

THE ALPHABET SOUP OF NONIMMIGRANT EMPLOYMENT VISAS

The following chart is designed to provide a brief overview of employment based immigrant visas which are available to enable a “*foreign national*” (who is not a citizen or lawful permanent resident of the United States) to work in the United States on the date indicated on this document. The nonimmigrant visas are arranged in this chart according to their designation under the definition of “Nonimmigrant” in the Immigration and Nationality Act. This chart contains the following information for each of the visas described:

1. A brief summary of the minimum requirements for each of the visas;
2. Whether the foreign national may apply for the visa directly at the U.S. Embassy or Consulate abroad (“*Embassy*”) or whether a petition classifying the foreign national for a particular visa status must first be approved by the United States Citizenship and Immigration Services (“*CIS*”) before the foreign national can apply for the visa at the Embassy;
3. The maximum period that the foreign national can be authorized to work or stay in the United States pursuant to that specific visa; and,
4. The documents that an employer would need to see in order to verify that the foreign national is authorized to work pursuant to each specific visa category so that the employer can properly complete the Employment Eligibility Verification Form (“Form I-9”). In general, for most of these nonimmigrant visa categories, the foreign national must be able to show either (a) an Arrival/Departure Record (“*Form I-94*”) with the appropriate nonimmigrant visa designation or (b) an employment authorization card (“*EAD*”) issued by the CIS.

The attached chart is intended only to provide you with general information about the different nonimmigrant visas available in the Immigration and Nationality Act. It does not, however, provide specific information on the types of documentation necessary to be presented for a successful adjudication of the petition/application for any one of the specific visas described and is not to be substituted for legal advice on individual cases.



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	Nonimmigrant Visa Name	Summary of Specific Requirements for Each Visa	Maximum Length of Stay/ Documentation re Employment Authorization
B-1	Visitor for Business	Entering US to engage in commercial transactions not involving gainful employment eg. negotiating, consulting, litigation. May be available for a professional employee of a foreign entity to enter the United States to provide services on behalf of foreign entity to US Company. May not be employed by US Company. May apply directly with the Embassy.	6 months upon entry – may be extended another 6 months. Issued Form I-94. ¹
Visa Waiver	Visitor for Business (Visa Waived)	Citizens of certain countries ² applying as business visitors. Must present a non-refundable, return ticket at the border. Entering US to engage in commercial transactions not involving gainful employment eg. negotiating, consulting, or litigation. (Similar to B-1). May not be employed by US Company. Not required to apply for a visa prior to entry. Beginning October 26, 2005, any new passport issued by a VWP country must contain a digital photograph in order for the VWP traveler to be admitted into	90 days – No extensions allowed.

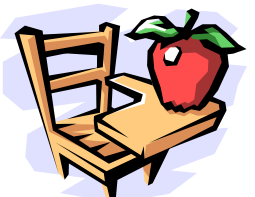
¹ Form I-94 is the Arrival/Departure Record the alien receives upon admission in to the United States. When the alien applies to change his/her nonimmigrant status, a new form I-94 is issued by the CIS. The Form I-94 lists the current nonimmigrant status of the alien and also indicates the beneficiary's authorized period of stay in the United States. The Form I-94 is valid as evidence of employment authorization in those cases where the Employer has to petition on behalf of the employee eg., E, H, I, L, O, P, Q and R visas. In these cases, the Form I-94 will note **(i)** the visa status of the employee, **(ii)** the name of the Employer and **(iii)** the duration of the status.

² As of 2006, the following countries were designated under the Visa Waiver Program: Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom. The United Kingdom refers only to British citizens who have the unrestricted right of permanent abode in the United Kingdom (England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man). Pursuant to recent legislation, the following countries may soon be authorized to participate in the program: Argentina, Brazil, Cyprus, Czech Republic, Estonia, Greece, Israel, Malta, Slovakia, South Korea, Taiwan and Uruguay.

		the US without a visa.	
E-1	Treaty-Trader Visa 	<ul style="list-style-type: none"> a. FCN Treaty with US.³ b. Engaging in substantial trade principally with treaty country. c. Nationality of US Entity and alien must be same. d. Entering to develop and direct operations or as key managerial, supervisory or essential employee. <p>May apply for visa directly with the Embassy.</p>	Indefinite so long as business continues. Issued Form I-94 for two year increments upon each entry into the US or upon approval of petition to extend authorized stay.
E-2	Treaty-Investor Visa 	<ul style="list-style-type: none"> a. FCN Treaty with US.⁴ b. Invested or actively in the process of investing in the US. c. Investment must be substantial and non-marginal. d. Nationality of US Entity and alien must be same. e. Entering to develop and direct operations or as key managerial, supervisory or essential employee. <p>May apply for visa directly with the Embassy.</p>	Indefinite so long as business continues. Issued Form I-94 for 2 year increments upon each entry into the US or approval of extension.


