

# Guide to Hiring Foreign Employees

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## Foreign Employment Options

Most non-immigrants coming to work, teach, perform research, or other related duties at WSU will need to be sponsored by a WSU Department and have their non-immigrant classification processed through the Office of International Students and Scholars. This guide will help you as you make your hiring decisions.

We have outlined a list of common non-immigrant classifications that allow individuals to work legally in the United States, as well as for WSU. Communication between OISS, WSU departments, and the prospective scholar provides the foundation to identify the best non-immigrant classification. There are some key questions that you need to answer in order to determine which non-immigrant classification will best serve your needs.

### Short-Term vs. Long-Term Foreign Employment

#### **Short-Term**

Short-term employment should be considered if the assignment is temporary and there is also no desire to sponsor the individual for Lawful Permanent Residency (LPR). The individual must plan to return home upon completion of stay or assignment.

#### **Long-Term**

Long-Term employment should be considered for any assignments that are going to last six months or longer. Careful selection of these individuals' non-immigrant category is imperative to ensure that a stoppage in future immigration opportunities does not occur. The questions below will help you determine which category is best for your specific need:

- What is the position title?
- Is this Full-time/Part-time?
- How long is the intended visit?
- Individual's country of residence?
- Intended start date?
- Credentials?
- Will they take classes?
- Who is paying the salary?
- Are they currently in the U.S., if so, how long and what status?
- Do they have dependents?
- Are they Nobel Prize worthy?

#### **J-1 Visa Short-Term Scholar**

**Definition:** The J1 Exchange Visitor Program was created "to increase mutual understanding between people of the United States and the people of other countries by means of educational and cultural exchanges."

The purpose of the J-1 visit is to lecture, observe, consult, train staff, and demonstrate their special skill. The current position they hold in their home country can be any of the following categories: ***Professor, Researcher (post-doctoral, pre-doctoral /graduate student), or someone with similar credentials.***

**Length of Stay:** 1 day - 6 months.

**Challenges:** Dual-intention not allowed.

**Dependents:** J-2's are eligible to participate in employment and incidental study.

**Advantages:** Individuals in the short-term category may return an unlimited amount of times as long they don't stay in the U.S. longer than 6 months.

**Application Processing time:** 10 business days

**Fees:**

- An IRB for \$150 payable to OISS
- A payment to SEVP for \$180

**Long-Term Employment – Specific to Researchers and Professors**

In general, long-term employment is considered to be any length beyond 6 months. Individuals in this category are generally researchers and professors.

**J-1 Visa Researchers and Visiting Professors**

Here are some basic questions to be addressed to determine if the department should sponsor someone on a J-1 visa. For example:

- Is this a tenure track position?

***If yes, then the J-1 option does not work because the category does not allow immigrant-intent.***

- Has the scholar held J status (including J student, researcher, professor, specialists or dependent) in the U.S. for more than six months during the preceding 12 months?

***If yes, they are not eligible for a J-1 research scholar or professor status. The individual may be subject to what is commonly referred to as the two-year rule or two-year home residence requirement in their home country (212(e)), their skill and/or country of citizenship will determine that. For instance, a person coming from China will be subject to the two-year home residency requirement.***

**Definition:** The J-1 Exchange Visitor Program was created "To increase mutual understanding between people of the United States and the people of other countries by means of educational and cultural exchanges." U.S. Department of State.

**J-1 Professor**

A J-1 Professor is an individual primarily teaching, lecturing, observing, or consulting at a post-secondary accredited educational institution. A professor may also conduct research, unless disallowed by the sponsor.

**J-1 Researcher**

A J-1 Researcher is an individual primarily conducting research, observing, or consulting in connection with a research project. The research scholar may also teach or lecture.

For both J-1 Professor and Researcher the current position they hold in their home country may be a professor, a researcher (post-doctoral or pre-doctoral/graduate student), or someone with similar credentials (e.g., doctor, attorney, etc.)

