

E-3 NONIMMIGRANT CATEGORY

Treaty Alien in a Specialty Occupation

If you are interested in inviting an E-3 Treaty Alien in Specialty Occupation from Australia, please contact an OISS advisor for more information. Information available here is only a general overview of the E-3 classification.

To qualify for an E-3 visa, an applicant must demonstrate:

- that he or she must have a legitimate offer of employment in the United States;
- that the position he or she is coming to fill qualifies as specialty occupation employment;
- that he or she is **an Australian citizen**;
- that he or she has the necessary academic or other qualifying credentials;
- that his or her stay will be **temporary** (different from H-1B); and
- if required before the alien may commence employment in the specialty occupation, he or she has the necessary license or other official permission to practice in the specialty occupation.

FREQUENTLY ASKED QUESTIONS

Q: What is an E-3 Visa?

A: The E-3 is a new visa category only for Australians coming to the U.S. to work temporarily in a specialty occupation.

Q: Why are only Australians eligible for this visa?

A: The legislation limited the E-3 to nationals of Australia.

Q: Who qualifies for the E-3 visa?

A: The new E-3 visa classification currently applies only to nationals of Australia as well as their spouses and children. E-3 principal applicants must be coming to the United States solely to work in a specialty occupation. The spouse and children need not be Australian citizens.

Q: Are there other requirements for qualifying for an E-3 visa?

A: Please contact OISS for more information. We can be reached at 313/577-3422 or OISSscholars@wayne.edu.

Q: What is a specialty occupation?

A: The definition of a "specialty occupation" is one that requires (the same as H-1B):

1. A theoretical and practical application of a body of specialized knowledge, and
2. The attainment of a bachelor's or higher degree in the specific specialty as a minimum for entry into the occupation in the United States.

Q: How long is the visa valid?

A: The Department of State and the Department of Homeland Security have agreed to a **24-month maximum** validity period for E-3 visas. This validity may be renewed.

Q: What is the fee for an E-3 visa at a U.S. consulate overseas?

A: Other than the normal visa application fee, there is no separate filing/issuance fee.

Q: Is there a limit to the number of E-3 visas?

A: Yes, there will be a maximum of 10,500 E-3 visas issued annually. Spouses and children of principal applicants do not count against the numerical limitations.

Q: Do applicants need to demonstrate a "residence abroad?"

A: E-3 status provides for entry on a non-permanent basis into the United States. Similar to E-1 and E-2 visa applicants, the E-3 must satisfy the consular officer that s/he intends to depart upon termination of status.

Q: How do I demonstrate that I qualify for an E-3D (dependent) visa?

A: You must demonstrate to the consular officer that the established relationship exists. Usually this can be accomplished with a marriage or birth certificate. You must also show the principle applicant is the recipient of an E-3 visa.

Q: May spouses work?

A: E-3 spouses are entitled to work in the United States and may apply for an Employment Authorization Document (Form I-765) through U.S. Citizenship and Immigration Services (USCIS). Such spousal employment may be in a position other than a specialty occupation.

Q: Can I renew the E-3 visa? Is there a limit to the amount of times I can renew?

A: E-3 applicants are admitted for a two-year period **renewable indefinitely, provided the alien is able to demonstrate that he/she does not intend to remain or work permanently in the United States.**

Q: How do I apply for an E-3 visa?

A: Please contact OISS for more information.

Q: How long does an E-3 visa application take at a U.S. consulate?

A: The wait times at each Consulate vary, so check with your nearest Consulate to make an appointment.

THE E-3 APPLICATION PROCESS

All E-3 applications, including amendments, extensions, etc., require three steps (in the case of positions represented, Step 1 can be substituted by collective bargaining agreements).

STEP 1: OISS will obtain a prevailing wage in the field for the type of position from DLEG (the Michigan Department of Labor & Economic Growth). The E-3 employees must be paid at or above the DLEG prevailing wage determination, or the actual wage within the department/college, whichever is higher.

STEP 2: DOL must certify an LCA (Labor Condition Application) submitted by OISS. On the LCA, WSU attests to the terms and conditions of employment and agrees to abide by the labor conditions listed on the LCA.

STEP 3: The prospective E-3 will make a visa appointment at a nearest U.S. consulate to obtain an E-3 (and E-3D visas for his/her dependents, if any).

Upon arriving in the U.S., he/she must attend **New Scholar Orientation (mandatory)** at OISS, which will include an I-9/OISS Clearance process.

