The EB-2, Special Handling category is often the most efficient path to permanent residency. Only positions that require classroom teaching are eligible to use this category. Applications submitted under this category go through three separate steps. From beginning the process to full approval (green card issuance) the estimated total processing time is 24-36 months.

**WHAT IS A LABOR CERTIFICATION?**

**Labor Certification** is a finding by the Department of Labor that:

- There are not sufficient U.S. workers in the geographic area of employment who are able, willing, equally qualified, and available to do the job in question, and
- The employment of a foreign national will not adversely affect the wages and working conditions of similarly employed U.S. workers

**POSITION AND SEARCH REQUIREMENTS**

- Employment must be located in the United States
Position must be **full-time** and **permanent**:
- Permanent refers to a position that does not have a definite termination point defined either by a date or the completion of a project or assignment, is not seasonal or intermittent, and is not presently intended or contemplated by the employer that the employment will definitely end at some specified date in the future, such as at the completion of grant-funded research.

Must be a bona fide job opportunity:
- A real job must be open for which the employer is willing to hire an available, qualified U.S. worker.

Employer must intend to hire the employee permanently; employee must intend to remain in the job permanently

Available only to those whose position will involve actual teaching in a classroom, laboratory, or clinical setting

Allows employer to choose the best qualified candidate for the position

Must be filled within 18 months of the selection date

**GENERAL PROCEDURE**

The department MUST work directly with the ISSS Assistant Director during each step of the labor certification filing to insure that each step meets the regulatory guidelines.

Begin by following faculty recruitment procedures established by Georgia State University and your particular department. Please note that recruiting efforts must include an advertisement in a national professional journal: the advertisement may be in print or online. If the ad is in print you must retain a legible copy, and if the ad is electronic, you must have proof the ad ran for 30 consecutive calendar days. Once the search has been completed, a job offer has been made and accepted and GSU has sponsored the employee for an H-1B you can begin the permanent residency process.

1. Gather the documentation listed below and submit it to ISSS. We will review it for completeness and accuracy, ensuring that the candidate meets the qualifications outlined in the job description, and that you are able to meet all other requirements.

2. ISSS will create electronic and hard copies of the “Notice of Filing.” This is a notice that must be posted internally, announcing the job opportunity to other employees. ISSS will submit the electronic notice to HR and the hard copy notice to you, with instructions on how and when to post the notice. Please follow the instructions
carefully. If it is not posted for the required length of time, we will need to repeat
the posting, which will cause delay.

3. Once the posting notice has been removed, return it to ISSS. We are required to wait
30 days after the posting is removed before we can file the labor certification.

**DOCUMENTS NEEDED TO FILE THE LABOR CERTIFICATION**

- Completed Permanent Residency Approval and Intake form
- Copy of original job offer letter
- A copy of at least one advertisement in a national professional journal. For
electronic ads, you must print the ad on the 1st and 30th days to prove that it ran for
the required time. For print ads, you must retain an original copy containing the
name of the journal and the date; otherwise, please submit the entire publication.
- Copies of any additional recruitment efforts undertaken, with detail as to where and
when the ads appeared
- Recruitment Materials:
  - Appendix B (Affirmative Action Recruitment and Selection Report)
  - Appendix D (Approval of Pool)
  - Appendix E (For the Record)
  - Appendix G (Faculty Search Committee & Recruitment Procedures) *Optional*
- Letter/Report from the search committee chair outlining the recruitment and
selection process, including
  - Composition of the search committee
  - How applications were solicited (ads, GSU website, internal postings, etc.)
  - Description of competitive selection process indicating:
    - Total number of applicants who applied for the job opportunity
    - Screening process: advertising, interviewing, etc.
      - This should include detailed steps taken for recruitment, such
as where and when recruitment ads were placed, how many
applicants were selected for interviews and how these were
screened, and procedures followed during the interview
process.
    - Elimination process describing why beneficiary is more qualified than
each U.S. worker who was available, able, and willing to accept the
job. Departments should create a chart to record the total number of
applicants and the specific job-related reasons why the foreign
national is more qualified than each U.S. worker who applied.
- Statement of beneficiary’s classroom teaching responsibilities
- Detailed statement attesting to the degree of the beneficiary’s qualifications and achievements, emphasizing that the beneficiary was more qualified than all other U.S. workers who applied
- Proof of Qualifications: if you sent any of these for the H-1B petition, you do not need to send them again.
  - Copy of degrees, academic record, transcripts, etc.
  - Licenses, certifications, or other documentation required to prove qualifications for the position, particularly if the appointment involves clinical practice of medicine
- Original hardcopy and electronic postings of notice of filings. The notices will be created by ISSS and sent to you with specific instructions on how and when to post.

WHAT NEXT?

Assemble the packet of materials and submit to ISSS.

- After these documents are submitted, ISSS will request a Prevailing Wage Determination from the Department of Labor. This process takes 2-4 MONTHS.
  - A Prevailing Wage is required to ensure the beneficiary is being paid at the same level as a comparable U.S. worker in similar positions.

- Once ISSS receives the Prevailing Wage Determination and a 30 day required quiet period has passed, the Foreign Labor Certification is submitted. Approval can take 2-6 MONTHS.

- Once the Foreign Labor Certification is submitted ISSS will initiate a journal for the $900.00 ISSS recovery fee, which can only be paid by the department and not the employee.

- We MUST receive approval before we can proceed to STEP 2. ISSS will notify you when it is time to begin gathering documents and fees for the I-140 (STEP 2).
ISSS files the I-140 with the U.S. Citizenship & Immigration Services (USCIS). It is the University’s petition for permanent residency on behalf of the employee. The documents below are required. We do not begin gathering documents until the labor certification is approved:

- The original letter of appointment or job offer
- Employment verification letter (ISSS will provide a template)
- Employee’s pay stubs from date of Foreign Labor Certification submission to present
- A copy of the employee’s degree(s)
  - If the degree does not specify the employee’s field of study, a transcript may be required.
- A copy of the employee’s passport
- A copy of the employee’s I-797 (proof of H-1B status)
- A copy of the employee’s I-94 card
- If the employee has dependents, we will also need their immigration documents, passports, and a letter describing each dependent.
- Check for $580.00 made payable to Department of Homeland Security
- Payment of $300.00 ISSS cost recovery fee (journal initiated by ISSS)

Processing the I-140 can take **1-6 months**. In some cases, ISSS can elect premium processing, which takes just 15 days. ISSS will notify you when it is time to proceed.

The employee files this individual application on his/her own. ISSS does not assist with this step, but can offer a checklist of materials to be submitted and some general guidance. ISSS strongly recommends that the I-485 not be filed until the employee’s **I-140 has been approved**. Also, the individual cannot file the I-485 until their Priority Date is current. A Priority Date is each visa holder’s
place in line, and can be found on the I-140 approval notice/receipt notice. Due to retrogression, an individual may not currently be able to file: http://travel.state.gov/visa/bulletin/bulletin_1360.html

Please direct any questions regarding this process or employment based permanent residency to Doreen Clayton, International Scholar Advisor at dclayton@gsu.edu or 404-413-2070.

GREEN CARD:

- The green card is mailed once the I-485 is approved
  Total Processing Time for Green Card: 24-36 months