**Length of Stay:** 3 weeks- 5 years

**Challenges:** Individual is subject to the 12- or 24-month bar and individuals who are required to complete the home residency requirement will not be able to pursue permanent residency until that obligation is met or they receive a waiver from 212(e).

**Dependents:** J-2s are eligible to participate in employment and incidental study.

**Advantages:** Dependents can participate in employment and incidental study.

**Processing time:** 10 business days

**Fees:**

- An IRB for \$150 payable to OISS.
- A payment to SEVP for \$180

**H1-B Specialty Worker**

Some of the questions to be addressed before the department decides to sponsor someone in H-1B status as a Research Assistant, Research Associate, Assistant Professor or Associate Professor are:

- Has this individual been in J-1 status before especially in the Research Scholar category? If yes, is this person subject to 212(e) and if so has this person fulfilled the 212(e) requirement or received a waiver for 212(e)?

***If the person has not received a waiver or “no objection letter, or fulfilled the requirement, they are not eligible for the H-1B category. Perhaps the O-1 or other categories specific to nationality may be conducive.***

- Does this person have a long-term intention to stay in the U.S.? If so, is the department ready to sponsor Permanent Residency for this person?

***For faculty positions, you can use the same recruitment documents used for hiring the individual within 18 months of the hire. That’s why it’s beneficial to determine PR within 18 months so you do not have to re-recruit.***

**Definition:** The H1-B visa is a specialty occupation visa classification for individuals who are identified as highly skilled workers with a minimum of a bachelor’s degree or higher in the relevant field of study and occupation. H1-B status allows dual intent, and it is appropriate for both non-tenure track and tenure track positions.

**Length of Stay:** Up to 3 years at a time, for up to 6 years total. Additional extensions beyond 6 years are allowed in limited cases, including when the permanent residency petition (“green card”) has been pending for over 365 days and when the H1-B employee has spent time outside of the U.S. during the period of H1-B employment.

**Employee-Employer Relationship Clause – Important:** USCIS says that "an employer who seeks to sponsor a temporary worker in an H-1B specialty occupation is required to establish a valid employer-employee relationship." The memo instructs adjudicators that a petitioner "must be able to establish that it has control over when, where, and how the beneficiary performs the job," and lists 11 factors that an adjudicator can consider (with no one factor being decisive) when evaluating whether a petitioner has satisfactorily established the required employer-employee relationship. **Please check all that are applicable:**

1. Does the petitioner supervise the beneficiary and is such supervision off-site or on-site?
2. If the supervision is off-site, how does the petitioner maintain such supervision, i.e. weekly calls, reporting back to the main office routinely, or site visits by the petitioner?
3. Does the petitioner have the right to control the work of the beneficiary on a day-to-day basis if such control is required?
4. Does the petitioner have the tools or instrumentalities needed for the beneficiary to perform the duties of employment?
5. Does the petitioner hire, pay, and have the ability to fire the beneficiary?
6. Does the petitioner evaluate the work-product of beneficiary, i.e. progress/performance review?
7. Does the petitioner claim the beneficiary for tax purposes?
8. Does the petitioner provide the beneficiary with any type of employee benefits?
9. Does the beneficiary use proprietary information of the petitioner in order to perform the duties of employment?
10. Does the beneficiary produce an end-product that is directly linked to the petitioner’s line of business?
11. Does the petitioner have the ability to control the manner and means in which the work product of the beneficiary is accomplished?

Therefore, the relationship test is met if petitioner is able to present evidence to establish its right to control the beneficiary's employment, if requested by USCIS.

**Restrictions:**

- 1) Those individuals subject to the two-year home residency requirement, 212(e), as a result of previous J-1 status do not qualify, unless the J-1 visitor completes the home residence requirement or obtains a recommendation from the Department of State for a waiver.
- 2) A minimum salary is required; however, the minimum acceptable salary will be determined by the Department of Labor through the prevailing wage determination.
- 3) H1-B status requires that the international researchers be paid by Wayne State University only. Researchers with funding from overseas are ineligible for H1-B visas and must use J-1 visas.

