

Title/Subject: **CMU'S RESPONSIBILITY FOR IMMIGRATION EXPENSES**

Applies to: faculty staff students student employees visitors contractors

Effective Date of This Revision: October 1, 2015

Contact for More Information: Faculty Personnel Services (774-3368)
Human Resources (774-3271)
Office of International Affairs (774-4308)

Board Policy Administrative Policy Procedure Guideline

PURPOSE:

To ensure uniformity of approach to the process whereby CMU will assist immigrants with applications for temporary employment visas and/or with the application for permanent residency. This document is intended to serve as a statement of the University's position on assisting employees with immigration expenses. It is not a full outline of the actual immigration process or the responsibilities of the various offices at the University during that process. Decisions not covered by this document will be made on a case-by-case basis.

PROCEDURE:

Services rendered to, and on behalf of, employees under any aspect of this Procedure are at the discretion of Central Michigan University. No right or entitlement accrues to an employee by virtue of this Procedure, or by virtue of having received services under this Procedure. (Revision, May 2004)

1. Temporary Worker Visas.

A. The Office of International Affairs (OIA) will coordinate the processing of H-1B and/or other temporary employment related visas for foreign nationals seeking permission to work in the United States at CMU. The Office of International Affairs will start the petition process upon receiving a copy of the accepted appointment letter, specifying the terms and conditions of employment, from Faculty Personnel Services for faculty positions and Human Resources for staff positions.

B. CMU will pay the filing fees for H-1B or other temporary employment related visa applications. It may also pay certain other fees, if necessary, from the list in Section 3 below. CMU will pay only certain costs and filing fees for the *employee's* petition.

C. In most cases, CMU will ask an outside attorney to handle or assist with the filing of an H-1B or other temporary employment related visa application. In such cases, CMU will pay the attorney's fee (a flat fee has been negotiated) and the attorney's actual expenses.

D. An employee may at any time decide to retain her/his own immigration attorney in connection with the H-1B or other temporary employment related visa application. In such cases, CMU will reimburse the employee for none of

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these costs; it will, however, pay the basic filing fee. CMU will ensure that the employee's salary, net of the employee's costs in obtaining H status, will remain sufficient to establish the wage required by the Department of Labor for H purposes. Any representations made by a privately retained attorney concerning CMU must be approved beforehand by the Director, International Student/Scholar Services in the Office of International Affairs at CMU. A CMU official, either the Executive Director of the Office of International Affairs, or the Executive Director's designee, must sign the application.

E. The filing fee is paid by the employing unit. If the University itself incurs legal fees in connection with an H-1B application, the employing unit will pay those fees and expenses.

2. Permanent Residency.

A. The Office of International Affairs will coordinate the processing of employer aspects of permanent residency applications for foreign nationals offered permanent appointments at CMU. The Office of International Affairs will start the immigrant petition process upon receiving a copy of the accepted appointment letter, specifying the terms and conditions of employment, from Faculty Personnel Services for faculty positions and Human Resources for staff positions.

B. Before the University will prepare, or assist in, the petitioning to obtain permanent residency, the appropriate senior officer and the vice president (for staff) or the dean and provost (for faculty) must agree to the processing of the appropriate petition(s). The filing fee and approved attorney fees (if any) are paid by the employing unit.

C. CMU will pay the filing fees for the I-140, Immigrant Petition for Alien Worker. It may also pay certain other fees, if necessary, from the list in Section 3 below. CMU will pay only costs and filing fees for the *employee's* petition. After the form I-140 has been filed, it is the responsibility of the employee to file the application for an Adjustment of Status (form I-485), including the application for an employment authorization card, before the H-1B status lapses, or to apply for an extension of current employment authorization. (Revision, May 2004)

D. Working with the appropriate personnel office, the Office of International Affairs at CMU will oversee the labor certification process for employee applicants for permanent residency. Upon successful attainment of permanent labor certification, a Petition for Immigrant Worker (I-140) will be submitted to U.S. Citizenship and Immigration Services.

E. The Office of International Affairs will not provide legal advice to the employee applicant. It will not advise the employee applicant regarding the completion of the Adjustment of Status (I-485) form and its submission to USCIS. It will also not advise the employee regarding immigration issues concerning family members of the employee.

