

# UW VISA BASICS 1

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Overview – Visa Types  
09/27/2024





# **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



# BEFORE WE BEGIN...

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- ▶ Not everyone needs visa sponsorship
- ▶ Not everyone is eligible for visa sponsorship
- ▶ Not all appointments/employment relationships 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?

## 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 ON

## **Scholar:**

- Country of origin
- Whether they're in the U.S.
- Current visa status
- Previous visa history
- Highest degree
- Source of funding

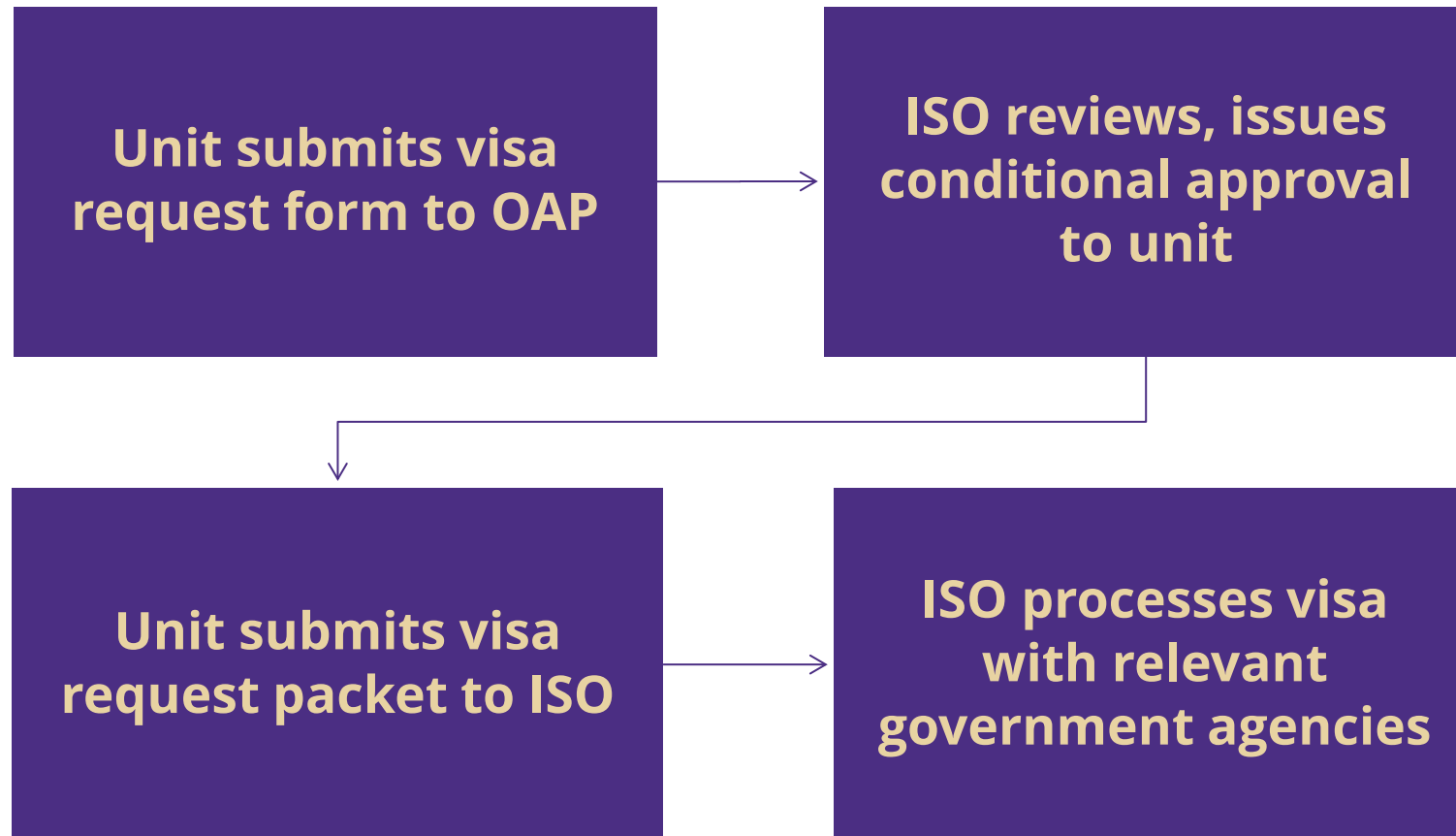
## **Employment/Appointment:**

- Academic personnel or staff
- Track
- Minimum requirements
- Paid or unpaid
- FTE
- Duties

**UW sponsors visas for full-time academic personnel titles, and full-time permanent staff titles identified by UWHR.**

**Generally, visa sponsorship dates must match appointment dates.**

# VISA REQUEST PROCESS



Come to our  
**UW Visa Basics 2**  
training on  
**October 25**  
for more process  
information!