**Processing time:**

Step 1: Prevailing Wage Determination (PWD) takes up to 60 days to obtain.

Step 2: Labor Certification Application (LCA) takes 2-4 weeks to be certified, after we receive the approved prevailing wage.

Step 3: USCIS takes 3-4 months for regular processing and 15 days for premium processing.

**Fees:**

- An IRB for \$700 payable to OISS.
- A check for \$500 payable to the Department of Homeland Security to cover the Fraud Prevention and Detection and this fee is not required for H1-B extensions.
- A check for \$320 payable to Department of Homeland Security to cover the filing fee for the I-129 petition
- A check for \$1000 payable to Department of Homeland Security for Premium Processing

**Dependents** H-4 can participate in incidental study but are not eligible to work.

**Advantages** H1-B has a dual intent and is a pathway for Permanent Residency. Individuals in H1-B status can accept Tenured or Tenure-Track positions, unlike individuals in J-1 status.

**Termination of H-1B:** If the employment is terminated for reasons other than voluntary resignation, the employer is liable for the reasonable cost of return transportation of the individual to his/her last place of residence prior to entry into the U.S.

**O-1 Aliens of Extraordinary Ability**

Some of the questions to be addressed before the department decides to sponsor someone on O-1 for Assistant Professor or Associate Professor are:

- Has this individual been in J-1 status before, especially in the Research Scholar category?
- If so, is this person subjected to 212(e), has this person fulfilled the 212(e) requirement or received a waiver for 212(e).
- Does this person have a long-term intention to stay in the U.S.?

***If the answer is no to all of the above, perhaps the H-1B is better. Less expensive, and less documentation needed.***

Unlike for H1B, the individual does not have to fulfill the 212(e) requirement or receive a waiver for 212(e) in order to process O-1. However, if this person has the intention to stay in the U.S. long-term and if the department is ready to sponsor Permanent Residency, the 212 (e) requirement has to be met to move forward.

**Definition:** The O-1 category is available to foreign nationals who have extraordinary ability in science, art, education, business, or athletics demonstrated by sustained national or international acclaim whose achievements have been recognized in the field through extensive documentation. Extraordinary ability is a high level of expertise and indicates that the person is one of a small percentage who has risen to the

very top of their field. The foreign national must seek to enter the United States to continue work in an area in which he or she is extraordinary.

**Length of Stay:** The O-1 visa can be issued for a period of up to three years, with unlimited extensions in increments of one year.

**Processing time:** Overall 5-6 months for regular processing, and 2-3 months for premium processing (15 days to receive a response from USCIS). OISS coordinates the process, but an immigration attorney will process the petition for O-1.

**Fees:**

- A check for \$320 payable to Department of Homeland Security to cover the filing fee for the I-129 petition.
- A check for \$1000 payable to Department of Homeland Security for Premium Processing.
- Attorney Fee \$2,200 paid by the Department.

**Dependents** O-3 can participate in incidental study but cannot work.

**Advantages** O-1 has a dual intent and is the pathway for Permanent Residency. Individuals in O-1 status can accept Tenured or Tenure-Track positions unlike individuals in J-1 status.

**Termination of O-1:** If employment is terminated for reasons other than voluntary resignation, the employer is liable for the reasonable cost of return transportation of the individual to his/her last place of residence prior to entry into the US.

### **Employment Options that are an Alternative to the H1-B**

There are a few long-term employment options that are an alternative to the H1B. These categories can be used if the researcher or professor you would like to hire cannot extend their current non-immigrant classification or qualify for another classification based on country of citizenship.

#### **F-1 OPT (EAD)**

**Definition:** F-1 student will apply for work authorization for optional practical training directly related to the student's major area of study for 12 months.

