I. NON-IMMIGRANT WORK VISAS

J-1 Exchange Visitor Program – the purpose of the J-1 Exchange Visitor Program is to “provide foreign nationals with opportunities to participate in educational and cultural programs in the United States and return home to share their experiences, and to encourage Americans to participate in educational and cultural programs in other countries.” 22 CFR 62.1(b).

1. Costs – the one-time SEVIS fee and visa application processing fee are usually paid by the J-1 Exchange Visitor. The fees for mailing the immigration paperwork must be covered by the host department. Also, if the prospective scholar needs to be interviewed by NJIT’s ESL department to verify the scholar’s English proficiency, the interview fee is $200, which must be paid by the host department. (See Appendix A: Costs and Expenses Associated with Non-Immigrant Visas and Permanent Residency).

2. J-1 Categories

   a. Professor – an individual primarily teaching, lecturing, observing, or consulting at post-secondary accredited educational institutions, museums, libraries, or similar types of institutions. A professor may also conduct research, unless disallowed by the host department.

   b. Research scholar – an individual primarily conducting research, observing, or consulting in connection with a research project at research institutions, corporate research facilities, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions. The research scholar may also teach or lecture, unless disallowed by the host department.

   c. Short-term scholars – a professor, research scholar, specialist, or a person with similar education or accomplishments coming to the United States on a short-term visit for the purpose of lecturing, observing, consulting, training, or demonstrating special skills at research institutions, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions.

   d. Specialist – an individual who is an expert in a field of specialized knowledge or skill coming to the United States for observing, consulting, or demonstrating special skills.
3. **Eligibility** – the minimum qualifications for these categories are a bachelor’s degree with appropriate experience in the field in which research is to be conducted. It is the host department’s responsibility to review the Exchange Visitor’s resume/CV, references, publications, and objectives; determine the Exchange Visitor’s English proficiency; and interview the Exchange Visitor. The Exchange Visitors must be professionals in their fields whose careers will benefit from the proposed program at NJIT and whose experience will enhance the faculty of the host department. In addition, the following requirements must be met:

a. **English Proficiency Requirement** – The host department must use an objective measure to determine whether the Exchange Visitor is proficient in English, then complete the *English Proficiency Verification Form* included in the DS2019 Request Package. Acceptable measures are:

b. Evidence of having obtained the minimum required scores on one of the following recognized English language tests taken within the last two years:

   i. IELTS overall score of 6.5 or higher
   ii. TOEFL (internet-based) overall score of 79 or higher
   iii. TOEFL (computer-based) overall score of 213 or higher
   iv. TOEFL (paper-based) overall score of 550 or higher

c. Evidence of having obtained a degree from a post-secondary institution whose language of instruction is English (including U.S. institutions).

   i. For degrees from U.S. institutions, evidence must be in the form of a transcript or diploma showing the degree conferred. No additional documentation indicating the language of instruction is English is needed for degrees from U.S. institutions.

   ii. For degrees from non-U.S. institutions, evidence must be in form of transcript in English showing degree conferred and English as the language of instruction.

A. If the transcript from a non-U.S. institution does not note English as the language of instruction, an official letter from the institution's registrar stating the individual attended the institution and the medium of instruction was English can be submitted with the transcript.

d. Interview with a member of NJIT’s English as a Second Language (ESL) Program. The interview can be conducted in person, or via video-conference (i.e. Skype).

   i. The host department should contact the Department of Human Resources to inform them that the scholar has chosen the interview option. The interview fee is $200 per interview.
ii. Potential J1 scholars who obtain a score of B2 or better will meet NJIT's English proficiency requirement. The proficiency scale is explained in the J1 Exchange Visitor English Proficiency Requirement Policy.

iii. If a potential J1 scholar does not obtain the minimum score, the host department can request another interview one (1) month from the date of the first interview, or use one of the other aforementioned methods to establish English proficiency.

4. Mandatory Insurance Requirements – the United States Department of State requires all exchange participants, and accompanying family members to demonstrate coverage for sickness and accident for the duration of the exchange period. Minimum coverage shall include (1) medical benefits of at least $100,000 per person per accident or illness; (2) repatriation of remains in the amount of $25,000; and (3) expenses associated with medical evacuation of exchange visitor to his/her home country in the amount of $50,000 with a deductible of no more than $500 per accident or illness.

a. Visiting scholars / courtesy appointments are required to purchase insurance coverage pursuant to the requirements above for the entire duration of their program.

b. Exchange Visitors employed by NJIT may enroll in benefits provided by NJIT if their program is scheduled to last longer than one year. Please note that NJIT benefits are effective 60 days after commencing employment, so the Exchange Visitor must purchase insurance from an outside carrier for the first 60 days of employment. After the 60 days, the Exchange Visitor must purchase coverage for repatriation of remains and medical evacuation for the duration of the program since these are not included in NJIT’s benefits.

c. Please note that all exchange visitors and any accompanying spouse and/or dependent(s) may also be subject to the requirements of the Affordable Care Act.

