

# UW VISA BASICS 1

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Overview – Visa Types

09/27/2023



UNIVERSITY *of* WASHINGTON

OFFICE OF ACADEMIC PERSONNEL

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# TODAY'S TOPICS

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- Introduction to UW Visas
- J-1 Exchange Visitors
- H-1B Temporary Workers
- TN Canadian & Mexican Professionals
- E-3 Australian Professionals
- F-1 & J-1 Student Trainees
- EADs & LPRs
- Resources & Q&A

# STAFF VISA SPONSORSHIP PILOT PROGRAM

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- ISO is collaborating with UWHR on a staff visa sponsorship pilot program
- This program would sponsor full-time, permanent staff for H-1B, E-3, and TN visas
- More details are available at:
  - [ISO's Staff Visa Sponsorship page](#)
  - [UWHR's Staff Visa Sponsorship page](#)
  - [The 08/2023 joint Staff Visa Sponsorship training slide deck](#)

# BEFORE WE BEGIN...

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- Not everyone *needs* visa sponsorship
- Not everyone *is eligible* for visa sponsorship
- Not all appointments *qualify* for visa sponsorship
- If sponsorship is needed, OAP chooses the visa type
- **All** UW-sponsored visas are processed by UW
- If you have visa questions, you can always [contact ISO](#)

# IS VISA SPONSORSHIP NEEDED?

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## 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 permanent residence?”

**Don't *promise* a visa or permanent residence**—agree only to *consider for possible sponsorship* of a visa in accordance with UW policy

# SPONSORED VS. NON-SPONSORED VISAS

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## **Sponsored by UW through ISO:**

- J-1 Exchange Visitor
- H-1B Temporary Worker
- TN and E-3 Treaty Workers
- Legal Permanent Residence for some faculty members

## **Sponsored by schools (UW or other):**

- F-1 Optional Practical Trainees
- J-1 Academic Trainees

## **Non-sponsored:**

- EAD Holders
- Legal Permanent Residents

# VISA ELIGIBILITY CAN DEPEND UPON:

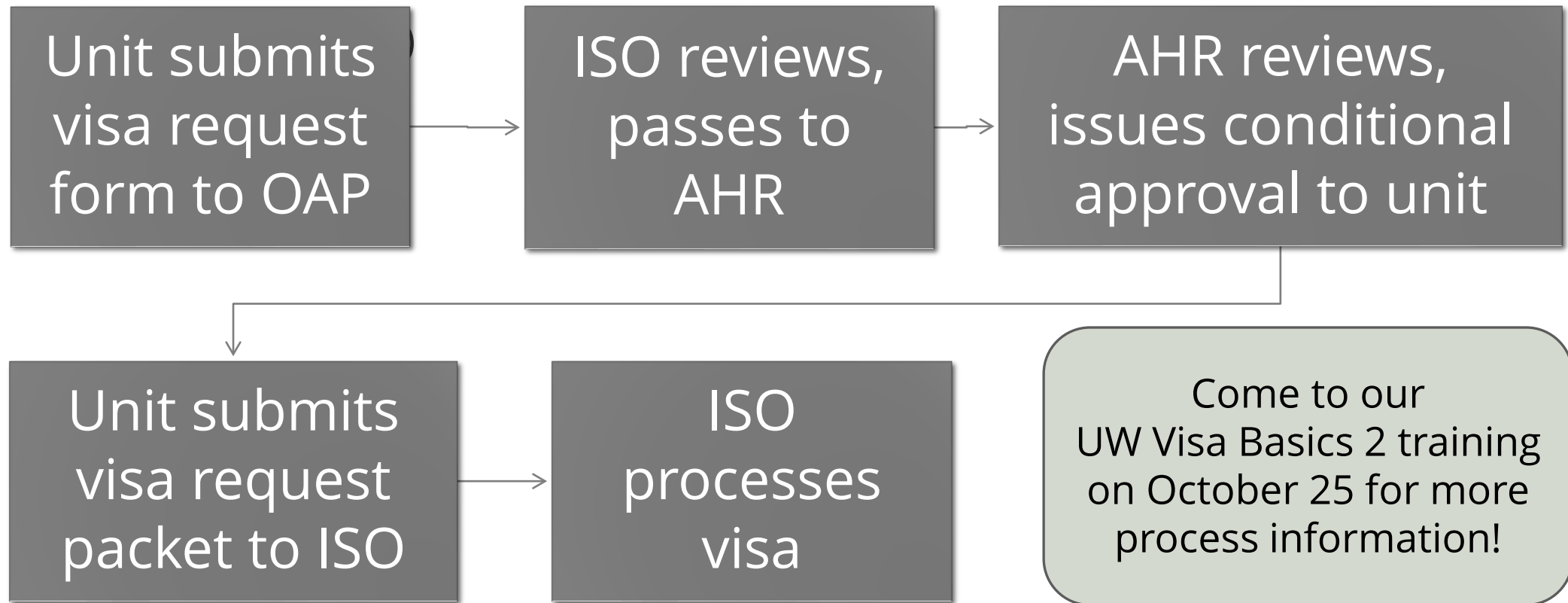
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- Scholar:
  - Country of origin
  - Whether they're in the U.S.
  - Current visa status
  - Previous visa history
  - Highest degree
  - Source of funding
- Academic appointment:
  - Rank
  - Track
  - Minimum requirements
  - Paid or unpaid
  - FTE
  - Duties