**Length of Stay:** All F-1 students are eligible for an initial 12 months of OPT, and will be eligible for an additional 17 months if they are in one of DOL's specified fields in Science, Technology, Engineering, and Mathematics programs and their employer is E-Verified (WSU is E-Verified).

**Processing Time:** 2-3 months

**Fees:** Department is not required to pay for the OPT process, and it is the student's responsibility to apply for OPT EAD.

**Dependents:** F-2's can neither do incidental study nor work.

**Advantages:** Department is not required to pay the OPT filing fees. This process is the responsibility of the student.

#### **TN**

This category was created under NAFTA to facilitate the entry of qualified citizens from Canada and Mexico to engage in professional business activities, or pertaining to certain professions, most teaching and research positions on a temporary basis (the TN category cannot be used for physicians with clinical responsibilities). The position must be listed on the NAFTA skills list found on the OISS website.

**Length of Stay:** May be granted in three year increments, with unlimited extensions.

**Dependents:** TD can engage in study, but cannot work.

**Processing Time:** Must show letter of job offer and educational credentials to obtain status at the port of entry, and usually takes one or two days.

**Fees:** \$56.00 must be paid to the Customs and Border Protection Officer during application.

**Advantages:** Individuals can gain employment by presenting the above documents at the U.S./Canadian land border.

### **H1-B1**

If your researcher or professor is from Chile and Singapore, this will serve as a good alternative to the H-1B.

**Definition:** H1-B1 is for individuals from Chile and Singapore. It is based on international trade agreements made in 2004. 6,800 H1-B1's have been set aside from the 65,000 cap for professional workers from Chile and Singapore.

**Length of Stay:** Petitions are only one year in duration and can be extended one year at a time.

**Restrictions:** H1-B1's do not benefit from dual intent.

#### **Processing times:**

Step 1: Prevailing Wage Determination (PWD) takes up to 60 days to obtain.

Step 2: Labor Certification Application (LCA) takes 2-4 weeks to be certified, after we receive the approved prevailing wage.

Step 3: USCIS takes 3-4 months for regular processing and 15 days for premium processing.

#### **Fees:**

- An IRB for \$700 payable to OISS.
- A check for \$500 payable to Department of Homeland Security to cover the Fraud Prevention and Detection and this fee is not required for H1B extensions.
- A check for \$320 payable to Department of Homeland Security to cover the filing fee for the I-129 petition
- A check for \$1000 payable to Department of Homeland Security for Premium Processing

**Dependents:** H-4 status may do incidental study, but may not be employed.

**Advantages:** This is an excellent option for an individual who is running out of time on another non-immigrant visa, is a citizen of Singapore or Chile, and is not looking to become a permanent resident of the United States.

**Termination of H1-B1:** If the employment is terminated for reasons other than voluntary resignation, the employer is liable for the reasonable cost of return transportation of the individual to his/her last place of residence prior to entry into the US.

### **E-3**

The E-3 visa, enacted in May 2005, allows for the admission of an individual who is a national of Australia and is entering the U.S. to perform services in a "specialty occupation." Citizens of Australia may work in the U.S. in E-3 status under the following conditions:

- Possess required academic or other qualifying certificates (i.e. at least a bachelor's degree and depending on profession, master's or Ph.D. diplomas, transcripts, etc.).
- Have a lawful offer of employment from WSU.
- Position they are coming to fill in the U.S. qualifies as a specialty occupation.
- Stay in the U.S. will be temporary.
- May need to have additional necessary licenses or other official permission to perform the specialty occupation.

**Definition:** A specialty occupation for an E-3 alien is defined in the same manner as the H1-B context, that is, a specialty occupation means an occupation that requires the theoretical and practical application of a body of highly specialized knowledge, and attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation.

**Length of stay:** E-3 workers may be admitted initially for a period up to two years, and extensions of stay may be granted indefinitely in increments of up to two years. There is no limit on the total length of stay for an E-3. Under current regulations, E-3 non-immigrants will maintain an intention to depart the U.S. upon the expiration of termination of E-3 status.