5. Bars to Participation for Professors and Research Scholars – there are several bars that would prevent a professor or research scholar from participating in the J-1 program.

a. Professor and Research Scholars must:

b. Not be a candidate for a tenure track position;

c. Not have participated in and completed a professor or research scholar program within the last 24 months preceding the beginning date of their new program’s commencement;

d. Not have participated in a J-1 Visa program for all or part of the 12 month period immediately preceding the start date of a professor or research scholar program unless they meet one of the following exceptions:

i. The participant is currently in a professor or research scholar program and is transferring to another institution in the United States to continue their current J-1 program;
ii. The participant's prior physical presence in the U.S. on a J-1 visa program was less than six months in duration; and

iii. The prior participation was as a short-term scholar.

6. **Immigration and Nationality Act §212(e) 2-Year Home Country Physical Presence Requirement** – those who receive direct or indirect U.S. or home government funding, or who are studying in fields considered in short supply in the Exchange Visitor's home country (referred to as the “Skills List”), are subject to a “two-year home country physical presence requirement,” where at the completion of the J-1 program, the Exchange Visitor is required to return to his or her home country for two years before returning to the U.S. on a H or L visa, or permanent resident card.

a. **Exceptions:** the Exchange Visitor may apply for an A or G visa, even if he/she is subject to §212(e). The Exchange Visitor may also pursue a waiver of §212(e).

7. **Length of Program** – the length of the exchange program varies by category:

a. **Professors** – minimum of three (3) weeks and maximum of five (5) years.

b. **Research scholars** – minimum of three (3) weeks and maximum of five (5) years.

c. **Short-term scholar** – no minimum, maximum of six (6) months.

d. **Specialist** – minimum of three (3) weeks and maximum of one (1) year.

8. **J-1 Sponsorship Procedures**

a. **Visiting Scholars/Courtesy Appointments** – these Exchange Visitors are either professors or researchers who are employed by a foreign university, but will be working at NJIT for a period of up to one (1) year. Visiting scholars are not compensated by NJIT, nor are they eligible for benefits provided by NJIT.

i. Host departments interested in inviting a visiting scholar to NJIT must first complete the courtesy appointment process through the Office of the Vice Provost for Research and Development. For more information and access to the required forms, please visit: [http://www5.njit.edu/research/scholars/](http://www5.njit.edu/research/scholars/).

ii. The required forms include the DS2019 Request Packet, which must be sent to the Office of the Vice Provost for Research and Development along with the courtesy appointment forms.

iii. Once the courtesy appointment is approved, the Department of Human Resources will generate a DS2019 form that will be signed and sent to the Exchange Visitor. The Exchange Visitor will need this DS2019 form to apply for a visa from the nearest U.S. consulate or embassy in his or her home country. For more information about the J-1 visa application process, please visit [http://j1visa.state.gov/](http://j1visa.state.gov/).
9. **J-1 Exchange Visitors Hired by NJIT** – the host department must: complete a position requisition; conduct search and selection; process a PAF; and complete the DS2019 Request Package for a J-1 Exchange Visitor who will be paid by NJIT. Once the PAF, the DS2019 Request Packet and all of the required documents are received, the Department of Human Resources will generate a DS2019 form that will be signed and sent to the Exchange Visitor. The Exchange Visitor will need this DS2019 to apply for a visa from the nearest U.S. consulate or embassy in his or her home country. For more information about the J-1 visa application process, please visit [http://j1visa.state.gov/](http://j1visa.state.gov/).

II. **H-1B Program** – the H-1B Program applies to employers seeking to hire workers in specialty occupations. A specialty occupation is one that requires the application of a body of highly specialized knowledge and the attainment of at least a Bachelor’s degree or its equivalent. The intent of the H-1B provisions is to help employers who cannot otherwise obtain needed business skills and abilities from the U.S. workforce by authorizing the temporary employment of qualified individuals who are not otherwise authorized to work in the United States.