F. An employee may at any time decide to retain his/her own immigration attorney in connection with the permanent residency application. Any representations made by a privately retained attorney concerning CMU must be approved beforehand by the Director, International Student/Scholar Services in the Office of International Affairs at CMU. A CMU official, typically the Executive Director of the Office of International Affairs or the Executive Director's designee, must sign and submit form 9089 or specifically authorize someone to sign such on the University's behalf. CMU will reimburse none of the attorney fees and expenses incurred, except that it will pay the I-140 filing fee.

G. The Office of International Affairs will determine whether the University will submit a petition requesting classification of Outstanding Professor or Researcher.

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H. In most cases, CMU will ask for an outside attorney to handle or assist with the filing of an application for permanent residency. In such cases, CMU will pay the filing fee for the Petition for Immigrant Worker (I-140) and the attorney's reasonable fees, according to an agreement among CMU, the attorney and the employee. Section 3 below will control what costs are payable. The Office of the General Counsel must authorize any outside counsel to do immigration work on behalf of the university.

3. Expenses considered for payment or reimbursement.

A. CMU USCIS filing fees and postal/courier fees for filing documents with USCIS for the temporary visa or permanent residency application for the employee. As required by federal law, the university will pay for all costs related to the labor certification process including any costs of recruitment and legal fees should the matter be referred to outside counsel.

B. CMU will not pay filing fees or any other costs related to the immigration status of spouse, children, parents, or anyone else.

C. The following are non-reimbursable expenses:

1. costs related to immigration of spouse, children, parents, or other family members
2. travel needed to qualify for objectives (e.g., travel to home country, if needed, to obtain visa)
3. travel of applicant to meet with immigration attorney or USCIS officials
4. costs of physical examinations or other medical or psychological reviews
5. costs of evaluating foreign academic credentials or translations of foreign documents
6. costs of telephone calls initiated by applicant

D. Additional immigration related expenses may be paid or reimbursed by CMU, if approved by the Director of International Student/Scholar Services in the Office of International Affairs or the Executive Director/Faculty Personnel Services (faculty) or the Associate Vice President/Human Resources (staff). A part or all of the "premium processing fee" assessed by USCIS for expedited handling of applications may be paid by the University, on a case by case basis, provided that the college or other hiring unit agrees to pay the fee. The department may choose to pay the full cost of the "premium processing fee", but generally, this cost will be split: two-thirds will be paid by the department, and one-third by the employee.

4. CMU's retention of outside immigration attorney.

A. CMU has retained the law firm of Fragomen, Del Rey, Bernsen & Loewy to provide assistance to the University in immigration matters. Mr. Nathan Graham, Associate of the Troy, Michigan office, will serve as the contact attorney overseeing the work done for CMU.

B. The following positions (or their personal designees on a case-by-case basis) are authorized to request services to CMU from the firm: General Counsel; Director, International Student/Scholar Services (OIA); Executive Director/Faculty Personnel Services; Associate Vice President/Human Resources. When any one of these persons contacts the law firm to work on a new matter, he/she will notify the others on this list that the contact has been initiated, and the nature of the inquiry.

C. In some cases, CMU may authorize the law firm to bill CMU for immigration work performed for a particular employee. The same positions listed in 4.B, above, are authorized to make this commitment to the law firm for CMU to pay.

D. When one of the authorized persons at CMU has contact with the law firm in connection with an immigration matter for a particular employee, the contact person will make it clear to the law firm when the University is paying for the services and when it is not.

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E. Statements for legal services from the law firm will be sent to the Office of International Affairs. The Office of International Affairs will: (1) review and approve the accuracy of the statement; (2) enter the departmental cost center(s) on the statement; and (3) forward the statement to the General Counsel Office. The General Counsel Office will: (1) provide legal review and approval of the statements; and (2) send approved statements to payable accounting for processing and payment.

Central Michigan University reserves the right to make exceptions to, modify or eliminate this policy and or its content. This document supersedes all previous policies, procedures or guidelines relative to this subject.