³ At the time this chart was created, the countries which have a Friendship, Commerce and Navigation Treaty (“**FCN Treaty**”) with the United States for E-1 visa purposes are: Argentina, Australia, Austria, Belgium, Bolivia, Brunei, Canada, Republic of China (Taiwan), Chile, Colombia, Costa Rica, Denmark, Estonia, Ethiopia, Finland, France, Germany, Greece, Honduras, Iran (treaty currently inoperative), Ireland, Israel, Italy, Japan, Korea, Latvia, Liberia, Luxembourg, Mexico, Netherlands, Norway, Oman, Pakistan, Paraguay, Philippines, Singapore, Spain, Suriname, Sweden, Switzerland, Thailand, Togo, Turkey, United Kingdom, Yugoslavia.

⁴ At the time this chart was created, the countries which have an FCN Treaty with the U.S. for E-2 visa purposes are: Argentina, Armenia, Australia, Austria, Bangladesh, Belgium, Bulgaria, Cameroon, Canada, China (Taiwan), Chile, Columbia, Congo (Brazzaville), Democratic Republic of the Congo (Kinshasa), Costa Rica, Czech Republic, Ecuador, Egypt, Estonia, Ethiopia, Finland, France, Germany, Grenada, Honduras, Iran (treaty currently inoperative), Ireland, Italy, Jamaica, Kazakhstan, Japan, Korea, Kyrgyzstan, Latvia, Liberia, Luxembourg, Mexico, Moldova, Mongolia, Morocco, Netherlands, Norway, Oman, Pakistan, Panama, Paraguay, Philippines, Poland, Romania, Senegal, Singapore Slovak Republic, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom, Yugoslavia.


E-3	Specialty Occupation Visa for National of Australia	<ul style="list-style-type: none"> a. Position is one which requires, as a minimum, a bachelor’s degree in a specific field of study for entry into that position. b. The beneficiary of the visa must have a bachelor’s degree or the equivalent in that specific field of study. c. The employer must attest that (i) employee will not be treated differently, (ii) will pay prevailing wage, (iii) there is no strike or lockout and (iv) appropriate notification has been given to other employees or bargaining unit (the labor conditions attestation). d. The visa is employer specific. e. Annual cap of 10,500 <p>May apply for visa directly with the Embassy.</p>	E-3 will initially be granted for 2 year period. Extensions will be granted for increments of 2 years indefinitely. Issued Form I-94.
E-1/E-2 E-3	Spouse of Treaty-Trader or Treaty Investor Status	<p>Spouse of Principal Alien has been granted an E-1 or E-2 visa and has entered the United States.</p> <p>Must apply for and obtain EAD⁵ from CIS prior to starting employment.</p> <p>(Not applicable to dependent children).</p>	Valid for duration of authorization stay of E-1/E-2 Principal. Issued EAD.
F-1	<p>Academic Student</p> 	<ul style="list-style-type: none"> a. Full-time academic student. b. May obtain curricular practical training (“CPT”) after 9 months in student status (eg. Work/study, internship etc.) – work up to 20 hours a week during school and 40 hours a week authorized during vacations. c. May be eligible to obtain employment after 9 months for severe economic hardship due to unforeseen circumstances or employment with recognized International Organization (collectively, the Special Student Relief Act (“SSRA”)) d. May obtain optional practical training (“OPT”) – after completion of course of study. Apply for F-1 directly with Embassy. 	F-1 is valid for duration of status; OPT limited to one year. CPT and SSRA authorization noted on Form I-20. ⁶ Issued EAD for OPT.




⁵ The EAD is valid only for the time specified on the card. Generally, the EAD allows the employee to work for any U.S. employer.

⁶ The Certificate of Eligibility for Nonimmigrant (F-1) Student status – For Academic and Language Students (the “**Form I-20**”) is issued by the CIS authorized school upon acceptance of the foreign student for the educational program.



