

Hospital-wide Policy	Title: Process for Visa Sponsorship
Issuing Department: Educational Office	Effective Date: June 10, 2019
IMPORTANT NOTICE: The official version of this policy is contained in the Policy and Procedure Manager (PPM) and may have been revised since the document was printed.	

PURPOSE:

Residents and fellows participating in Tufts Medical Center Graduate Medical Education (GME) programs who are not United States residents or citizens must have a valid non-immigrant visa or employment authorization document.

SCOPE:

This policy applies to all non-U.S. residents or citizens applying to ACGME-accredited residency and fellowship programs at Tufts Medical Center.

POLICY:

In addition to meeting GME and program eligibility requirements, non-United States residents or citizens applying for GME programs must possess a valid Permanent Resident Card (Green Card), a valid Employment Authorization Card, or be eligible to obtain one of the following non-immigrant visas: J-1 Clinical, F-1 OPT, or H-1B.

RESPONSIBILITIES:

Program: The Program Director oversees the selection and appointment of all trainees in their program. This oversight responsibility includes review and assessment of trainee employment authorization eligibility *prior to* extending an offer of employment or ranking an individual in the NRMP Match.

GME Office: The GME Office provides training and resources in support of Program Director selection and appointment efforts, in the form of this policy and best practice advice, as well as real time consultation as needed.

Visa Types

J-1 Visa

- J-1 Exchange Visitor Physician status supports trainees for the duration of a training program, up to seven years. At the completion of training, or after seven years, individuals with J-1 visa status are required to return to their home country for two years prior to being eligible for subsequent visas or permanent resident status.
- Trainees interested in a J-1 visa must apply for sponsorship from the Educational Commission for Foreign Medical Graduates (ECFMG). The ECFMG sponsors trainees in J-1 non-immigrant visa status in both ACGME-accredited and ECFMG non-standard programs. Application materials and resources can be found on the ECFMG website: <http://www.ecfm.org/evsp/application-index.html>.
- Eligibility requirements:
 - o Pass USMLE Step 1, Step 2 Clinical Knowledge and Step 2 Clinical Skills; or the former VQE, NBME Part I and II, or FMGEMS; or an acceptable combination thereof.
 - o Hold a valid standard ECFMG Certificate at the commencement of training, if applicable.
 - o Hold a contract or official letter for a position in an approved GME training program.
 - o Provide a Statement of Need from the Ministry of Health of the country of most recent legal permanent residence (this can be different than country of citizenship). This statement provides assurance that the country needs specialists in the area in which the Exchange Visitor is training, and that the trainee will return to said country upon completion of his/her training.
- Regular processing time for a J-1 visa ranges from one to six (1-6) months depending upon the time of year and the content of the application.

Considerations:

- o **ACGME Programs:** ECFMG processing can take 4-6 weeks from the time all required documentation is received. Allow at least three (3) months, especially from April to July.
 - o **Non-ACGME Programs:** ECFMG processing can take 6-8 weeks from the time they receive all required documentation. Applications for non-ACGME programs may experience significant additional delays as approval and review by the American Board of Medical Specialties (ABMS) member board (if applicable) and the US Department of State is required. Allow at least four (4) months.
 - o **Special cases requiring appeal to Department of State (DOS):** Any application that includes a request for J-1 category change, extension in training beyond 7 years, or advisory opinions will take additional time for review by the ECFMG and DOS. Allow six (6) months.
- Fees: Exchange Visitor physicians are responsible for all fees and costs associated with J-1 visa applications and maintenance.
 - All incoming trainees must obtain their J-1 visa prior to entering the US *and* starting their residency.

- Continuing trainees are responsible for the annual renewal of their DS-2019 or "Certificate of Eligibility for Exchange Visitor (J-1) Status". NOTE that this must be done **every year prior to the expiration date** on their DS-2019.

Failure to initiate the renewal or submit the requested documentation will result in a delayed start date.

