Visa Basics

International Scholars Operations (ISO)

October 14, 2015

https://ap.washington.edu/ahr/visas/
Today’s Topics

- Introduction to UW Visas
- J-1 Exchange Visitor Visa
- H-1B Temporary Workers
- E-3 & TN Treaty Workers
- F-1 & J-1 Student Trainees
- EADs
Before we begin...

• Not all foreign nationals *need* visa sponsorship
• Not all foreign nationals qualify for a *visa*
• Not all UW jobs qualify for visa *sponsorship*
• If sponsorship is needed, *ISO chooses* the visa type
• UW-sponsored visas are processed “*in house*”

Questions:  acadvisa@uw.edu
Is visa sponsorship needed?

You may ask:

• “Are you legally authorized to work in the U.S?”

• “Can you provide evidence within three business days after the start date that you are eligible to work in the U.S?”

• “Will you now or in the future require UW sponsorship for a visa or green card?”

Don’t promise a visa or green card—agree only to consider for possible sponsorship of a visa in accordance with UW policy
Does the International Scholar qualify for a visa?

- Where were they born?
- Where are they now?
- If in the U.S., what visa?
- Visa history?
- Highest degree?
- Field of study?
- Present occupation?
- Source of financial support?
- Do they have a 2-year foreign residence requirement?
- Subject to a “bar” on repeat participation?
- Do they have any dependents (spouse/kids under 21 years)?

- Are they fully qualified for the UW job?
- Are they a foreign medical graduate?
- Do they have USMLEs?
Does the UW Appointment qualify for a visa?

• Appointment title
• Full-time or part-time
• Sources of financial support
• Does the salary meet UW wage requirements
• Duration of appointment
• Position requirements
• Temporary or permanent
• Worksite locations
• Is patient or clinical care involved
• Is the “supervisor” a UW faculty member
Types of Visas

UW-sponsored

• J-1 "Exchange Visitor"
• H-1B "Temporary Worker in a Specialty Occupation"
• E-3 Treaty Professional Visas for Australian Citizens
• TN NAFTA Status for Canadian or Mexican Citizens
• Employment-based green cards

Non UW-sponsored

• F-1 Optional Practical Training
• J-1 Academic Training
• B-1/WB Visitor for Business
• Employment Authorization Document ("EAD" or "EAD card")
Visa Eligibility by Title

J-1 Titles
Visiting Scholar, Visiting Scientist, and all visiting faculty; Senior Fellow, Research Associate, and Acting Instructor when coming from outside the U.S.; and Student Intern (VISIT and VISER)
Activity must be full-time; some non-personal funding support required (except VISIT)

H-1B Titles
Research Associate, Senior Fellow, Acting Instructor, Acting Instructor/Senior Fellow, Lecturer, all professorial faculty, Resident/Fellow (by exception), and some Research Technologists
Must be full-time and on UW payroll

E-3 Titles
Professorial faculty and post-doctoral appointments; candidate must be eligible for H-1B status
Must be full-time and on UW payroll

TN Titles
UW academic, professional, and classified staff in NAFTA-eligible positions
Must be full-time and on UW payroll
Visa Eligibility by Title

F-1 Optional Practical Training/J-1 Academic Training Titles
Any academic, professional, or classified staff position that provides a recent graduate training and experience in his/her field of study

**NOTE:**
1. Professorial faculty should transition to H-1B at the soonest opportunity
2. Other employees should exhaust OPT/AT eligibility before transitioning to H-1B

EAD Titles
Any title for the duration of the validity of the employment authorization card

Green Card Titles
Full-time UW-salaried Assistant, Associate, and full Professors (including research faculty) with any teaching duties
Academic HR

Academic Human Resources serves all three campuses of the University of Washington as a central resource for the recruitment, hiring, retention and promotion of faculty, librarians and academic staff.

The Academic Human Resources website is designed to provide administrators, current and prospective faculty, librarians and academic staff with a wide range of information and guidance on University policies and procedures.

For information related to professional staff, classified staff and academic please contact UW Human Resources.

Our Vision...

To be recognized and respected as a provider of superior services and regarding academic personnel practices and institutional policies for faculty and academic staff.