1. **Costs** – the filing and attorneys’ fees associated with the H-1B petition must be paid by the host department. (See Appendix A: Costs and Expenses Associated with Non-Immigrant Visas and Permanent Residency).

2. **Eligibility** – In order to apply for a H-1B visa, the following requirements must be met:

   a. There must be an employer-employee relationship with NJIT;

   b. The job must qualify as a specialty occupation by meeting one of the following criteria:

      i. A bachelor’s degree or higher or its equivalent is normally the minimum requirement for the particular position;

      ii. The degree requirement is common for this position in the industry, or the job is so complex or unique that it can only be performed by someone with at least a bachelor’s degree in a field related to the position;

      iii. NJIT normally requires a degree or its equivalent for the position; or

      iv. The nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor’s or higher degree.

   c. The job must be in a specialty occupation related to the employee’s field of study;

   d. The employee must be paid at least the actual or prevailing wage for the job, whichever is higher.

   For more information about eligibility, please visit [http://www.uscis.gov/cir/visa-guide/h-1b-specialty-occupation/understanding-h-1b-requirements](http://www.uscis.gov/cir/visa-guide/h-1b-specialty-occupation/understanding-h-1b-requirements).

3. **H-1B Sponsorship Procedures** – if a department is interested in sponsoring a foreign national for H-1B status, the department must first get approval from the Dean/Area Vice-President/Provost, as applicable, then email the Department of Human Resources stating its intent to cover the legal
and processing fees associated with filing a H-1B petition. The Department of Human Resources will then send questionnaires that the department and the foreign national must complete and return to the Department of Human Resources. These questionnaires will be used by immigration counsel selected by the Vice President of Human Resources with the authorization of the General Counsel and Vice President for Legal Affairs to draft the H-1B petition. The Department of Human Resources will also send an invoice from the attorneys to the department, and the department must transfer the funds directly into the Department of Human Resources’ account/index number (See “Costs and Expenses Associated with Non-Immigrant Visas and Permanent Residency”).

4. **Outside Counsel** – all H-1B petitions sponsored by NJIT will be processed by counsel selected by the Vice President of Human Resources with the authorization of the General Counsel and Vice President for Legal Affairs. Only immigration counsel selected by NJIT has the authority to represent NJIT in H-1B petition and to sign a Form G-28 (Notice of Entry of Appearance as Attorney or Accredited Representative). NJIT will not recognize the validity of a H-1B petition filed by an outside attorney purporting to represent NJIT.

5. **Duration of Status** – the H-1B status is usually valid up to three (3) years, with the option to extend up to an additional three (3) years.

   a. The H-1B is valid only for a specific position at a specific location with a specific employer. Any changes made to these characteristics require that a new petition be filed and acknowledged by USCIS as received before any such changes occur.

### III. PERMANENT RESIDENCY

1. **Permanent Residency / Green Card Applications** – a permanent resident is a person who has been granted authorization to live and work in the United States on a permanent basis. As proof of that status, a person is granted a permanent resident card, commonly called a "Green Card."

   a. **Costs** – the filing and attorneys’ fees are typically paid for by the host department, however, certain fees may be excluded pursuant to a negotiated arrangement with the beneficiary. (See Appendix A: Costs and Expenses Associated with Non-Immigrant Visas and Permanent Residency).

   b. **Employment-based Immigrant Visa Categories** – NJIT may sponsor a prospective or current foreign national employee currently residing in the United States or in a foreign country, and who qualify under one or more of the employment-based (EB) immigrant visa categories. The NJIT-sponsored visa categories are listed below:

   i. **EB-1 Priority Workers** – this category is reserved for individuals with extraordinary ability in the sciences, arts, education, business, or athletics; outstanding professors and researchers; or multinational executives and managers.

   ii. **EB-2 Professionals with Advanced Degrees or Persons with Exceptional Ability** – this category is reserved for individuals who: because of their exceptional ability in the sciences, arts, or business, will substantially benefit the national economy, cultural, or educational interests or welfare of the United States; or are members of professions holding advanced degrees or the equivalent.
iii. **EB-3 Professional or Skilled Workers** – This category is reserved for professionals with a baccalaureate degree; and individuals capable of performing skilled labor (requiring at least 2 years of training or experience) for which qualified workers are not available in the United States.

c. **Eligibility** – The following prospective or current foreign national NJIT employees who meet the criteria below are eligible for NJIT sponsorship of their permanent residency applications:

i. Tenure-track faculty members who have been employed with NJIT for at least one academic semester; or

ii. Employees who have held a highly specialized or technical position as defined by the Bureau of Labor Statistics at the university for at least one (1) year and with the authorization of the Vice President of Human Resources.