H-1B Visa

- The H-1B visa allows for professional foreign physicians to work in the US in specialty occupations for up to six years.
- Three countries do not support the H-1B, but rather an alternative as indicated:
 - o Canadian and Mexican nationals → TN
 - o Australian nationals → E3
- GME Guidance to Programs regarding H-1B Visas:
 - o In recent years the US government has increased oversight and decreased access to H-1B visas. It is the opinion of Tufts Medical Center and the GME office that these changes are not fully compatible with the timeline for GME training programs.
 - o Thus, though Tufts Medical Center may act as an employer sponsor of H-1B status on behalf of a trainee, this is considered an exceptional circumstance.
 - o Programs that chose to support H-1B seeking applicants are likely to experience disruptions to normal program operations related to the application process. Programs must be able to accommodate these disruptions (including any financial implications related to extensions of training). Finally programs are strongly advised to seek guidance regarding applicant suitability (review of prior immigration status) from the GME office, as well as approval from Human Resources, prior to finalizing their Match rank list or extending an offer.
 - o NOTE: An H-1B visa is generally granted initially for **up to** three years and can be extended to a maximum of six years. When applicable Program Directors should determine how many years applicants have left on their visa before accepting the trainee into their training program.
- Eligibility requirements for H-1B at Tufts Medical Center:
 - o Medical licensure: trainee must either have an unrestricted license to practice medicine in a foreign country, or a valid full medical license in the US state in which they will train.
 - o Examinations: Pass USMLE Step 1, Step 2 and USMLE Step 3
 - o Additional criteria: Applicant must meet one or more of the following criteria, and provide the indicated documentation:
 - Possess a current, valid H-1B visa (*copy of Form I-797, Notice of Action*)
 - Applicant is spouse or registered domestic partner of a U.S. citizen, permanent resident, or individual holding an H-1 or O-1 visa (*copy of marriage certificate or H-4 document*)
 - Applicant/applicant's spouse has a permanent resident petition pending with a likely chance of success (*copy of proof of petition*)
 - Applicant is not eligible for or would face a hardship on a J-1 visa due to unique immigration circumstances (e.g., applicant already obtained a J-1

waiver; applicant who has to return home periodically to care for ill parent faces higher risk of being denied re-entry on J-1 visa) (*provide letter explaining reason for hardship*).

- Regular processing time for an H-1B visa is at least 3 – 6 months, when applicants choose the premium processing service.
 - o H-1B applications managed by the Tufts School of Medicine Office of International Affairs (OIA) which requires 4 – 5 weeks to process documents prior to submission.
 - o From submission to approval can take up to 5 – 6 months.
- Fees: All costs associated with H-1B visas, including initial application and any renewal requirements, are the legal responsibility of the Department/Division. The applicant cannot bear the cost of this application.

Additional status classifications, with exceptions as detailed below:

J-2

Spouses of J-1 visa holders are entitled to J-2 classification. J-2 classification requires a valid Employment Authorization Document (EAD) prior to the start of any work, and annual renewal thereafter. Renewal can take up to six (6) months processing time.

NOTE: The J-2 trainee's immigration and employment status depends entirely upon the sponsorship of the J-1 visa. Annual renewal of the J-1 visa must occur in time to allow for EAD card renewal for the J-2 spouse. Instruct J-2 visa holders to notify both the Program and the GME office immediately in the event of any change to the status of the J-1 visa.

F-1 OPT

The F-1 Visa is a student visa that supports full-time study in the United States. Optional Practical Training (OPT) is a temporary employment that is directly related to an F-1 holder's major area of study. Eligible F-1 visa holders can apply to receive up to 12 months of OPT employment authorization before or after completing their academic studies. Authorization by the Designated School Official and the USCIS must be obtained prior to starting any work.

Permanent Resident Card (Green Card)

This status allows a non-citizen to live and work permanently in the United States. A valid Green Card is evidence of employment authorization. Tufts Medical Center does not provide sponsorship for permanent residence for foreign nationals who are enrolled in GME training programs under any circumstances.

Employment Authorization Document (EAD)

Individuals holding a valid EAD are authorized to work in the United States, however they must apply for permission to work – in other words they must request employment authorization itself. The EAD often requires annual renewal.

PROCEDURES:

Recruitment

During the recruitment process Programs must:

- Clarify the present and desired future employment authorization status for all of their non-US citizen candidates, and assure it is consistent with Tufts Medical Center requirements and Department/Division expectations. This review should include current documentation and expiration dates.
- Provide non-US citizen candidates with a clear statement of the program's intent with regard to visa sponsorship.
- For all non-US citizen candidates: prior to extending an offer of employment or placing them on the NRMP rank list, the program must provide assurance that there are no factors that would impact their ability to secure the required employment authorization status (visa, etc.) for the non-US citizen.

Appointment/Reappointment

In order to reduce the potential that immigration status impacts trainee (and program) work schedules, please pay close attention to the timelines (see Appendix) and documentation requirements, including the required order of submission.