**UW sponsors visas for full-time academic personnel titles.  
Generally, visa sponsorship dates must match appointment dates.**

# VISA REQUEST PROCESS

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# J-1 EXCHANGE VISITORS

# WHAT IS A J-1?

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Exchange Visitor in the U.S. to *engage in academic exchange* through research, teaching, observation, consultation, or demonstration of special skills

Must be *sponsored by designated J-1 program sponsor*, who administers their record through the Student and Exchange Visitor Information System (SEVIS)

[More information about J-1 Exchange Visitors](#)

# ELIGIBLE TITLES

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- Postdoctoral Scholar
  - Acting Instructor
  - Visiting titles
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- Tenured or tenure-track employment not allowed
  - Clinical titles or duties not allowed
  - Not compatible with permanent residence sponsorship

# UNIQUE FEATURES OF J-1 STATUS

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- Expectation of return to home country
- J-1s must have:
  - Health insurance
  - English proficiency
  - Adequate funding
  - Cultural exchange plans
- Easy and quick to issue, update, extend
- No USCIS processing times or filing fees
- J-2 dependent may apply for work authorization

# LIMITATIONS OF J-1 STATUS

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- Sponsor-, activity-, category- & location-specific
- No reductions in FTE or salary
- Payment for outside activities permitted **only** if authorized by ISO in advance
- Absences from U.S. of 30+ days should be [reported to ISO](#) if scholar has
  - Approved International Remote Work Request from UW Tax Office
  - Approved protected leave request from OAP

# LIMITATIONS OF J-1 STATUS - Time

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- New/arriving J-1 exchange visitors must
  - Arrive to the U.S. on or before DS-2019 start date
  - Check in with ISO within 30 days of DS-2019 start date
- Period of stay: up to 5 years
- 12 & 24 month bars on repeat participation in some J-1 categories
- Possible 2-year home residence requirement ("212(e)") preventing change of status or return to U.S. on H, L, or permanent resident visas (212(e))

# Q & A

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Q: Are there examples of a J-1 (non-clinical) not subject to the 2 year home presence requirement? I've seen both.

A: J-1 Alien Physicians are always subject to this requirement. There are two other conditions that make a scholar subject: (1) if their home country is on the Exchange Visitor Skills list, or (2) if they are receiving funding from the U.S. government or their home country government for the purpose of exchange. See our [J-1 Two-Year Home Country Residence Requirement](#) for more information.

Q: For the I-9 form would their passport, their I-94 arrival record, and their DS-2019 suffice?

A: The ISC provides information on how to [Complete Form I-9 for Foreign Nationals](#).

# H-1B SKILLED WORKERS



# WHAT IS AN H-1B?

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“Temporary Worker in a Specialty Occupation” requiring a post-secondary degree

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)

[More information on H-1B temporary workers](#)

# ELIGIBLE TITLES

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- Postdoctoral Scholars (if currently in the U.S.)
  - F-1 OPT or J-1 holders must exhaust that eligibility before changing status to H-1B
- Acting Instructors
- Residents/Fellows ([by exception only](#))
- Lecturers Full-Time Temporary
- Professorial appointments, including
  - Research or Teaching tracks
  - Acting or Clinical

Some staff positions may be eligible for H-1B sponsorship; [contact UWHR](#) to discuss.