**Restrictions:** Permanent residents of Australia are not able to apply to work pursuant to an E-3. This category is regulated by the United States Citizenship & Immigration Service (USCIS). E-3 status is available for faculty, post-doctoral and staff positions. Dual intent is NOT allowed in E-3 status.

**Processing time:** Citizens of Australia apply directly to the U.S. consulate for an E-3 visa by presenting the following documents:

- Step 1: Certified Labor Condition Application, filed with the Department of Labor. (This document would be provided by OISS.)
- Step 2. Job offer letter describing the specialty occupation, the salary offered, the minimum requirements for the position and how the individual meets these requirements.
- Step 3. Evidence of a U.S. bachelor's degree in the field or its equivalent and U.S. professional license if applicable.
- Step 4. Evidence establishing that the applicant's stay in the United States will be temporary. For complete information about applying for E-3 status visit the U.S. State Department's E-3 Web site.

**OR:**

The hiring department should contact OISS as soon as an offer of employment is made to a foreign national who is a citizen of Australia needing work authorization. Although OISS will process each E-3 application as quickly as possible, our office ideally needs at least **six weeks** notice for any new E-3 applications. If the foreign national is currently outside the U.S., time must also be allowed for employees in Australia to obtain a visa at the US consulate or embassy to enter the US.

- Step 1: Prevailing Wage Determination (PWD) takes up to 60 days to obtain.
- Step 2: Labor Certification Application (LCA) takes 2-4 weeks to be certified after we receive the approved prevailing wage.
- Step 3: USCIS takes 3-4 months for regular processing and 15 days for premium processing.

**Application for an extension:** Scholars in E-3 status have two options for extending their stay:

1. They may return to Australia and re-apply at the U.S. embassy or consulate with the same documentation that is required for an original application, or
2. They may have their employer file form I-129 with USCIS. This option does not require the employee to leave the U.S., but requires a USCIS fee of \$320 and can take approximately 3 months.

**Advantages:** The E-3 is an attractive alternative to H1B status for an Australian national who is coming to the U.S. with a spouse who hopes to work in the U.S. It is also an option for an individual who may not be eligible for H1B status or who has exhausted the 6 year limit on H1B status. The other advantage is that the petition does not require approval by USCIS which saves time and money. For a person contemplating an application for U.S. permanent resident status, the H1B may be a more suitable option.

**Dependents:** E-3 can do incidental study and are permitted to work with a valid work permit. E-3 dependents must apply for an EAD and have it in hand before beginning employment.

### **P-3**

This is a category for individuals who are artists, musicians, actors, dancers, or groups of artists in various mediums who are coming to perform for a short time period.

**Definition:** The P-3 visa is a non-immigrant visa which allows foreign nationals to enter into the U.S. to perform, teach or coach as artists or entertainers, individually or as part of a group, under a program that is culturally unique.

**Length of stay:** P-3 visa is generally issued for the period of time necessary to complete the event, activity or performance usually not exceeding one year. An extension may be granted in increments of one year in order to complete the same event for which the P3 entered the U.S. Extensions may be granted as long as the performances of the event continue.

**Restrictions:** This process is rather lengthy and is only for a short period of time. If the performer will be performing more than one year, H1-B1 may need to be considered.

**Processing:** Very detailed information must be provided to USCIS. A U.S. employer has to sponsor the P-3 visa. Prior to the filing of the P-3 petition, your employer must obtain an advisory opinion from an appropriate consulting entity or a labor organization, or show that an appropriate peer group, labor organization or management organization does not exist. A letter of no objection from the corresponding union should be obtained. You must provide an explanation of the event and its itinerary. A written contract between the individual or group and the sponsoring employer must be provided. A contract and schedule of events describing terms and conditions of the employment and conditions of the performance include pay, performance dates, and duration of contract. Evidence describing your experience, skills, and proof of being outstanding in the field is required.