J-1

- Complete Tufts Appointment/Reappointment documentation
- Submit documentation paperwork to the GME office
- Complete J-1 Application on the ECFMG website

H-1B

- Complete GME H-1B Sponsorship request form (in page 8)
- MA Full Medical License (H-1B application requires active MA license) Applicants must have an unrestricted state license which allows them to practice medicine in Massachusetts or have the authorization to practice medicine in MA.
- Submit completed H-1B application to the Tufts University School of Medicine Office of International Affairs (OIA).

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Change in Trainee Status

Any change in employment status, alteration of program duration, or a loss of good standing in the training program may have significant impact on the immigration status of non-U.S. citizen trainees. ***The GME Office must be notified immediately in the event that a change in employment status is anticipated,*** so that the GME team can assure that they appropriate agencies and offices are informed in a timely fashion. Failure to notify and update work status can jeopardize Tufts Medical Center's good standing with USCIS, which the potential for significant negative ramifications for the organization as well as for the non-US citizens who rely on our ability to support their status.

Changes in trainee status include:

- Formal Remediation
- Probation
- Leave of Absence and extended leave
- Modification to appointment end date

- Any petitions to change to visa status, including approval of permanent residency
- Non-renewal, resignation, or termination from the training program

Please note:

- J-1 Visa: The ECFMG requires notification within 48 hours when there is a change status of a J-1 visa holder.
- H-1B Visa: Per USCIS regulation, the Program is responsible for the cost of travel back to the trainee's home country in the event that the trainee is dismissed from a program prior to expiration of the H-1B visa.

Special Considerations

Outside rotations

J-1 Visa. Trainees with J-1 status must obtain special permission from ECFMG prior to the rotation. Allow at least three (3) months for processing. —the program coordinator must contact the GME office for more information at least three (3) months prior to the start of the rotation.

H-1B Visa. Trainees with H-1B status must obtain permission from USCIS through the GME Office and the International Affairs Office if a resident/fellow on an H-1B visa wishes to do a rotation or elective to a site not within the host institution. Allow at least four (4) months for processing. The Program Director must contact the GME Office at least 4 months in advance for more information regarding any outside rotations.

Travel outside of the United States

Travel outside of the US for any reason, personal or professional, while on a non-immigrant visa may be subject to restrictions. All queries regarding this should be directed to the GME office.

Moonlighting and Extra Clinical Duty

Trainees on J-1 and H-1B visa status are not permitted to receive payment for work that occurs outside of their prescribed curriculum. See GME Moonlighting and Extra Clinical Duty Policy for more information and explanation.

VISA TIME FRAME

VISA TYPE	*TIME PROCESS (ESTIMATED)	LENGTH OF STAY
ECFMG Clinical J-1 Visa	2-4 weeks	Maximum 7 years (2 yrs home requirement)
ECFMG Non-Standard J-1 Visa	6 plus weeks	Maximum 7 years (2 yrs home requirement)
ECFMG Clinical J-1 Visa (renewals)	2-4 weeks	Maximum 7 years (2 yrs home requirement) <i>From the start of the initial J-1.</i>
J-2 Visa	6 months process time for a Employment Authorization Card.	Linked to the spouses J-1 visa.
H-1B (initials)	3-4 months with premium processing (see below)	Maximum 6 years
H-1B (renewals)	2-3 months with premium processing (see below)	Maximum 6 years <i>From the start of the initial H1</i>
Permanent Resident Card	5 years of residency in the US before applying.	Card must be valid at all times
Employment Authorization Documentation	Renewal annually	Card must be valid at all times
O-1 visa	2 to 3 months	3 years with one year extension unlimited.
TN Visa (Canada and Mexico Nationals only)	Canadian Border – several hours. Mexican Border – 24 to 48 hrs	3 year increments as long as no steps are taken for a US permanent residency
E-3 Visa (Australian National only)	4 months	2 year increments as long as no steps are taken for a US permanent residency

* These processing times are based upon ECFMG, International Affairs Office and/or United States Citizenship and Immigration Service (USCIS) receiving **all of the completed and necessary documentation** (example: Initial H-1B's will need license approval before the H-1B visa application can be submitted to the USCIS).

- **Premium Process Service** allows a faster processing time after the H1 visa petition is received by the USCIS. The USCIS guarantee that it will process the visa petition within 21 days under this service. There is a **\$1,410.00** fee that the employer must pay to the USCIS for this service. Only the employer or business can apply for this service and must pay by separate check to USCIS. The employer does not have to pay for premium processing service for dependent family members. At Tufts Medical Center, the costs for this service will be charged back to the respective Department cost center. Neither the Hospital nor the GME Office will pay for this service. Questions may be addressed by appointment with the International Affairs Office at 617-636-0355.