# UNIQUE FEATURES OF H-1B STATUS

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- Primary purpose is employment
- Position must:
  - Require bachelor's degree or higher in a relevant field
  - Pay salary at or above both “prevailing wage” (paid to similar workers in greater Seattle area, based on Department of Labor data) **and** “actual wage” (paid to similar workers at UW)
- More expensive, harder to obtain, update, extend
- H-4 spouse may seek employment authorization in *limited circumstances*

# LIMITATIONS OF H-1B STATUS

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- Employer-, title- & location-specific
- No reductions in FTE or salary
- No outside employment permitted
- Early termination requires that the sponsoring unit pay the “reasonable costs of return transportation”
- Period of stay: up to 3 years, renewable for total of 6 years (with some exceptions)

# CHANGES TO H-1B PROCESSING

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- The Provost announced on 09/20 that UW would no longer require a prevailing wage determination from DOL for H-1B sponsorship
- This should speed up most H-1B sponsorships!
- ISO is implementing this change and will have more information at our Visa Basics 2 training next month.

# Q & A

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Q: If a new faculty member has just received their F-1 OPT, how long do they need to wait until changing to the H-1B visa? Is it when their F-1 OPT expires?

A: For faculty members whom we will sponsor for permanent residence, we generally recommend submitting an H visa request as soon as possible so that we can begin tracking permanent residence sponsorship timelines. We would not require the faculty member to wait until their F-1 OPT expires until they change to an H-1B.

Q: Is there a copy available of the rubric that is being used to determine if a staff position is eligible for H-1B?

A: UWHR owns the H-1B eligibility rubric; we recommend emailing them at [employeerelations@uw.edu](mailto:employeerelations@uw.edu).

# Q & A continued

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Q: If we were currently already waiting for a prevailing wage determination to come through for an H-1B visa, what happens now with this change?

A: ISO is in the process of reviewing our current H visa requests in light of the new prevailing wage practice and we anticipate being able to move forward in most cases. ISO advisors will reach out to you to discuss the status of any current H visa requests, but if you have an urgent question, please feel free to reach out to us in the meantime.

Q: Are there any other benefits of the UW not requiring a prevailing wage determination outside of the speedier timeline (which is excellent)? Any drawbacks?

A: Aside from the speedy timeline, which is a huge benefit, this change promotes equity between different titles and different schools in terms of hiring timeline. This practice will also support hiring and retention. We do not see any drawbacks that would outweigh the immense benefits.

# TN CANADIAN & MEXICAN PROFESSIONALS



# WHAT IS A TN?

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A Canadian or Mexican national entering as a professional under the U.S./Mexico/Canada Agreement (formerly NAFTA).

Can be processed directly at the border (for Canadians) or the U.S. consulate (for Mexicans) OR filed with USCIS.

Filing with USCIS requires a visa request to ISO, but processing at the border or consulate does not.

[More information on TN professional workers](#)

# TN ELIGIBLE TITLES

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- No “dual intent” (not compatible with permanent residence, so not appropriate for professorial appointments)
- Best for temporary appointments:
  - Postdoctoral Scholar
  - Acting Instructor
  - Lecturer Full-Time Temporary
  - Acting Assistant Professor
- Doesn't allow physician patient care

Some staff positions are also eligible for TN sponsorship; [contact UWHR](#) to discuss.

# UNIQUE FEATURES OF TN STATUS

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- TN status is employer- and job-specific
- Does *not* require a prevailing wage determination or Labor Condition Application
- Does not require a petition to USCIS (except in-country changes of status or extensions)
- Position must be a [USMCA Occupation](#)
- Period of stay: Up to 3 years, renewable indefinitely
- TD spouse not eligible for work authorization

# E-3 Australian Professionals

# WHAT IS AN E-3?

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An “Australian Treaty Worker” requiring a post-secondary degree.