<p>H-1B</p>	<p>Specialty Occupational Visa</p> 	<p>a. Position is one which requires, as a minimum, a bachelor’s degree in a specific field of study for entry into that position.</p> <p>b. The beneficiary of the visa must have a bachelor’s degree or the equivalent in that specific field of study.</p> <p>c. The employer must attest that (i) employee will not be treated differently, (ii) will pay prevailing wage, (iii) there is no strike or lockout and (iv) appropriate notification has been given to other employees or bargaining unit (the labor conditions attestation).</p> <p>d. The visa is employer specific.</p> <p>e. Cap on number of H-1B1 visas available in each year.</p> <p>f. There is no requirement that the employer show that there is a shortage of workers in that area.</p> <p>g. If employed in a “healthcare profession”⁷ must obtain a Medical Certification from an authorized organization.</p> <p>Must initially obtain approval from the CIS through regional service center.</p>	<p>“Maximum” of six years issued in two three-year increments. (Recent changes: If already in H-1B1 status, employee may begin working for a new employer upon the filing of a non-frivolous petition for change of employer with the CIS. Also, may extend maximum term by filing for lawful residency status) Issued Form I-94.</p>
	<p>Specialty Occupation for Chile and Singapore nationals.</p>	<p>Fast Track H-1B1 Visas for Singaporeans and Chileans Pursuant to the US-Chile Free Trade Agreement and the US-Singapore Free Trade Agreement, citizens of Chile and Singapore may apply for their H-1B1 visas directly at the US Embassy (not required to obtain approval from the CIS.) unless the position offered is one of the following: (i) Agricultural Manager and (ii) Physical Therapist (for Chile) and (iii) Management Consultants and (iv) Disaster Relief Claims Adjusters (for both countries.) Employer/Beneficiary must still meets the minimum requirements indicated in Items (a) through (d) of the H-1B1 visas. Beneficiary must show that they do not intend to abandon residency abroad.</p>	<p>No maximum term – visas are only granted for one year. Issued Form I-94 upon entry valid for one year increments.</p>

⁷ Healthcare Professions affected include: Nurses (licensed practical nurses, licensed vocational nurses, and registered nurses), physical therapists, occupational therapists, speech-language pathologists and audiologists, medical technologists (also known as clinical laboratory scientists), medical technicians (also known as clinical laboratory technicians) and physician assistants.


<p>H-1C</p>	<p>Nurses in Disadvantaged Areas</p> 	<p>Beneficiary requirements:</p> <ul style="list-style-type: none"> a. Fully licensed to practice in country in which Beneficiary obtained nursing education. b. Passed all necessary examinations to practice in U.S. State of intended employment and be eligible for employment ie. licensed c. Has received certification from the Commission on Graduate of Foreign Nursing Schools (CGFNS). d. Obtained Medical Certification from authorized organization. <p>Facility Attestation Required. There is a limit of 500 H-1C visas to be issued each year and each state has a specific quota. Must initially obtain approval from the CIS through regional service center.</p>	<p>Maximum of 3 years. Issued Form I-94</p>
<p>H-2</p>	<p>Temporary or Seasonal Employment (Agricultural/Non-Agricultural)</p>	<ul style="list-style-type: none"> a. Entering the US to perform temporary (not part time) services or labor. b. Employer must show that no US workers are capable of performing such service/labor – mini labor certification required. <p>Must initially obtain approval from the CIS.</p>	<p>Maximum 3 years – admitted in one-year increments. Issued Form I-94.</p>
<p>H-3</p>	<p>Trainee Visa</p>	<ul style="list-style-type: none"> a. Entering to engage in training program not available in home country; b. Training must not place beneficiary in position involving regular employment; c. Training must not involve productive employment unless incidental and necessary to the training; and, d. Training will benefit beneficiary in pursuing career abroad. <p>Must initially obtain approval from the CIS through regional service center.</p>	<p>Maximum 2 years. Issued Form I-94.</p>
<p>I</p>	<p>Media Representative</p>	<p>Bona fide representative of foreign press, radio, or other foreign information media entering solely to engage in vocation. eg. make documentary, cover a news event etc.</p>	<p>Indefinite period but issued in one-year increments.</p>

		May apply directly at US Embassy abroad.	Issued Form I-94.
J	Exchange Visitor Visa 	Employment is based on the terms of the exchange visitor agreement with the United States Department of State. Employee may be subject to two-year home residency requirement if government funds are involved in program or if engaged in medical residency program. May apply directly at US Embassy abroad. List of Sponsors can be found at: http://exchanges.state.gov/education/jexchanges/ (Look for the “Designated Sponsors List” to the right of the screen.)	Issued Form DS-2019 ⁸ which lists the terms of the J visa status and validity dates for employment and Form I-94.
L	Intra-company Transferee 	Visa used primarily to facilitate the movement of managers and executives of multinational corporations. a. US Company is a branch, subsidiary, affiliate or parent of foreign company operating outside the United States. b. Beneficiary has been employed by foreign entity in an executive, managerial, or as an essential worker for at least one year in the last three years. c. Beneficiary is entering the United States in order to be employed in an executive, managerial or a specialized knowledge employee. d. Beneficiary may be entering the United States to open a new office of the foreign entity. Must initially obtain approval from the CIS through regional service center. Note: Under NAFTA Treaty, Canadians may apply at any Class A Port of Entry which has a NAFTA officer.	Executives and Managers issued status for maximum of 7 years in 3-year increments. Essential employee issued status for maximum of 6 years. Issued Form I-94.
L-2	Spouse of Intra-company transferee	Spouse has been granted L Visa and has entered the United States. Must apply for EAD through CIS	Valid for duration of authorization stay of L Visa Principal.