A. Administrative support staff are not eligible for sponsorship.

d. **Permanent Residency Sponsorship Procedures** – if a department is interested in sponsoring an employee’s permanent residency application, first it must get approval from the Dean/Area Vice-President/Provost, as applicable, then contact the Department of Human Resources to discuss whether the sponsorship is suitable for the position. If the employee meets the minimum requirements, the Department of Human Resources will work with the employee, the host department’s Chair, and outside counsel to initiate the permanent residency process.

e. **Outside counsel** – all permanent residency applications will be processed by counsel selected by the Vice President of Human Resources with the authorization of the General Counsel and the Vice President for Legal Affairs. Only immigration counsel selected by NJIT has the authority to represent NJIT in permanent residency applications and to sign a Form G-28 (Notice of Entry of Appearance as Attorney or Accredited Representative). NJIT will not recognize the validity of a permanent residency application filed by an outside attorney purporting to represent NJIT.

f. **Filing deadlines** – the permanent residency process should begin at least two years in advance of the expiration of the H-1B’s maximum period authorized for employment.

**CROSS REFERENCE**
- Policy on Sponsorship of Foreign Personnel for Permanent Residency
- Policy on Sponsorship of Foreign Personnel for Non-Immigrant Work Visas
- J1 Exchange Visitor English Proficiency Verification Policy

**REVIEW:**

Holly C. Stern, Esq. 9/5/17
General Counsel
Vice President for Legal Affairs
Approval:

Joel S. Bloom
President

Fadi P. Deek
Provost and
Senior Executive Vice President

Edward J. Bishop, Sr.
Senior Vice President for Finance and
Chief Financial Officer

Donald H. Sebastian
Senior VP for Technology & Business
Development, President and CEO of NJIT

Andrew P. Christ
Vice President for Real Estate
Development and Capital Operations

Kay Turner, Esq. SPHR
Vice President for Human Resources

Kenneth Alexo, Jr.
Vice President Development and Alumni Relations
President of the Foundation at NJIT
APPENDIX A

COSTS AND EXPENSES ASSOCIATED WITH NON-IMMIGRANT WORK VISAS AND PERMANENT RESIDENCY

J-1 Exchange Visitor Program

- The Exchange Visitor must pay the SEVIS fee ($180) as well as any fees associated with getting a visa. The Exchange Visitor will also be responsible for his/her travel and living expenses and insurance costs, as well as the travel, living, and insurance expenses of his/her dependents.
- The host department will be responsible for the fees for mailing paperwork to the Exchange Visitor.
- The host department will be responsible for the $200 interview fee if the Exchange Visitor chooses to verify his/her English proficiency by interviewing with NJIT’s ESL staff.
- The host department may opt to pay the SEVIS fee on behalf of the participant. To pay the fee, the host department must complete the I-901 form based on the information included in the participant’s DS2019 form. For more information, see https://www.fmjfee.com/i901fee/desktop/index.jsp?view=desktop.
  - The host department is responsible for obtaining the check to pay the SEVIS fee. The Department of Human Resources will NOT process these payments.

H-1B Petition

- **The host department at NJIT will be responsible for:** base filing fee; AICWA fee; Fraud prevention & detection fees; the education and training fee imposed on certain employer petitions for H-1B workers; attorneys’ fees for the preparation and filing of a H-1B petition when the attorney represents both the employee and NJIT; and premium processing fee (optional $1,225 fee). Total costs start at approximately $3,300 without premium processing.
- **The employee will be responsible for:** filing and attorneys’ fees for spouse and/or dependents; visa fees; travel and living expenses; insurance costs; and attorneys’ fees for additional services provided solely for employee’s benefit except as otherwise prohibited by law.

Permanent Residency / Green Card Application

- **The host department at NJIT will be responsible for:** filing fees and attorneys’ fees for the preparation and filing of a PERM labor certification application or an I-140 petition; and premium processing fee (optional). Total costs start at approximately $9,000.
- **The employee will be responsible for:** filing and attorneys’ fees for spouse and/or dependent applications; travel and living expenses; insurance costs; and attorneys’ fees for additional services provided solely for employee’s benefit.

Please note that the fees are subject to change. Contact the Department of Human Resources at 973-596-3140 for updated information.