- Resources for International Scholars
- J-1 Exchange Visitors
- H-1B Temporary Workers
- TN Status for Canadian and Mexican Employees
- E-3 Status for Australian Employees
- UW Visa Request Instructions
- Permanent Residency
- B Visitors for Business or Pleasure
- F-1 and J-1 Student Trainees
- Volunteers
Visa Request Process

- **Gather** information on scholar and appointment; determine appropriate visa
- **Complete** and electronically submit appropriate Visa Request Form
  ISO & AHR review the visa request; will contact you if more information is needed
  AHR sends a PDF of the approved visa request
- **Print** the approved visa request, route for signatures, and forward to ISO with supporting documents (if any)
  ISO sends you a receipt e-mail once the paper visa request arrives
  Maintains contact with you as the case progresses

Questions? Email acadvisa@uw.edu, or ISO adviser
J-1
Exchange Visitors
Purpose: to “increase mutual understanding between people of the United States and people of other countries by means of educational and cultural exchanges, thereby strengthening the ties between the nations.”
Exchange Visitors are Scholars
Exchange Visitors are Ambassadors
Exchange Visitors are Explorers
Unique Features of J-1 Status

- Primary purpose is **exchange, not employment**
- J-1 must maintain **health insurance and medical repatriation & evacuation insurance**
- J-1 must have **appropriate English proficiency** to participate in exchange activity and daily life in U.S.
- **Changes** in funding, activity site, or residential address, and early departures **must be reported immediately in SEVIS**
- **12 & 24 month bars on repeat participation** in some J-1 categories
- Possible **two-year home residence requirement**
Scope of J-1 Status

* J-1 is *sponsor-, activity-, category- & location-specific*
* Exchange activity must be *full time*
* Appointment is *temporary*—is it your expectation that this person will *go home*?
* Period of stay—few days to five years
* Payment for outside activities permitted only if authorized by ISO in advance
DS-2019
Certificate of Eligibility

ISO sends host department Form DS-2019 “Certificate of Eligibility for Exchange Visitor Status”

Department forwards DS-2019 to Exchange Visitor

Exchange Visitor uses DS-2019 to apply for J visa and enter U.S.

Let ISO know if arrival is delayed!
We’ll amend & reissue the DS-2019
J-1 Categories

* **Research Scholar/Professor**
  5-year limit, bars on repeat participation

* **Short-term Scholar**
  6-month limit, no bars on repeat participation

* **Specialist**
  12-month limit

* **Student**
  - Student Intern (VISIT Program); 12-month limit
  - Student Non-degree (VISER Program); 13-24 month limit
Permitted Activities for J-1s

Exchange Visitors may engage in:
- Research
- Observation
- Consultation
- Limited teaching
- Demonstrating special skills
- Student internships (*VISIT and VISER*)
- Medical residency (only if sponsored by ECFMG)

**The J visa is not a work permit!**

No full-time study, tenure-track or “permanent” positions, or clinical training
Maintaining J-1 Status

J-1 Scholar must:

* **Check in** with ISO not later than 30 days after DS-2019 “start” date
* **Engage** in exchange activities
* Receive adequate **supervision**
* Be given adequate access to **resources**
* Be provided opportunities for **cross-cultural engagement**
* Maintain **health insurance** in compliance with federal law
Tips for a Trouble-Free J-1 (before arrival)

- Start **three months** in advance of the start date
- Review “How to Sponsor a J-1 Exchange Visitor”
- Verify and retain evidence of funding from all sources
- Confirm and document scholar’s English proficiency
- Plan cultural exchange activities that include dependents
Tips for a Trouble-Free J-1 (after arrival)

- Help scholar settle in (Husky card, NetID, housing…)
- Ensure that scholar attends ISO Check-In Session
- Notify ISO in advance of changes—late arrivals, early departures, changes in worksite, title, research focus or duties, leave of absence…
- Keep a watchful eye: Is the scholar adjusting well? Is the scholar keeping active?
- Extend the scholar’s stay in a timely manner
An H-1B employee is a “Temporary Worker in a Specialty Occupation” requiring a post-secondary degree.

H-1B workers must be sponsored by a specific employer, and the terms and conditions of their employment must be reported to the Department of Labor (“DOL”) and to U.S. Citizenship and Immigration Services (“USCIS”).
The H-1B Process at ISO

- ISO receives signed Visa Request & supporting documents
- ISO files *Prevailing Wage Request* with DoL
- ISO files *Labor Conditions Application* with DoL
- ISO files *I-129 Petition for Temporary Worker* with USCIS
- USCIS issues receipt notice
- USCIS issues approval notice

See your H-1B Process handout for more details!
A new H-1B or change of status may take **four to eight months** from the date the visa request (with supporting documents) arrives at ISO to the date the employee can enter the U.S. in H-1B status to start work.

