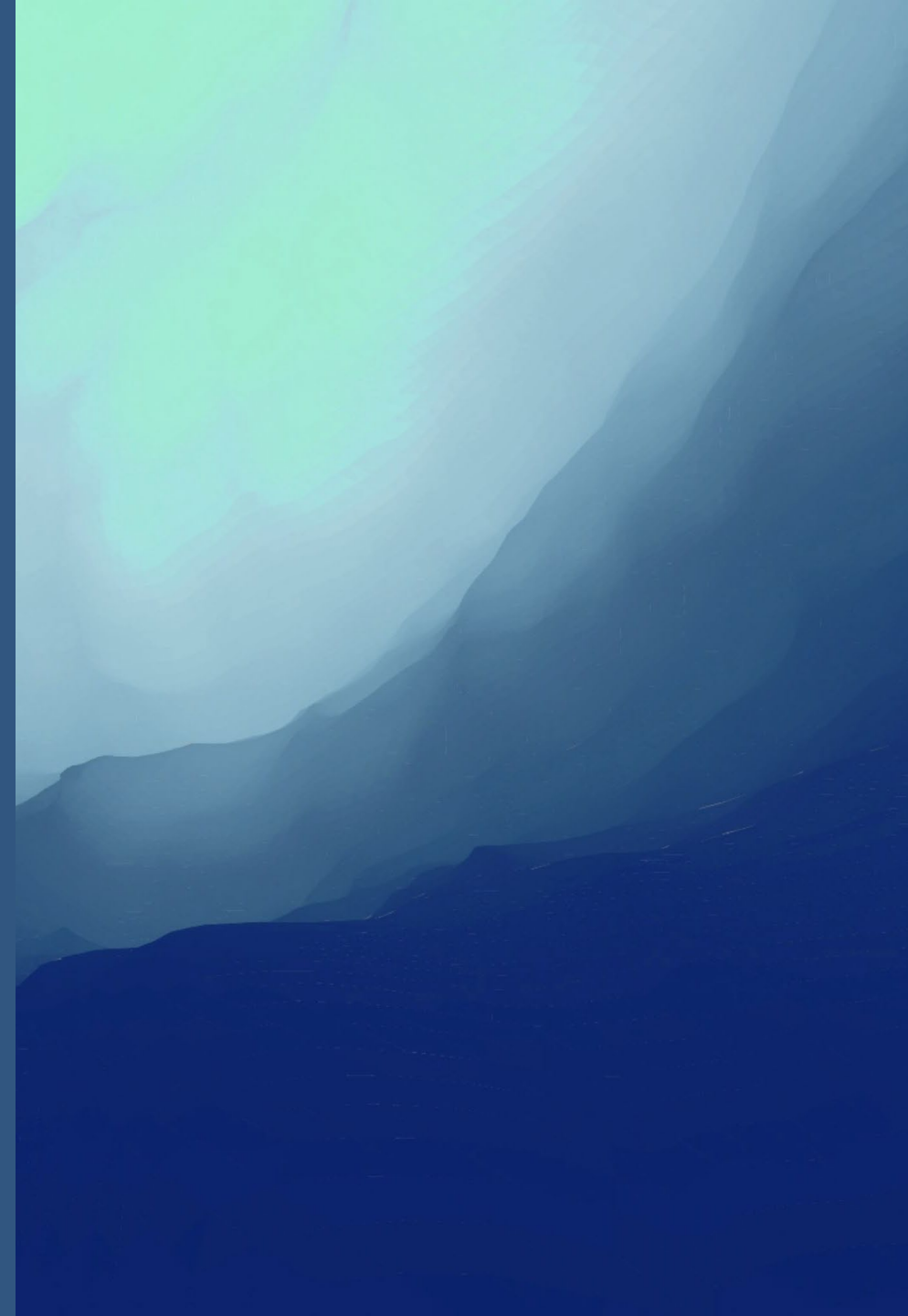


HIRING NONIMMIGRANT EMPLOYEES AT TEMPLE UNIVERSITY

International Student and
Scholar Services



ISSS Contact Information 215-204-7708 issss.temple.edu

Martyn J. Miller, Ph.D., Assistant Vice President, Office of Global Engagement
mjmill@temple.edu 215-204-4682