A lot like H-1Bs: Must be sponsored by a specific employer, and terms and conditions of employment must be reported to the DOL and (sometimes) USCIS

[More information on E-3 treaty workers](#)

# E-3 ELIGIBLE TITLES

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- No “dual intent” (not compatible with permanent residence, so not appropriate for professorial appointments)
- Best for temporary appointments:
  - Postdoctoral Scholar
  - Acting Instructor
  - Lecturer Full-Time Temporary
  - Acting Assistant Professor

Some staff positions may be eligible for E-3 sponsorship; [contact UWHR](#) to discuss.

# UNIQUE FEATURES OF E-3 STATUS

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- E-3 status is employer, location- and job-specific
- Requires Labor Condition Application, but no petition to USCIS (except in-country changes of status or extensions)
- Can be processed at U.S. consulate abroad instead of through USCIS
- Period of stay: Up to 2 years, renewable indefinitely
- E-3D spouse may apply for work permit
- Change of employer is harder with E-3 than with H-1B

# F-1 & J-1 STUDENT TRAINEES



# ELIGIBLE TITLES FOR TRAINEES

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- No “dual intent” (not compatible with permanent residence, so not appropriate for professorial appointments)
- Best for temporary appointments:
  - Postdoctoral Scholar
  - Acting Instructor
  - Lecturer Full-Time Temporary
  - Acting Assistant Professor

REMEMBER:

- **Professorial ranks** must change to H-1B as quickly as possible
- **All other employees** must exhaust trainee eligibility before changing to H-1B

[More information on F-1 and J-1 Trainees](#)

# UNIQUE FEATURES OF F-1 “OPTIONAL PRACTICAL TRAINING”

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- Available to F-1 students graduating from U.S. schools
- Processed through international students office and USCIS, **NOT ISO**
- Initial OPT up to 12 months; STEM OPT up to another 24 months
- Evidence of OPT is an EAD card
- Employment must provide training in the student's field of study
- For STEM OPT, employer must complete an I-983 Training Plan

# UNIQUE FEATURES OF J-1 “ACADEMIC TRAINING”

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- Available to J-1 students graduating from U.S. schools
- Processed through international students office and SEVIS, **NOT ISO**
- Evidence of AT is a modified DS-2019 and letter from the school
- Academic Training is not processed through USCIS; students do not receive an EAD card
- Initial academic training up to 18 months; postdoctoral academic training up to an additional 18 months
- Does not allow clinical activities

# EMPLOYMENT AUTHORIZATION DOCUMENTS (EADs)

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- Certain foreign nationals may apply for an EAD
- Most EADs provide unlimited employment authorization within the validity dates on the card
- EAD holders may include, but are not limited to:
  - Asylees/refugees
  - Temporary Protected Status (TPS)
  - J-2 dependents of J-1 Exchange Visitors
  - Applicants for adjustment of status
  - Many other classifications



# PERMANENT RESIDENCE

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- UW sponsors most professorial faculty for permanent residence
- Once approved, permanent residence is documented by a “green card”
- Provides unlimited authorization to work in the U.S. in position or field of choosing



- **If ISO receives visa request for a position eligible for permanent residence sponsorship, we will contact you to start the process.**

# Q & A

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Q: Do we still need to see new SSNs for Homeland Security proof of employment?

A: It sounds like you're asking about I-9 verification. Check out the [M-274 I-9 manual](#) and [contact the ISC](#) with any questions.

Q: Do the appointments have to be of a certain duration?

A: Some appointments at UW have a minimum duration, such as Postdoctoral Scholars. Check our [Academic Titles and Ranks](#) page on the OAP website.

Q: Will Interfolio ever be used to ask about eligibility to work in the US? I know some applicant tracking systems can do that. It can be an awkward question when the applicant doesn't clearly answer when asked and you have to do multiple follow-ups.

A: We are not aware of any plans to do this in the short-term, but we can ask our colleagues who work with Interfolio if this is being planned.

# RESOURCES

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- [ISO webpage](#)
- [Visa content on OAP blog](#)
- [OAP Training and Administrators Forum Archive](#)
- ISOcontacts mailing list
- OAP mailing list
- [acadvisa@uw.edu](mailto:acadvisa@uw.edu)