


Name of Policy: Graduate Medical Education: Visa Status for Resident Policy Number: 3364-86-004-00 Approving Officer: Dean, College of Medicine and Life Sciences Responsible Agent: Director, Graduate Medical Education Scope: UT College of Medicine Residents	 Effective date: 08/26/2022 Original effective date: 04/01/97
<input type="checkbox"/> New policy proposal	<input type="checkbox"/> Minor/technical revision of existing policy
<input checked="" type="checkbox"/> Major revision of existing policy	<input type="checkbox"/> Reaffirmation of existing policy

POLICY

The University of Toledo will provide and/or assist in non-immigrant visa sponsorship for foreign nationals (FN) entering into residency/fellowship training programs accredited by the ACGME.

PURPOSE

To ensure that all FN residents/fellows in education programs (GME) are employed with the appropriate and lawful visa for training and receiving remuneration for service.

PROCEDURE

Residents entering into a residency/fellowship training program at The University of Toledo who require a visa for employment may be sponsored and accepted under the following visas:

Sponsored Visas

1. J-1 Visa

- a. The preferred visa of sponsorship for residents entering residency training programs at The University of Toledo is the J-1 visa.
- b. Residents requiring a J-1 visa will have their visa sponsored through the Education Commission for Foreign Medical Graduates (ECFMG) as governed by the Department of State (DOS), Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) with The University of Toledo serving as the host institution.
- c. Residents requiring a J-1 visa must be eligible for the visa sponsorship under the criteria set forth by the DOS, ECFMG:
 - i. Possess a valid ECFMG Certificate. *The current requirements for ECFMG certification include passing Step 1, Step 2 CK, and Step 2 CS of the USMLE and direct verification of the applicant's medical*

education credentials with the medical school.

- ii. A contract or offer letter from the GME program affiliated with a medical school.
 - iii. A Statement of Need from the Ministry of Health of the physician's country of most recent legal permanent residence.
- d. Residents requiring a J-1 visa will be responsible for the initial visa expenses and renewal expenses thereafter as set by the ECFMG and DOS.
- e. It is J-1 visa holder's (resident) personal responsibility to maintain lawful status while in the United States and under contract in the residency training program. Lawful status is evidenced by possession of an active SEVIS record along with the corresponding DS2019 Form and I-94 Record (Arrival/Departure Record) or I-797 Form (Notice of Action).
- f. It is the J-1 visa holder's (resident) personal responsibility to report to the Training Program Liaison (TPL) in the Graduate Medical Education Office any incidents involving J-1 physicians and/or their accompanying J-2 dependents. The TPL will report the event to the ECFMG who will report to the Department of State (DOS). The DOS has indicated that any incident or event that impacts the health, safety or welfare of J visa holders or that could bring the DOS J-1 program "notoriety or disrepute" is reportable. Reporting is not limited to only those incidents that occur within the training program. Incidents that occur outside of the training environment must also be reported, which include, but are not limited to:
- i. Death of a J-1 physician or J-2 dependent
 - ii. J-1 physician or J-2 dependent is missing
 - iii. J-1 physician or J-2 dependent sustains a serious illness or injury (i.e., brain injury, severe burn, major surgery, communicable disease, serious mental incidents, any condition requiring hospitalization of 48 hours or more, etc.)
 - iv. Litigation (in which the J-1 physician or J-2 dependent is named a party, including malpractice)
 - v. Incident involving the criminal justice system (i.e., arrest, charges, law enforcement, etc.)
 - vi. Sexually-related incidents or abuse (an incident or allegation involving sexual exploitation, harassment, or abuse)
 - vii. Negative press involving a J-1 physician and/or J-2 dependent(s)
 - viii. Foreign government involvement (including embassy officials)
 - ix. Other situations impacting a J-1 physician's or J-2 dependent's safety (i.e., natural disaster, civil unrest, outbreaks of violence)

J-1 physicians and/or J-2 dependents must report any serious incident or allegation to their TPL *immediately*. The TPL and/or J-1 physician must then report the matter to ECFMG. All reporting is expected to take place within one business day of incident occurrence. Failure to do so may be considered to be a violation of the physician's J-1 status.

Each ECFMG sponsored J-1 physician is responsible to know and understand the requirements for securing and maintaining J-1 visa status.

g. Residents on a J-1 visa are not permitted to moonlight.