Joan McGinley, Director joanw@temple.edu 215-204-1272
Answers immigration questions if Primary is not available; J-1 Scholars

Sharon Loughran, Immigration Services Advisor sharonl@temple.edu 215-204-3805
H-1B, E-3, TN and O-1s

US Government Agencies to Know

U.S. Department of Homeland Security (DHS): DHS combined 22 different federal departments and agencies into a unified, integrated cabinet agency in 2002

US Citizenship and Immigration Service (USCIS): Holds authority over all aliens in the United States, including international scholars and employees in J and H-1B visa status

US Department of Labor (DOL): Holds authority over Labor Condition Application (LCA) needed for H-1B Petition

US Customs and Border Protection (CBP): Responsible for admitting internationals into the US

US Immigration and Customs Enforcement (ICE): Enforces federal laws governing border control, customs, trade and immigration to promote homeland security and public safety; oversees SEVIS, the software system used for F and J students/scholars

US Department of State – Authority over issuances of all US non-immigrant and immigrant visas; Waiver Office handles J-1 Waivers and Advisory Opinions

ISSS only has authority for immigration matters

ISSS advisors may only assist with immigration matters. Our office is not authorized to assist with the following:

- Determine job/appointment title
- Taxes (HR/Payroll Management)
- Obtaining Temporary SS#s (HR), TU email or TU ID#s
- Onboarding including I-9 Forms (HR/Payroll Management)
- TU Sponsorship for Permanent Residence [green card] – Department Chair/Dean must contact Karen Ward in HR for University Positions or TUHS HR
- Employment Verification Letters

USCIS Increases Some Filing Fees as of April 1, 2024

Premium Processing Fee increases from \$2500 to \$2805 on February 26, 2024

H-1B I-129 filing fee remains the same

O-1 Petitions filed by nonprofits will increase to \$530

E-3 and TN Petitions will increase from \$460 to \$510

I-539 filing fee (change of status and student reinstatement) will increase depending on whether the petition is filed electronically or submitted as a paper filing to \$420 and \$475, respectively.

I-765 (EAD such as F-1 OPT or J-2 Work Authorization) filing fees will increase depending on whether the petition is filed electronically or submitted as a paper filing to \$420 and \$475, respectively.

DestinyOne Training Video

ISSS has prepared a [DestinyOne Training Video](#) to assist you with ISSS immigration applications.

F-1 and J-1 Students



iss.temple.edu/hosting-departments/information-departments/hiring-foreign-nationals-temple-university/practical-training-f%E2%80%91and-j-1-students

F-1 Practical Training

Practical training is a legal means by which F-1 students can obtain employment in areas directly related to their academic field of study. Students, in general, must have completed one academic year (approximately nine months) in F-1 status and must maintain their F-1 status to be eligible for practical training. There are two types of practical training:

1. Curricular Practical Training
2. Optional Practical Training

F-1 Curricular Practical Training

The regulations state that a student may participate in a "curricular practical training program" that is "**an integral part of an established curriculum**" and "**directly related to the student's major area of study.**"

They define curricular practical training as "alternate work/study, internship, cooperative education, or any other type of required internship or practicum which is offered by sponsoring employers through cooperative agreements with the school."

F-1 Optional Practical Training

Optional Practical Training (OPT) must be authorized by the U.S. Citizenship and Immigration Services (USCIS) based on a recommendation from the designated school official (DSO) at the school which issued the I-20 to the student. Form I-20 is a government document which verifies the student's admission to that institution.

Students are eligible for 12 months of OPT for each higher degree level.

Students who obtain a degree in Science, Technology, Engineering, and Mathematics (STEM) may be eligible for an additional 24 months of OPT, depending on whether their employer is enrolled in the e-verify program

F-1 Optional Practical Training

Pre-Completion OPT can be used by F-1 students prior to the completion of their studies. Students can request to work:

- part-time, a maximum of 20 hours per week, while school is in session
- full-time during vacation when school is not in session or
- full-time/part-time after completing all course requirements for the degree excluding thesis or equivalent.

Post-Completion OPT can be authorized for full time employment after completion of the course of study.

F-1 Optional Practical Training

The types of employment allowed during the initial 12-month period of OPT include the following:

- **Paid employment**

Students may work part time (at least 20 hours per week when on post-completion OPT) or full time in a job related to their field of study.