An H-1B transfer or extension may take **three to five months** from the date the visa request (with supporting documents) arrives at ISO to the date the employee can start work.
Unique Features of H-1B status

- Primary purpose is employment
- Must earn higher of “prevailing wage” (assigned by DOL) or “actual wage” (paid to similar workers)
- Changes in title, worksite, compensation, sponsoring unit, or job duties require notification to DOL and USCIS
- No reductions in FTE or salary
- No outside employment permitted
- Early termination requires that the sponsoring unit pay the “reasonable costs of return transportation”
Tips for a Trouble-Free H-1B

- Start the process **early**
- Use the H-1B Checklist
- Don’t supply documents *not* on the checklist
- Follow format of ISO sample letters
- **Communicate** frequently with the scholar
- Consistency! Consistency! Consistency!
- When in doubt, contact ISO.
E-3 Australian Professionals
Scope of E-3 Status

- E-3 is available to citizens of **Australia**
- Requires a Prevailing Wage Determination and Labor Condition Application, but no petition to USCIS (except extensions)
- Period of stay: **up to two years**, renewable
- **No “dual intent”** (not compatible with green card, so not appropriate for professorial appointments)
- E-3 status is **employer-specific, location-specific** and **job-specific**
- Spouse may apply for work permit
- **UW only** sponsors E-3s who qualify for H-1B sponsorship
TN
Canadian & Mexican Professionals
Scope of TN Status

- TN status is **employer- and job-specific** and is available to citizens of Canada and Mexico
- Does **not** require a prevailing wage determination or Labor Condition Application or petition to USCIS (except in-country extensions)
- Position must be a **NAFTA occupation**
- Period of stay: **up to three years**, renewable
- **No “dual intent”** (not compatible with green card, so not appropriate for professorial appointments)
- TD spouse cannot work

TN is quick, easy, and **cheap**, but the H may be the better option
F-1 & J-1
Student Trainees
Scope of F-1 “Optional Practical Training”

OPT employment authorization is available to
F-1 students graduating from U.S. schools

* Student applies for OPT with assistance of their foreign student adviser
* OPT is granted for 12 months; graduates with STEM degrees may apply for a 17-month extension, for total of 29 months
* Evidence of OPT is an EAD card

UW policy on OPT exhaustion:
* Postdocs must exhaust OPT eligibility prior to changing to H-1B
* Professorial ranks must change to H-1B ASAP to facilitate green card.
J-1 “Academic Training”

Graduates in the J-1 Student category may be eligible for Academic Training (“AT”) upon completion of their degree

- Evidence of AT is a modified DS-2019 and letter from the Responsible Officer of the school where the degree was earned
- Academic Training is not processed through USCIS, nor do students receive an EAD card
- Period of eligibility is 18 months; for postdoctoral training, eligibility may be extended an additional 18 months (total 36 months)
Certain foreign nationals may apply for an **EAD**. The EAD provides unlimited employment authorization **within the validity dates on the card**.

EAD holders may include, but are not limited to:

- Asylees/Refugees
- Aliens in Temporary Protected Status (“**TPS**”)
- **J-2** Dependents of J-1 Exchange Visitors
- **E-2** Spouses of E-1 Treaty Traders or Investors
- **K-1** Fiancé(e)s and K-3 Spouses of U.S. citizens
- Applicants for adjustment of status
- Many other classifications. **When in doubt, ask ISO!**

Check out our upcoming EAD training on Wednesday, 11/18 at 11:30!
What an EAD looks like

This is the most recent version of the EAD card. Older versions may lack some of these features.
Permanent Residence

UW sponsors most \textit{professorial faculty} for permanent residence ("green cards").

If ISO receives a visa request for green-card-eligible faculty, \textbf{we will contact you} to start the process.

- Any employer-sponsored green card must come through ISO
- Self-sponsored green cards \textbf{do not} require participation or approval from ISO

See our \textit{LPR Process Handout} for more information!
Questions?

E-mail us at acadvisa@uw.edu

Or check our website at http://ap.washington.edu/ahr/visas/