Request for H1-V Visa Sponsorship – To be Completed by Program Director

I agree to the following in order for Dr. _____ to obtain an H-1B visa.

(Please initial which situation applies to this applicant and attached documentation as requested in *italic*):

- _____ Applicant currently holds a valid H-1B visa (*provide copy of Form I-797, Notice of Action*)
- _____ Applicant is the spouse/registered domestic partner of a U.S. citizen, permanent resident (“green card” holder), or individual holding an H-1 or O-1 visa (*provide copy of marriage certificate or H-4 document*)
- _____ Applicant/applicant’s spouse has a permanent resident petition pending with a likely chance of success (*provide copy of proof of petition*)
- _____ Applicant is not eligible for or would face a hardship on a J-1 visa due to unique immigration circumstances (e.g., applicant already obtained a J-1 waiver; applicant who has to return home periodically to care for ill parent faces higher risk of being denied re-entry on J-1 visa) (*provide letter explaining reason for hardship*)

By signing below you are in agreement to the following petition:

- ✓ Applicant has passed USMLE Step 3.
- ✓ The respective training program will be solely responsible for ALL costs and fees associated with preparing and filing H-1 B visas for residents/fellows.
- ✓ To use the services of International Affairs Office in furtherance of the H1-B visa.
- ✓ Understand that the candidate must be granted a MA license prior to applying for an H-1B visa.
- ✓ Understand that if a training program terminates or does not renew a resident/fellow appointment before the individual’s H-1B visa expires, the training program is responsible under U.S. Citizenship and Immigration Services regulations to pay the H-1B physician’s airfare back to his/her home country. The Hospital and GME Office will not assist in defraying these costs
- ✓ Special permission must be obtained from USCIS through the GME Office and the International Affairs Office, if a resident/fellow on an H-1B visa wishes to do a rotation or elective to a site not within the host institution. The Program Coordinator must contact the GME Office at least 4 months in advance for more information regarding any outside rotations.

Program Director Signature: _____

Dept. Chair Signature: _____

The GME office will respond in writing to the department/program indicating whether the request to apply for the H-1B visa is approved or denied within 14 days of receipt of the request.

Appendix

Unlawful Presence, as defined by the U.S. Citizen and Immigration Services

On Aug. 9, 2018, USCIS published a policy memorandum (*Unlawful Presence and F, J, and M Nonimmigrants*) that updated [AFM Chapter 40.9.2\(b\)\(1\)\(E\)](#) and outlined changes on how those in student (F), exchange visitor (J), and vocational student (M) nonimmigrant status accrue unlawful presence. The policy memorandum also applies to the spouses and children of F, J, and M nonimmigrants. These changes **went into effect on Aug. 9, 2018** and were made to reduce the number of overstays and improve how USCIS implements the unlawful presence grounds of inadmissibility.

Under the new policy, those in F, J, and M nonimmigrant status accrue unlawful presence as follows:

F, J, or M nonimmigrants who failed to maintain their nonimmigrant status **before Aug. 9, 2018**, start accruing unlawful presence based on that failure **on Aug. 9, 2018**, unless they have already started accruing unlawful presence on the earliest of the following:

- The day after DHS denied the request for the immigration benefit, if DHS made a formal finding that the individual violated his or her nonimmigrant status while adjudicating a request for another immigration benefit;
- The day after the Form I-94, Arrival/Departure Record expired, if the F, J, or M was admitted for a date certain; or
- The day after an immigration judge ordered them excluded, deported, or removed (whether or not the decision is appealed).

An F, J, or M nonimmigrant begins accruing unlawful presence, due to a failure to maintain his or her status **on or after Aug. 9, 2018**, on the earliest of any of the following:

- The day after the F, J, or M nonimmigrant no longer pursues the course of study or the authorized activity, or the day after he or she engages in an unauthorized activity;
- The day after completing the course of study or program (including any authorized practical training plus any authorized grace period, as outlined in 8 CFR 214.2);
- The day after the I-94 expires, if the F, J, or M nonimmigrant was admitted for a date certain; or
- The day after an immigration judge orders them excluded, deported, or removed (whether or not the decision is appealed).

Note: If USCIS relies solely upon information provided in the [Student and Exchange Visitor Information System](#) (SEVIS) to make an unlawful presence determination, the applicant will be given an opportunity to rebut evidence provided in SEVIS before a final decision is made.