- **Unpaid employment**

Students on the initial 12-month OPT may work as volunteers or unpaid interns, where this does not violate any labor laws. The applicant may not "volunteer" for a position that is normally paid. The work must be at least 20 hours per week. These students must be able to provide evidence from the employer that the student worked at least 20 hours per week during the period of employment.

- **Multiple employers**

Students may work for more than one employer, but all employment must be related to the student's degree program.

- These requirements do not apply to the STEM OPT Extension

Work Authorization

Employment Authorization Document (EAD): Students who have received OPT permission will be issued an EAD by the USCIS.

Employers should note that the average processing time for USCIS to issue the EAD is two or three months, though student can now request premium processing with an additional fee

Students may begin employment only after they receive the EAD which will indicate the start and end dates of employment.

Students who have a pending STEM extension application can continue working for up to 180 days while the application is pending.

Curricular Practical Training (CPT) may be authorized by the institution (not by USCIS) for F-1 students participating in curricular-related employment such as cooperative education, work study, practicum and internship programs.

J-1 Student Academic Training

International students on J-1 visas are eligible for up to 18 months of work authorization, called academic training for the duration of their academic program. No additional time is given to higher levels of study

Post-doctoral students may apply for an additional 18 months of Academic Training.

Some J-1 program participants are also allowed to work part-time during the academic program.

Students should consult with the Responsible Officer (RO) or Alternate Responsible Officer (ARO) at their institution.

Employer Does Not Need to Complete a D1 Application for CPT / OPT / AT

The Hiring Department will not need to complete an application in DestinyOne when employing a foreign national who has Curricular Practical Training, Optional Practical Training or Academic Training.

The student must complete an I-9 with HR within 3 days of beginning employment.

Continuing Employment after the Practical/Academic Training Period

Federal regulations require that students terminate their employment at the conclusion of the authorized practical or academic training.

However, students on an F-1 visa, or students on a J-1 visa who are not subject to a two-year home residency requirement, may continue to be employed, if they receive approval for a change in visa category-usually to an H-1B.

The student must have a minimum of a bachelor's degree to qualify for H-1B status. Note that the job must require at least a bachelor's degree in a specific field.

H-1B Specialty Occupation Workers



isss.temple.edu/faculty-staff-and-researchers/international-employees/h-1b-specialty-occupation-workers

Department of State Stateside Visa Renewal Pilot Program

From January 29 to April 1, 2024, the Department of State will run a pilot program to resume domestic visa renewal for H-1B applicants who are renewing an H-1B visa that was issued by:

- Mission Canada with an issuance date from January 1, 2020, through April 1, 2023; or
- Mission India with an issuance date of February 1, 2021, through September 30, 2021;
- ... and who meet all other additional conditions specified by the pilot program notice. H-1B visa holders whose visas were issued in countries other than Canada or India or issued in those countries outside the specified issuance dates are not eligible to participate in the pilot program. H-4 dependents are likewise not eligible to participate in the pilot.

J-1 Two-Year Home Residency Requirement

Any H-1B Applicant who has **ever** held J-1 status must submit an Advisory Opinion to the Dept of State even if her/his DS-2019 Form and/or J-1 visa stamp indicates “Not Subject”. USCIS has updated their Policy Manual indicating that the preliminary endorsements on DS-2019 Forms and Visa Stamps are not a clear indicator if someone is subject. Only the Department of State Waiver Office and USCIS can make that decision.

If the applicant’s DS-2019 Forms/J-1 visa stamps indicate “Subject”, most likely the applicant must apply for a waiver of the Two-Year Home Residency Requirement.

J-1 Should Not Apply for Waiver Without First Speaking with ISSS

ISSS Cannot Extend J-1 Program Once The Department of State Recommends a J Waiver

Department Should try to extend J-1 Program to full five years going into the 4th and 5th years so that J-1 can apply for a waiver during the 4th year.

Waiver applications can take a year or longer to process. ISSS cannot extend a J-1 Program beyond the 5th year.

