPLICABLE], or related field [OR CLOSELY RELATED DISCIPLINE], is required by the start date of the position
 - MD or DO, or equivalent, specializing in [FIELD OF STUDIES/MAJORS APPLICABLE] is required by the start date of the position

Position Description Tab > PD Details > Education/Experience Tab:

- Qualifications:
 - Clearly state the minimum years and relevant work experience needed to successfully perform the job by the start date of the position
 - Examples include:
 - [# OF YEARS] training/postdoctoral training in [XYZ] is required by the start date of the position
 - [# OF YEARS] employment experience in [XYZ] is required by the start date of the position
 - For clinical positions:
 - Completion of a U.S.[?] residency and fellowship [ADD SPECIALTY AREAS] by the start date of the position
 - If no experience is required, consider including one or more of the following statements because the hiring unit must provide a job-related reason for non-selection for each of the other applicants. The unit must be able to document the selected applicant possesses these skills.
 - Demonstrated excellence in [APPLIED ECONOMETRICS AND APPLIED MICROECONOMICS].
 - Demonstrated potential for excellence in [ORTHOPEDIC-RELATED, BIOMECHANICAL RESEARCH].
 - Commitment to developing an academic program that includes [RUSSIAN-AREA TOPICS IN APPLIED ECONOMICS].
 - Evidence of established scholarship of national significance for candidates at the Associate or Full rank.
 - Evidence of established scholarship with the potential for contributions of national significance for candidates at the Assistant level.
 - Evidence of success securing extramural funding.
 - Evidence of successful teaching experience at the university level.
 - All candidates must have proven success in conducting research appropriate to their stage of career.

Position Description Tab > PD Details > Category/License/Cert Tab:

- Clearly state any license or certificate (if any required), for example:



- WI [MEDICAL/VETERINARY] license, or eligible for by the start date of the position
- Board certified or board eligible in [FIELD/SPECIALTY] by the start date of the position

REMEMBER: Preferences listed in the job description will be treated as requirements by the DOL for permanent residency applications. DOL believes employers screen applicants based on their preferences, therefore the preference becomes an implied requirement. The applicant pool would be different if the position required an additional skill set, knowledge, or expertise.

Position Description Tab > PD Details > Responsibilities Tab:

If the position includes instruction, include the word “teach” in the job duties¹

Examples include:

- The successful applicant will be expected to teach undergraduate and graduate courses in [THE HISTORY OF SPORT] and [SOCIETY IN THE U.S.]
- For clinical positions, add one of the following (modify appropriately):
 - Responsibilities will include clinical teaching of fellows, residents, and medical students in a classroom or clinical setting.
 - Teaching responsibilities include clinical teaching of residents and fellows, with opportunity to participate in didactic teaching for medical students.
 - The incumbent will teach in a classroom or clinical setting and/or perform research (bench or clinical or translational) in addition to clinical work.
- For the Teaching Professor title series, add the following or similar language to the Teaching Professor SJD as a unique responsibility if appropriate for this particular position
 - Teaches courses in X to graduate and undergraduate students

It is IFSS’s recommendation that units follow these same guidelines for all positions that may qualify for H-1B sponsorship. Permanent residency and H-1B applications for the non-teaching position do not need to list the salary as negotiable and do not need to provide IFSS job related reasons for non-selection for the other candidates.

Advertising the Job

To file a permanent residency petition for our teaching faculty, a national recruitment must have been conducted that meets UW and DOL requirements.

At least one advertisement in a professional journal of national circulation must list the title, duties and minimum education, training, and experience requirements.

Electronic *and* print ads must meet the following two requirements:

- The publication or website must be that of a PROFESSIONAL JOURNAL, meaning that the journal which publishes the ad must regularly offer articles with scholarly or professional content in addition to job listings in at least one of its formats.

¹ See 8 C. F.R. § 656.



- The advertisement must be in a website or publication that is NATIONAL in scope. Websites or publications that only list job opportunities in a specific region probably do not qualify to satisfy the PERM requirements.

Electronic advertisements must also meet the following two requirements, which do not apply to print ads:

- Be posted a MINIMUM OF 30 CALENDAR DAYS.
- START AND END DATES of the electronic advertisement should be documented. The gold standard of evidence for this requirement would be computer printouts of the advertisement from a web browser showing the URL and the date. Those printouts would ideally be made on both the day the ad was posted and the day the ad was taken down. There may be other types of acceptable evidence if this is infeasible. For print ads, tear sheets are still the preferred method of proof.

List of acceptable journal examples:

- Chronicle of Higher Education
 - UW-Madison has a contract in place with the Chronicle to automatically post open faculty and staff jobs within 24 hours, free of charge to the hiring unit. The hiring unit should confirm the position successfully posted to the Chronicle. If not, please contact Talent Acquisition.
- New England Journal of Medicine
- Science
- Nature
- Journal of the American Veterinary Medicine Association
- American Historical Association Perspectives
- Chemical & Engineering News
- Journal of Dairy Sciences



Appendix A: Teaching Professor Title and Teaching Responsibilities

Background:

For the University to sponsor a permanent residency petition for an international hire in a full time permanent instructional or teaching position based on a competitive national recruitment that meets the U.S. Department of Labor (DOL) requirements, federal law requires [some "actual classroom teaching"](#) be done by the hire.

The [Campus Guidelines for the Teaching Professor title](#) series describe the job duties for these titles to be:

Teaching professors are expected to make long-term and consistent contributions to the teaching mission of their departments, advance teaching and learning in their discipline, and use innovative strategies that produce course and/or curricular improvement at the departmental level and beyond.

When the guidelines and the standard job description were developed, they did not refer to someone "teaching." This was an intentional omission as not all Teaching Professors teach and instead the language in reference to instruction is captured in the third bullet within the standard job description below. This language is not sufficient to sponsor permanent residency under the federal law.

- Develops and designs curriculum and instructional material relevant to a course of instruction
- Advises students on academic and career direction within a specific field of study
- Facilitates classroom, online and/or laboratory instruction, including assessment of student performance
- May supervise student employees involved in development or delivery of instruction
- Collaborates with department faculty and staff to develop teaching strategies relevant to the discipline
- Contributes to the development of teaching and learning scholarly work including publications and presentations
- Contributes to the strategic development of curriculum and academic content through various mediums to ensure the integrity of the educational mission of the work unit

Immigration & Teaching Responsibilities:

If it is known at the time of recruitment that there is a chance **all** the following conditions will be met:

- an international applicant may apply and be selected;
- through competitive national recruitment process that meets the DOL requirements;
- the position is full time and permanent; and
- one of the job duties is actual teaching,

then there are two options to consider with the job posting to meet DOL requirements for permanent residency sponsorship:

1. Add the following or similar language to the Teaching Professor SJD as a unique responsibility:
"Teaches courses in X to graduate and undergraduate students"
2. Post the position using the Teaching Faculty title series if appropriate