⁸ DS2019– Certificate of Eligibility for Exchange Visitor (J-1) Status. This form is issued by the sponsor of the J-1 program through the new SEVIS program.

			Issued EAD.
M	Vocational Student	<p>Full time vocational student at accredited school. May obtain practical training authorization upon completion of school. FICA Exempt. May apply directly at US Embassy abroad.</p>	<p>Maximum period of 6 months. Issued EAD card.</p>
O	<p>Person with Extraordinary Ability</p> 	<p>O-1 -- Person entering the US who has extraordinary ability in sciences, arts, education, business or athletics as demonstrated by international acclaim. Small percentage of persons who have reached the top. O-2 -- Entering to accompany and assist O-1 artist – an integral part of the performance. Requires consultation from appropriate labor union or appropriate expert source. Must initially obtain approval from the CIS through regional service center.</p>	<p>No more than 3 years. Usually only based upon the need indicated in the Petition. Issued I-94.</p>
P-1	<p>Athletes and Group Entertainers</p> 	<p>a. Entering the US to perform as an athlete, individually or as part of a group or team at an internationally recognized level of performance; or b. Entering as a person performing with an entertainment group (not for individual performers who must use O category); c. Entering to perform in competition, event or performance; and d. Consultation with appropriate labor union required. Must initially obtain approval from the CIS through regional service center.</p>	<p>Maximum of 10 years in 5-year increments but depends on reason for entering. Most often – issued only for period of performance. Issued Form I-94.</p>
P-2	Reciprocal Exchange Program	<p>a. Performs as artist or entertainer individually or as part of a group; b. A reciprocal exchange program exists between organizations in US and abroad providing for temporary exchange of artists, entertainers or groups; and c. Consultation with appropriate labor union required. Must initially obtain approval from the CIS through regional service</p>	<p>Allowed to enter for period necessary to complete program and up to 1 year. Issued Form I-94.</p>

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<p>P-3</p>	<p>Culturally Unique Performer</p> 	<p>a. Performs as an artist, entertainer, individual or as part of a group; b. Entering to perform, teach or coach in a culturally unique program; and c. Consultation with appropriate labor union required. Must initially obtain approval from the CIS through regional service center.</p>	<p>Allowed to enter for period necessary to complete program and up to 1 year. Issued Form I-94.</p>
<p>Q</p>	<p>International Cultural Exchange Program</p>	<p>a. Participating in an international cultural exchange program designated by the Attorney General for providing practical training, employment and sharing of cultures; b. Employer petitions at same time as beneficiary for program approval from Attorney General; and c. Program must take place in school, museum, business where public may be exposed to aspects of a foreign culture as part of a structured program. Must initially obtain approval from the CIS.</p>	<p>May not exceed 15 months. Issued Form I-94.</p>
<p>R</p>	<p>Religious Worker</p>	<p>a. Available for (i) ordained minister, (ii) person working in a professional capacity in a religious vocation, (iii) person working in a professional capacity in a religious occupation; b. Sponsored by a bona fide religious organization with IRS tax exempt status; and c. Beneficiary must have been a member of the religious denomination for a period of at least 2 years immediately preceding application. May submit petition directly with Embassy.</p>	<p>May not exceed 5 years. Issued Form I-94.</p>

TN	NAFTA Visa	<p>Canadian/Mexicans are eligible for TN Visa pursuant to the terms of the North American Free Trade Agreement. The NAFTA Agreement lists the positions which are eligible for classification as TN visas and the degree requirements.</p> <p>If employed in a “healthcare profession,” must obtain a Medical Certification from an authorized organization.</p> <p>Canadian nationals may apply for this visa status at any Class A Port of Entry between the U.S. and Canada but Mexicans are required to initially obtain approval from the CIS.</p>	Indefinite—but issued in one-year increments. Issued Form I-94.
	Micronesians & Marshall Island citizens	National of Micronesia. May obtain employment authorization by virtue of their nationality.	Indefinite. Only required to show unexpired passport & I-94
	Palau	National of Palau. May obtain employment authorization by virtue of their nationality.	Indefinite. Not required to apply for EAD but recommended.