Transition from J Scholar to H-1B

| Years 1 & 2 | Year 3 | Year 4 | 3 Months Prior to J-1 Program End Date |
|--|--|--|--|
| July 1, 2024 to June 30, 2026 | July 1, 2026 to June 30, 2027 | July 1, 2027 to June 30, 2029 Apply for waiver by January 2028 if J-1 has DS-2019 valid until June 30 2029 | |
| Decide if the program is a good fit between J-1 Scholar and Department | If Dept extends DS-2019 to 5th Year Maximum, J-1 can apply for waiver once DS-2019 is extended. Do not apply for a waiver if DS-2019 is only extended through the 3rd or 4th Year. | J-1 should apply for a waiver no later than the middle of 4th year but only after J program has been extended for full 5 years | Employer should submit H-1B Petition at least 3 months prior to the end of J Program but only if J-1 Residency Requirement has been satisfied or if J-1 has Advisory Opinion indicating s/he is not subject to the Requirement |

H-1B Processing Fees

Departments are required to pay mandatory processing fees associated with H-1B employment:

- \$460 Application fee is required for every H-1B Petition
- \$500 “anti-fraud” fee is required for New Employment and Transfer Petitions
- If expedited processing is required for Business Purposes, Dept must pay the \$2500 Premium Processing fee (\$2805 as of 2/26/24); if expediting is due to personal reasons like travel for a wedding, H-1B can be asked to pay the Premium Processing fee.
- \$2500 (\$2805) is in addition to the \$460 regular processing fee.
- Hiring departments may also choose, but are not required, to pay the current \$370 fee for applications of dependents of employees in H-1B status

Either complete multiple G-1450 Forms or request separate checks...the H-1B petition will be rejected if the fees are combined in one G-1450 or check. Either use all G-1450 Forms or all checks.

When Can H-1B Employment Begin?

- **H-1B New Employment/Consular Processing Petitions (Abroad)**
 - Once USCIS approved our H-1B petition and ISSS receives the ORIGINAL Approval Notice from USCIS, ISSS will mail the original Approval Notice to applicant abroad
 - Applicant schedules a visa interview with US Consulate abroad (Canadian citizens do not need a US visa stamp)
 - Applicant receives H-1B visa stamp
 - Applicant enters the US in H-1B status
 - Once HR clears applicant for employment, s/he can begin working
- **H-1B New Employment/Change of Status Petitions (In the US)**
 - Employment may not begin until ISSS receives the ORIGINAL Approval Notice
 - HR must clear applicant for employment

When Can H-1B Employment Begin?

- **H-1B Transfer Petition**

- ISSS must receive notice that USCIS has received our H-1B Petition before applicant can begin employment with Temple
- HR must clear applicant for employment
- Note that many employees do not wish to resign from their current employer until the Temple petition has been approved, so Department may wish to Premium Process the petition

- **H-1B Extension Petitions**

- Employee may continue employment for 240 days past her/his current H-1B Approval Notice expiration date while waiting for approval of the new petition provided USCIS receives the H-1B petition before the current TU H-1B expiration date and H-1B does not travel outside the US. If employee will travel abroad, Premium Processing may be required.

Best Practice is to submit a complete H-1B Application as soon as possible!

Application Process for Employment in H-1B Status

Please review USCIS' Estimated Processing Times when choosing a Requested Start Date. Current estimated time required to process an H-1B petition without Premium Processing is between 2-3 months. iss.temple.edu/faculty-staff-and-researchers/international-employees/h-1b-applicants/h-1b-specialty-occupation-workers/estimated-employment-start-times

Most initial H-1B petitions will require Premium Processing (\$2500 (\$2805) in addition to \$460 and \$500 fees)

H-4 Dependents

Dependents outside the US: All dependents who plan to enter the US in H-4 status must apply for an H-4 visa stamp at a US Consulate outside the US (except Canadian nationals). Applicant should not submit a Form I-539 for Dependents who are not currently holding a non-immigrant status (i.e. H-4, J-2, F-2) in the US.