**Fees:** An IRB for \$700 payable to OISS. A check for \$320 payable is required to Department of Homeland Security to cover the filing fee for the I-129 petition. A check for \$1000 payable to Department of Homeland Security is required for Premium Processing

**Dependents:** Dependents of the beneficiary can stay as long as the beneficiary remains in P-3 status. They can also attend school. Spouse and or children under the age of 21 who wish to accompany the P-3 need to apply for a P-4 visa.

**Advantages:** The beneficiary and their dependents can travel freely in and out of the U.S. provided they have a valid visa. Visas can be renewed in one year increments. They receive pay for performances. Assignments can be multiple and can be for a short or long duration, not exceeding one year at a time.

## **Other Categories for Non-Employment Needs:**

### **B-1**

**Definition:** The B-1 is used to enter the U.S. to engage in such business activities as negotiating contracts for an overseas employer, consulting with business associates, attending professional conferences, giving lectures, or conducting independent research. The B-1 visa should be used by foreign visitors to enter the U.S. to participate in these types of activities within the University System.

**Length of Stay:** Visits typically lasting not longer than nine days at a single institution, providing that the services performed are for the benefit of the academic institution.

**Restrictions:** The B-1 visa may not be used for employment purposes as immigration law does not permit a B-1 visitor to engage in any form of employment in the U.S. including salaried work or services performed on an independent basis. The visitor cannot accept payment of expenses and/or honorarium from more than five U.S. institutions or organizations in the previous six months. If either of these conditions is exceeded the individual may NOT receive any honorarium or honorarium plus reimbursement for expenses.

**Processing:** If the visitor does not already have a B visa stamp in his or her passport, he or she must apply for one at a U.S. Embassy or Consulate, unless eligible for the visa waiver program. (For information about applying for visas at a particular embassy or consulate, check the Department of State's Links to United States Embassies and Consulates Worldwide at [travel.state.gov/links.html](http://travel.state.gov/links.html). In addition to the visa application form, the visitor should present to the consulate a letter of invitation outlining the terms of the proposed visit to WSU.

**Advantages:** A B-1 visitor may be paid honoraria for "usual academic activities" lasting not longer than nine days at a single institution, providing that the services performed are for the benefit of the academic institution.

**Disadvantages:** The individual cannot apply for Permanent residency as this is intended for only a short stay.

### **Visa Waiver Program**

Visa Waiver Program, WB, Visitor for Business, WT, and Visitor for Pleasure are designations under the visa waiver program that are currently available only to citizens of Andorra, Austria, Australia, Belgium, Brunei, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, the United Kingdom and Uruguay. Persons in WB or WT status will have a green (rather than white) I-94 card. Eligible individuals need not apply for a visa at an American consulate or embassy, but simply present WSU's letter of invitation to the U.S. immigration inspector at the point of entry.

### **Foreign Employment Options at a Glance:**

<b>Category</b>	<b>Definition</b>	<b>Advantages</b>	<b>Disadvantages</b>	<b>Length of Stay</b>	<b>Dependent</b>
<b>B-1</b>	If the purpose for your planned travel is to consult with business associates, travel for a scientific, educational, and professional or business convention, or conference on specific dates, then a business visitor visa (B-1)	May receive honorarium & reimbursements	This visitor for <u>business</u> , may not be employed, Time constraint: less than 9 days), 6 month limit.	Maximum 6 months	Not available
<b>B-2 Length</b>	If the purpose of your planned travel is recreational in nature, including tourism, amusement, visits with friends or relatives	Specifically designed for pleasure and tourism	May not be employed, may receive honorarium but not reimbursements, 6 month limit	Maximum 6 months	Not available
<b>WB/WT</b>	Travelers coming from specific countries to the U.S. for tourism or business for 90 days or less from qualified countries may be eligible to visit the U.S. without a visa if they meet the visa waiver program requirements	Specifically designed for pleasure and tourism	May not be employed, may receive honorarium but not reimbursements, 6 month limit. Must review country list to determine eligibility.	Maximum 90 days	Not available
<b>E-3</b>	The E-3 is a new visa for Australian nationals to work	Maximum of 10,500 per fiscal year	Only available for citizens of Australia	One year maximum and renewal	E-3D