2. H-1B Visa

a. Effective July 1, 2023, Departments may elect to sponsor FN residents/fellows entering into the GME program for H1-B status, if eligible.

b. The FN must meet the residency/fellowship requirements prior to UT submitting the H-1B petition his/her behalf including but not limited to

- i. Appropriate licensure per Federal/State regulations
- ii. Must have taken and passed USMLE Step 3 or equivalent
- iii. ECFMG Certificate

c. As the “Petitioner” the University of Toledo (“UToledo” or “University”) must strictly adhere to all federal regulations governing employment-based H-1B petitions (I-129 Petitions for Nonimmigrant worker). Rules and regulations are mandated by the U.S. Department of Labor (“DOL”), Department of Homeland Security, (“DHS”), Department of State (“DOS”), and U.S. Citizenship and Immigration Services (“USCIS”).

d. Each H-1B petition shall have a designated Point-of-Hire/Hiring Department (“POH”) who is accountable to ensure compliance under UT’s H-1B Employer Compliance policy number 3365-25-60 in addition to any and all Federal regulations.

e. Fees: Any cost associated with preparing and filing the H-1B petition must be covered by the POH. The POH must cover all the fees associated with the extension process if applicable. The POH may NOT charge any amount back to the FN resident/fellow nor can the resident/fellow’s wage be temporarily reduced to cover the fees associated with his/her H-1B petition.

- i. The University will not cover expenses for the costs of applying for, preparing, or filing petitions for the dependent(s), spouse, or child(ren) of an H1B worker.

f. The POH will work directly with the Center for International Studies and Programs (CISP) throughout the H-1B process. POH is responsible for all requirements pertaining to the H-1B petition and for understanding and strictly adhering to any and all regulations mandated by the Department of Labor (Dol) and United States Citizenship and Immigration Services (USCIS), while the FN is H-1B status with UT and until such time the FN graduates, resigns, or is terminated from the program.

g. CISP can never guarantee the approval of any H-1B petition; USCIS has final authority to grant or deny any petition. The POH shall never promise sponsorship to a prospective employee or guarantee success of an H-1B petition.

h. Export Control: The sponsoring department is responsible for adhering to any and all federal Export Control policies and procedures managed by the Office of Research and Sponsored Programs.

i. H-1b Required Wage Obligations: The DOL mandates wage requirements for the entire duration of H-1B employment. The POH must communicate with CISP with regard to realistic start and end dates, taking into consideration the varying processing times and the ability to

compensate the position for the entire approval period. For more information on “required Wage” rate please refer to H-1B employer Compliance Policy 3364-25-60 section 9.

j. Material (“Substantial”) Changes To Position: An H-1B resident/fellow is only permitted to work under the original terms of employment approved by DOL and USCIS. The sponsoring department must notify CISP of any desired changes to the terms of employment prior to that change going into effect, including but not limited to changes to job title, job requirements or duties, hours to be worked, salary, and work location (worksite or building). CISP shall have final authority to determine whether the changes are deemed “material”, thus requiring the filing of an amended H-1B petition with USCIS

k. Fines/Penalties/Sanctions: Failure to comply with any and all DOL and USCIS mandated regulations can result in substantial criminal and/or civil penalties for the responsible stakeholder (sponsoring department), the foreign national employee, and the University as a whole. Civil sanctions may include but are not limited to fines in the amount of \$1000, \$5000, \$35,000, back wages with compound interest, debarment of the University from participating in the H-1B program in the future. Additional penalties or sanctions may exist.

Non-Sponsored Visas

The following visas are acceptable for employment for those residents entering into residency/fellowship training programs at The University of Toledo who do not require a sponsored visa:

1. Employment Authorization Document (EAD)
2. Optional Practical Training (OPT) with a valid EAD card
3. Trade NAFTA (TN)
 - a. Only residents accepted into the Dentistry residency program may be eligible for this visa if they are a citizen of Canada or Mexico.
4. Asylee/Asylum Status
 - a. Must possess a Social Security Card deeming resident eligible for employment.
5. Lawful Permanent Resident (Green Card)
6. Naturalized U.S. Citizen

Legal Permanent Residency (Green Card) sponsorship: The University of Toledo does not sponsor residents/fellows for Permanent Residency status.

Regardless of visa or citizenship status, a candidate who has graduated from a non-LCME medical school must possess a valid ECFMG certificate in order to participate in a residency training program at The University of Toledo.

<p>Approved by:</p> <p><u> /s/ Shaza Aouthmany, M.D. </u> Chair, Graduate Medicine Education Committee</p> <p><u> /s/ Christopher Cooper, M.D. </u> Dean, College of Medicine and Life Sciences</p> <p><i>Review/Revision Completed by:</i> Graduate Medical Education Committee</p>	<p>Policies Superseded by This Policy:</p> <ul style="list-style-type: none"> • None <p>Review/Revision Date: Reviewed 6/00, 11/01/05, Reviewed, 11/6/07, Revised 11/3/09, Revised 11/1/11, Revised 10/1/13, Reviewed 10/6/15, Revised 8/9/16, Revised 8/7/18, Revised 8/26/2022</p> <p>Next review date: 8/2024</p>
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Note: The printed copy of this policy may not be the most current version; therefore, please refer to the policy website (<http://utoledo.edu/policies>) for the most current copy.