Dependents holding H-4 status or another non-immigrant status in US: All dependents of the applicant who are already in the US and need to extend H-4 status or change status to H4 must complete and sign an I-539

iss.temple.edu/faculty-staff-and-researchers/international-employees/h-1b-applicants/h-4-dependents

Essential Websites for Departmental Administrators:

- iss.s.temple.edu/hosting-departments/information-departments/tools-departments
- iss.s.temple.edu/hosting-departments/information-departments/essential-information-departments

Optional Practical Training to H-1B Timeline

02/14/2024

Applicant can begin OPT process with school that issued student's Form I-20 up to 90 days prior to and no more than 60 days after meeting all degree requirements

Student is Expected to Meet All Degree Requirements on 05/15/2024 so she requests OPT dates from 6/1/24 to 05/31/25


Student can Premium Process OPT application for \$1500 with 30 day turn around

Employment Offer Letter Can Be Issued with a start date 1) as of or after the OPT start date (6/1/24) and 2) no more than 6 weeks prior to the date that USCIS received OPT application as they need time to adjudicate application and issue EAD

07/05/2024

Applicant receives EAD with employment authorization dates from 7/1/2024 to 6/30/2025; Applicant can begin working once HR clears her for employment. I-9 must be completed within 3 days of beginning employment

01/01/2025

Dept should start working on H-1B Application in DestinyOne – we cannot begin the LCA process until 6 months prior to the requested H-1B start date of 7/1/25 

07/01/2025

Hopefully Employee has been approved for H-1B and can begin working in H-1B status. She will need to recertify her I-9 no later than 3 days into her H-1B employment

Items Needed From Department:

- Required Fees
- Completed Controlled Technology Form (visit our website for most recent version)
- Copy of Job Offer Letter if Faculty Appointment; Nina Campellone in Graduate School's OPA office will upload Postdoctoral Fellow Research Associate Appointment Letter; HR must email copy of job offer letter to sharonl@temple.edu
- Department should email completed Actual Wage Form for Faculty and Postdoctoral Fellow Research Associate Appointments to sharonl@temple.edu; HR must email completed Actual Wage Form to sharonl@temple.edu for HR-Hires
- Department should upload a job description for Faculty and Postdoctoral Fellow Research Associate Appointments; HR should email the official job description to sharonl@temple.edu for HR-Hires

H-1B Wage-Related Issues

The **actual wage** is the amount being paid to all other TU employees with similar experience and qualifications for the specific position at the particular laboratory, center or department.

The **prevailing wage** is the rate being paid in the greater Philadelphia area for the same occupation. If employment will take place at more than one site, we must determine the prevailing wage for all locations, including a home address if employee will work remotely for any period of time.

The H-1B must be paid the higher rate of the prevailing or actual wage.

Work Sites for LCA

Temple must list every possible work site for an H-1B employee, including the home address of the applicant as of the H-1B start date if remote work is permitted. We must include each work location on our LCA. This includes National Labs, Outside Hospitals/TUHS branch locations and outside institutions / research locations.

Discuss work locations with PI/Supervisor and H-1B applicant before listing work sites in H-1B application.

Note that the Prevailing Wage may be higher if the work site (including applicant's home address) is outside of the Philadelphia Metropolitan Statistical Area.

Additional/Subsequent work locations not listed on the LCA may require an H-1B Amendment petition.

Contact Sharon Loughran at 215-204-3805 or sharonl@temple.edu if you have questions about work sites before you submit the H-1B Application.

Items Needed From H-1B Applicant:

- Copies of Valid Passport
- Copies of US Visa stamps
- Copy of most recent I-94 if inside the US
- Current CV
- Copies of 3 most recent paychecks to establish current employment in the US ONLY
- English-language translations of all diplomas and for all degrees
- Academic Credentials Evaluation if degree needed to meet job requirement was earned outside US
iss.temple.edu/faculty-staff-and-researchers/essential-links/credential-evaluations
- Copies of all Immigration Documents
- Copies of USCIS Documents such as Receipt/Approval Notices, EADs, etc
- Copy of any license needed for this position
- For applicants who hold or have ever held J status, one of the following:
 - Proof the J-1 Two Year Home Residency Requirement was Fulfilled
 - Advisory Opinion issued from the US Department of State in the past six months declaring that H-1B Applicant is not subject OR
 - Waiver Recommendation from US Dept of State / Form I-612 from USCIS