E-3 TREATY ALIEN IN A SPECIALTY OCCUPATION APPLICATION CHECKLIST

SCHOLAR'S NAME: _____

- An IRB for \$700 payable to OISS
- E-3 Request Form – Part A (by Department)
- E-3 Request Form – Part B (by Foreign National)
- Copy of Wayne State University's offer letter
- Copy of Description of Position
- Actual Wage Worksheet
- Copy of transcripts and diplomas
- Copy of credential evaluation (if his/her degree was earned outside the U.S.)
- Copy of curriculum vitae
- Copy of beneficiary's passport showing validity dates
- Other _____

E-3 REQUEST FORM – PART A (To Be Completed by WSU Employing Department)

CONTACT INFORMATION

Hiring Department: _____

Division/College: _____

Administrative Contact Person: _____ Signature: _____

Phone: _____ Fax: _____ E-mail: _____

POSITION INFORMATION

Name of Foreign National: _____
Last/Family Name First Name Middle Name

Position Title: _____ Banner ID (if any): _____

Please check: New E-3 Extension w/o changes Other: _____

The position is (check all that apply):

Temp Permanent Tenure Track Non-Tenure Track ESS

Union Representation (if applicable): _____

The position is: Full time Salary Offered \$ _____ # of hours per week _____

Part time Hourly rate offered \$ _____ & Annual salary \$ _____
of hours per week (you may put a range if you'd like) _____

Does compensation package include fringe benefit?

Yes, value of benefits \$ _____ No

Expected duration of employment (as appears on the letter of offer): from _____ to _____

E-3 REQUEST FORM – PART B (To Be Completed by Foreign National)

PLEASE DO NOT LEAVE ANYTHING BLANK AS INFORMATION BELOW IS REQUIRED FOR FILING.

PERSONAL INFORMATION

Full Legal Name: _____
Last/Family Name First Name Middle Name

All Other Names Used (including maiden name, etc.): _____

Current Address: _____
Street City State Zip Code

Mailing Address, if different: _____
Street City State Zip Code

Foreign Address: _____
Street City State Zip Code

Phone: _____ Fax: _____ E-mail: _____

Country of Citizenship: _____

Country of Permanent Residence (*not U.S.A.*): _____

City, Province and Country of Birth: _____
City Province Country

Date of Birth: _____ Male Female Dr. Mr. Ms. Mrs.
Month/Day/Year

U.S. Social Security #: _____ WSU ID/Banner ID: _____

IMMIGRATION STATUS INFORMATION

1. Class of last nonimmigrant admission to the U.S., e.g., H-1B, F-1, J-1, etc.: _____
2. Current nonimmigrant status: _____ Expiration Date: _____
3. Current I-94 number (11 digits): _____ A# (if any): _____
4. Most recent date of arrival in the U.S.: _____

Office of International Students and Scholars
Wayne State University
42 W. Warren, 416 Welcome Center, Detroit, Michigan 48202
(313) 577-3422 ♦ FAX (313) 577-2962 ♦ OISSscholars@wayne.edu

Have you or any accompanying dependents <u>ever</u> been subject to the J Exchange Visitor 2-Yr Home Residency Requirement?		
Have you or any accompanying dependents ever been denied a visa, a change of status, or admission to the United States?		
Is any person in this petition in removal proceedings?		

* PLEASE RETURN THIS FORM TO THE ADMINISTRATIVE CONTACT PERSON IN THE WSU EMPLOYING DEPARTMENT ALONG WITH REQUIRED SUPPORTING DOCUMENTS AS OUTLINED IN THE H-1B CHECKLIST.

ACTUAL WAGE WORKSHEET (E-3)

Federal law requires employers to document that E-3 workers will not be paid less than the actual wage paid to other similarly employed workers at Wayne State University. Below, please provide the required information on similarly employed workers in the hiring department/unit. Begin the comparison with individuals holding the same title and doing comparable work to what the E-3 worker will be doing. If there are no others with the same title, compare the E-3 worker's position with other positions having similar duties. It may be necessary to obtain comparative data from other units within your college or division.

The rationale for arriving at the salary for each worker should be clear. Total experience, qualifications, education, job responsibilities and functions, specialized knowledge, and other legitimate factors (i.e., publications, patent development, receipt of an international prize, or other meritorious performance rewarded as part of a defined pay system of WSU) may be considered. Please note that **limited grant or department funding is not a legitimate reason for paying less, nor are market conditions**. The Labor Condition Application (LCA) cannot be filed until this worksheet has been adequately completed by the hiring department/unit.

Title of Similarly Employed Worker	Annual Salary	Hours Per week

A detailed explanation is required if the E-3 worker will be paid less than any other similarly employed worker (specific # no years of experience, etc.); _____

Actual Wage Data Provided by:

Name: _____ Signature: _____ Date: _____

* In addition, E-3 workers must not be paid less than similarly employed workers in the geographic area. This figure, called a "prevailing wage," will be obtained from the Michigan Department of Labor & Economic Growth unless the position is represented by a union. The hiring department will be informed by OISS if there is a problem with this wage.