# **J-1 EXCHANGE VISITORS**



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# 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 or staff employment

# UNIQUE FEATURES OF J-1 STATUS

- 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**

- **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 Office of Global Affairs, OR
  - Approved protected leave request from OAP

# **LIMITATIONS OF J-1 STATUS - Time**

- **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**



## Q & A

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**Q: Can a J-1 exchange visitor have two positions adding up to 100%, e.g. postdoc scholar and postdoc scholar-fellow?**

A: UW visa sponsorship generally requires a single full-time position. The only exception might be postdocs who are teaching under the Postdoc Teaching Policy, in which case units would have to notify ISO so that we can add “teaching” as an activity on their DS-2019 before they can start in the associated Teaching Associate position.

**Q: Do you have a template or examples you can share for the cultural exchange? That is new for us.**

A: Please see <https://ap.washington.edu/ahr/visas/admin-resources/j1/eligibility-requirements/j1-cultural-exchange-requirement/>.





# **H-1B SKILLED WORKERS**

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# WHAT IS AN H-1B?

**“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, all tracks**
- **Permanent, full-time staff titles identified by UWHR**
  - F-1 OPT holders must exhaust that eligibility before changing status to H-1B

# UNIQUE FEATURES OF H-1B STATUS

- **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)
- **USCIS filing fees of up to \$3765**
- **USCIS processing times without "premium processing" can take 3-12 months**
- **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)**

## Q & A

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**Q: Can the pay be at the UW minimum for a given job title and meet the pay requirement?**

A: It depends on the case! For unionized positions this is usually not an issue, but UW salary minimums for faculty are often below DOL's prevailing wage data. Please always reach out to ISO if you have a specific case in mind.

**Q: Is the prevailing wage determination still required?**

A: UW used to require a prevailing wage determination (PWD) from the Department of Labor (DOL) in most situations; that often added 6-7 months of processing time. In October of last year, the Provost decided that UW will no longer get a PWD from DOL for H-1B sponsorship. ISO now performs a prevailing wage self-determination instead of going through DOL. ISO will still obtain a PWD from DOL for faculty positions where necessary for permanent residence sponsorship.

See <https://ap.washington.edu/ahr/visas/admin-resources/h1b/h1b-eligibility/wage-requirements/> for more information.





# **TN CANADIAN & MEXICAN PROFESSIONALS**

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# 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
- **Also used for many staff titles**
- **Doesn't allow physician patient care**

# UNIQUE FEATURES OF TN STATUS

- 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 or USCIS filing fees (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**

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# 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
- Permanent, full-time staff titles identified by UWHR

# **UNIQUE FEATURES OF E-3 STATUS**

- **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**



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# ELIGIBLE TITLES FOR TRAINEES

- 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
- **Also compatible with staff employment**

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

## REMEMBER:

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

# **UNIQUE FEATURES OF F-1 “OPTIONAL PRACTICAL TRAINING” (“OPT”)**

- > **Available to F-1 students graduating from U.S. schools**
- > **Processed through international students office at degree-granting institution 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” (“AT”)**

- > Available to J-1 students graduating from U.S. schools
- > Processed through international students office at degree-granting institution and SEVIS, NOT ISO
- > Evidence of AT is a modified DS-2019 and letter from the school
- > AT 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)

- 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



# EAD EXTENSIONS

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- > **Some EAD extensions authorize continued employment, but not all**
- > **Timely filed EAD extensions that confer employment authorization include:**
  - Stem OPT
  - Pending asylum or "Adjustment of Status"
- > **Initial EAD applications never authorize employment; you have to wait for the EAD to be approved and received by employee**
- > **For more information, see Form I-9 and Work Authorization**

# PERMANENT RESIDENCE

- > 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
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- ▶ 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: Any advice on whether an Australian postdoc candidate should go the E-3 or J-1 route?**

A: We would probably recommend the J-1 because there's less of a compliance burden, since the J-1 doesn't have to go through the Department of Labor. That would also mean less work/documentation to assemble for the unit.

**Q: I've yet to see a J-1 student who's already in the U.S., they all seem to be F-1. Are J-1 students uncommon? So**

A: The F-1 visa is more common than the J-1 for students. Certain funding sources (such as Fulbright funding) might require a student to be on a J-1 visa; on the other hand, J-2 spouses are eligible to work while F-2 spouses aren't.



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# RESOURCES

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[ISO Visa Guidance for Unit Administrators](#)



[Visa content on OAP blog](#)



[OAP Training and Administrators Forum Archive](#)



[UWHR Staff Visa Sponsorship](#)



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