Steps ISSS Takes After Receiving Completed H-1B Application

- Sends the Controlled Tech Form to Dwayne King in the Office of the Vice Provost for Research (OVPR)
- Begins the Labor Condition Application (LCA) Process with Dept of Labor (DOL) – this takes a minimum of 7 days
- Emails a copy of the certified LCA to the Applicant and the Hiring Department once LCA is certified by DOL and all LCA posting notice is complete
- Begins working on Form I-129 and supporting documentation once Applicant confirms the accuracy of the LCA. This step of the process may take several business days.
- Attaches checks or G-1450 Forms to Petition and submits it to USCIS via UPS when H-1B Petition is Complete and OVPR has confirmed no Controlled Tech license is needed. If petition is being premium processed, we expect a response from USCIS within 15 days of USCIS' receipt of petition. The response can be an approval notice, a request for further evidence, or an intent to deny the petition. If petition is filed with regular processing, we hope USCIS adjudicates the petition within 2-4 months.

The hiring department, Human Resources and the H-1B applicant will be emailed when ISSS receives the Receipt Notice and Approval Notice from USCIS.

H-1B Amendment Petitions

The Department must notify ISSS at least 30 days in advance of ANY changes in the H-1B applicant's employment PRIOR to the change happening so that ISSS can determine if notification to the proper government agency is required.

Examples of this are positions moving to a “Senior” level, faculty advancing in rank, and a change in position with a new “T” level.

These are just examples...ISSS will determine each change in employment on a case-by-case basis.

Time Limits on H-1B Status

- ISSS can request 3 years in H-1B Petitions for HR-Hired positions. ISSS will request an H-1B for Post Docs and Faculty according to the end date on appointment letter.
- The maximum total stay in H-1B status is 6 years. This includes all time in H-1B or L-1 status, regardless of the employer.
- Ultimately, USCIS determines the length of time they will grant H-1B work authorization.

Special H-1B Status Beyond Six Years

- Recapturing Time Spent Outside the US
- Resetting the Six Year H-1B Clock
- H-1B Extensions Based on Green Card Application:
 - *AC21 § 106(a): Labor cert or I-140 filed a year or more ago*
 - *AC21 § 104(c): Aliens chargeable to oversubscribed countries*

It is CRITICAL that the H-1B files a Green Card Application no later than the beginning of her/his 5th year in H-1B status if you wish to employ H-1B past the 6th year maximum.

isss.temple.edu/faculty-staff-and-researchers/international-employees/h-1b-applicants/special-h-1b-status-beyond-six-years

Working for TU Outside the US

Foreign nationals who are working for Temple University can only hold nonimmigrant status (such as H-1B, TN, O-1, E-3) while residing in the US. They are no longer subject to US Immigration Law while residing in another country.

Departments that may be involved in the decision to permit employment from outside the US are University Counsel, the Office of the Vice President for Research (OVPR) and Faculty Affairs as there can be Tax, Labor Law and Controlled Technology Issues.

The Department Head must consult Nancy Hinchcliff in HR before permitting an employee to work for TU abroad. Ms. Hinchcliff is responsible for coordinating with relevant departments.

Working Outside the US If TU is Sponsoring Green Card

Any employee who has or intends to apply for US Permanent Residence (Green Card) should consult with a qualified immigration attorney before the Department Head reaches out to Nancy Hinchcliff in HR.

If Temple University is sponsoring the employee for Permanent Residence, the Department Head must consult with their HR Generalist as well as the immigration attorney handling the Permanent Residency application.

H-1B End of Employment

The Department of Labor's Administrative Review Board holds that an employer must pay the required salary to a terminated worker after the date of termination, until the employer can prove that it notified USCIS of the H-1B's termination.

Departments MUST contact ISSS AS SOON AS THEY KNOW that an H-1B position will end, either through voluntary or involuntary means, as ISSS must withdraw the H-1B petition from USCIS.

Steps department must take after terminating employment prior to H-1B Expiration Date can be found at iss.temple.edu/hosting-departments/information-departments/essential-information-departments/end-employment-issues

TN Trade NAFTA: Canadian and Mexican Nationals



isss.temple.edu/faculty-staff-and-researchers/international-employees/trade-nafta-tn-status

Trade NAFTA (TN)

The TN category was developed as part of the North American Free Trade Agreement (NAFTA), to facilitate the entry of Canadian and Mexican citizens to the US to engage in professional business activities on a temporary basis.