	in specialty occupations in the U.S. Similar to H-1B requirements	Spouses of E-3 visa holders may accept employment in the U.S. by obtaining an Employment Authorization Document No extension limit Can participate in incidental study	Can be approved in one year increments only	annually	
<b>H1-B</b>	Temporary Worker in a Specialty Occupation” Must demonstrate that they have specialized skills	Pathway to Permanent Residency Bachelor degree minimum H1 and dependents can study	Must be sponsored by a U.S. employer and paid by that employer Dependents cannot work Petition costs can be expensive 6 year limit	6 Year Maximum	H-4
<b>H1-B1</b>	Only for nationals of Chile or Singapore may apply at consular sections around the world for a nonimmigrant professional H-1B1 visa	H1B1 and dependents can study	Must be sponsored by a U.S. employer and paid by that employer Dependents cannot work Petition costs can be expensive	One year maximum and renewal annually	H-4
<b>J-1</b>	Exchange Visitor, (Short-term Scholar, Research Scholar/Professor, Specialist) Must demonstrate expertise Usually a bachelor degree minimum May be employed by U.S. institution, or sponsored at U.S. institution with self-funding	Dependents can work Can participate in incidental study	Category has limitation specific to the program and research objective  212 e 24 month Bar 12 month Bar  Time constraints: 5 years – Research Scholar 1 year – Specialist, 6 months – Short-term Scholar	5 years – Research Scholar 1 year – Specialist, 6 months – Short-term Scholar	J-2
<b>J-2</b>	Dependent of J-1	May apply for work authorization (EAD) card	Their status is dependent upon J-1	Their length of stay is dependent upon	Not available

		No restrictions with EAD card Full or part-time study O.K.		J-1	
<b>P-3</b>	The P-3 visa is a nonimmigrant visa which allows foreign nationals to enter into the U.S. to perform teach or coach as artists or entertainers, individually or as part of a group, under a program that is culturally unique.	The beneficiary and their dependents can travel freely in and out of the U.S provided they have a valid visa. Visa can be renewed in one year increments. Can receive pay for performances. Assignments can be multiple and can be for a short or long duration, not exceeding one year at a time.	Very detailed information must be provided to USCIS A U.S employer has to sponsor the P3 visa. A letter of no objection from the corresponding union should be obtained. Must provide an explanation of the event and its itinerary. A written contract between the individual or group and the sponsoring employer must be provided. A contract and schedule of events describing terms and conditions of the employment and conditions of the performance include pay, performance dates and duration of contract. Copies of evidence describing your experience and skills. Proof of your standing as outstanding in the field.	P-3 generally issued for the period of time necessary to complete the event, activity or performance usually not exceeding one year. Extensions can be granted.	Dependents can attend school. Spouse and or children under the age of 21 who wish to accompany the P-3 need to apply for a P-4 visa.
<b>O-1</b>	Foreign nationals with extraordinary ability in the sciences, arts, education, business or athletics.	O-1 can have unlimited extensions in increments of one year. An individual can engage in full time or part time study on O-3 visa	The person applying for O-1 should have a level of expertise indicating that the individual is one of the small percentage who have risen to the very top of the field of endeavor.	The O-1 visa can be issued for a period of up to three years, with unlimited extensions in increments of one year.	O-3

<b>TN</b>	Pursuant to the North American Free Trade Agreement ("NAFTA"), Canadian and Mexican nationals are eligible for classification as TN-1 non-immigrants. Must be from a specific list of professions, Must be sponsored by a U.S. employer and paid by that employer	Canadians may make an application directly at the port of entry, and no specific petition is required. Normally, the request is acted upon at the time the application is made. Mexican citizens must apply at a U.S. Consular office for a TN-1 visa.	Can work in only one of a specific list of professions	Initial limit is 3 years with 1 year unlimited number of extensions permitted	TD
<b>OPT EAD</b>	F-1 student will apply for work authorization for optional practical training directly related to the student's major area of study.	Student is STEM program and working for E-verified company will get up to 29 months of OPT. OPT is available for each degree level.	OPT application process takes up to 90 days for approval.	Initial limit is 1 year with 17 months extension if the student is in one of the STEM program and also working for a E-Verified company.	F-2
<b>Permanent Residency based Employment Authorization Document (EAD)</b>	With Permanent Residency based Employment Authorization Document (EAD), he/she is authorized to work without having the employer file a petition for non-immigrant worker.	EAD is renewable and also allows the person to switch employer while in the process of Permanent Residency.	If Permanent Residency process is denied, the person can no longer use the EAD card to work.	The EAD allows the alien to work in the United States for a limited period of time, generally one year and it is renewable.	Not available
<b>Permanent Resident</b>	A permanent resident is someone who has been granted authorization to live and work in the United States on a permanent basis.	Allows the person to work without an employer work permit sponsorship and also it is given for 10 years and is renewable.	None	Initial limit is 10 years and renewable	Not Available

For additional information please contact our Scholar Services Team at 313-577-3423 or [OISScholars@wayne.edu](mailto:OISScholars@wayne.edu)

## GLOSSARY OF TERMS

**212 (e):** J Exchange visitors who are subject to the two-year residence requirement must “reside and be physically present” in their “home” country for an aggregate of two years before being eligible for certain immigration benefits.

**Country of Residence:** Country in which a visitor established his/her legal permanent residence. It may be different from the visitor’s country of birth.

**DOL:** Department of Labor is a department of the United States government that is responsible for occupational safety, wage and hour standards, unemployment insurance benefits, re-employment services, and some economic statistics.

**Dual Intent:** Generally refers to the fact that certain U.S. Visas allow foreigners to be temporarily present in the USA with lawful status and immigrant intent. This allows those visa holders, particularly H-1B professionals, to work in U.S. while simultaneously seeking lawful permanent residency (green card status).

**LCA:** stands for Labor Condition Application. Before an employer may file an H1-B petition, the employer must first file an LCA with the Department of Labor. In filing an LCA, the employer attests to a number of conditions that must be followed during the term of the LCA.

**NAFTA:** NAFTA is the North American Free Trade Agreement. It creates special economic and trade relationships for the United States, Canada and Mexico. The nonimmigrant NAFTA Professional (TN) visa allows citizens of Canada and Mexico, as NAFTA professionals to work in the United States. Permanent residents, including Canadian permanent residents, are not able to apply to work as a NAFTA professional.

**Permanent Resident:** An alien who may lawfully reside in the U.S. after having a petition for permanent residency approved.

**Prevailing Wage:** Is the average salary paid to workers in the area of intended employment. The prevailing wage is often obtained through a request to the Department of Labor. However, other sources of prevailing wages are permitted and may be used.

**SEVIS:** Student and Exchange Visitor Information System which is an international student/scholar data bank. SEVIS is an internet-based system that allows schools and the Department of Homeland Security and other relevant government agencies to exchange data on the visa status of F and J international students and J scholars

**USCIS:** United States Citizenship and Immigration Services. The USCIS is a bureau of the Department of Homeland Security (DHS) which is responsible for the administration of immigration and naturalization adjudication functions and establishing immigration service’s policies and priorities. These functions include: adjudication of immigrant visa petitions; adjudication of naturalization petitions, adjudication of asylum and refugee applications, adjudications performed at the service centers, and all other adjudications.