- TNs can only work for the organization that petitioned for their services
- TN status does not have Dual Intent and is therefore not suitable for someone who will or already has filed for permanent residency (Green Card)
- Not all positions are on the TN schedule – see [isss.temple.edu/faculty-staff-and-researchers/international-employees/trade-nafta-tn-status/requirements-professional-job-series-listfor details](https://isss.temple.edu/faculty-staff-and-researchers/international-employees/trade-nafta-tn-status/requirements-professional-job-series-listfor%20details)
- TN must have required degree and license, if applicable

TN IS Job Specific

TN status holders may change jobs, or have more than one job, **but since TN status is employer and employment-specific, DHS must approve all new employment prior to its commencement.**

There are two options for adding new or additional employers. New employment cannot begin until either

1. the TN departs and reenters the United States showing new employment to US Customs and Border Protection Officer OR

2. USCIS approves a TN Amendment Petition and the petition start date is reached

Some Job Categories Available for TN Status:

Scientist: Covers a broad range of scientific fields that may be useful to academic and research institutions

Research Assistant: Must be entering to conduct research for a postsecondary educational institution.

Medical/Allied Professionals: Encompasses many occupations that are useful to universities and medical institutions

Engineer

Dentist

Psychologist

Teacher: Since the TN applicant must show that their stay is temporary, the TN category is **not recommended for tenure-track faculty** who plan to apply for lawful permanent residence.

TN Processing at US Border:

- Original TN Support Letter signed by ISSS and Copy of NAFTA TN Occupation List showing category requested
- Proof of Canadian or Mexican citizenship
- TN Visa Stamp from US Consulate (Mexican Nationals Only)
- US \$50 Fee
- Copy of Temple University Offer/Appointment Letter
- Original Diploma needed for Temple Position; helpful to have original of all diplomas
- Original Translations of Any Non-English Language Diplomas
- Original Transcripts for All Degree Programs
- Original Translations of Any Non-English Language Transcripts
- Academic Credentials Evaluation if degree is from an institution outside of Mexico, Canada or the US (possible to encounter difficulty at the US Border if no Evaluation even when degree is from Mexico / Canada)
- Current Curriculum Vitae (Résumé)
- Copy of any required license
- Copies of immigration documents (i.e. I-94, Forms I-20, Forms DS-2019, I-797 Approval Notice(s))
- A statement that the purpose of the entry to the U.S. is temporary. Although this may be set forth in the employer's letter, the applicant should articulate it at the time of admission
- iss.temple.edu/faculty-staff-and-researchers/international-employees/trade-nafta-tn-status/requirements-professional-job-series-list

Border Entry Requirements differ for Mexican and Canadian Nationals

A Mexican citizen must obtain a TN visa stamp from a U.S. consulate

A Canadian citizen does not require a TN visa stamp

Time, Duration and Numerical Limitations

- Can be admitted to the US up to 3 years
- Extensions of stay are also granted in up to 3-year increments.
- No cumulative total limit in TN status
- Status can be renewed each year indefinitely, provided that the stay remains temporary in nature. This can get tricky if someone is in the US for many years, however
- No annual limit on the number of Canadians or Mexicans granted TN status

No Fees Required For Department

The hiring department does not need to pay any visa or application costs

Nonimmigrant visa application processing fee -
Each applicant for a visitor visa must pay a nonrefundable nonimmigrant visa application processing fee and possibly a visa issuance fee –
Department may reimburse the TN applicant for these fees but it not legally required to do so

J Exchange Visitors



iss.temple.edu/faculty-staff-and-researchers/j-1-exchange-visitors

J-1 status is not appropriate if the scholar will:

- Engage in any position that does not require the minimum of a Bachelor's degree
- Hold tenure-track or tenured faculty appointments
- Enter the US to participate in a medical residency program or engage in clinical activities
- Pass through the formal recruitment and hiring process with Temple University's HR Dept; [Nonimmigrant Worker \(H-1B\)](#) status is appropriate for such cases
- Pursue US Permanent Residency (Green Card)

Hybrid Regulations for J-1 Scholars

As of January 1, 2024, all J-1 Exchange Visitors may participate remotely no more than 40% of their program (e.g., two out of five days per week).

J-1 Categories

Professor

- For teaching, observing, lecturing
- 3-week minimum, 5-year maximum with 24-month bar on repeat participation

Research Scholar

- For conducting research, observing, or consulting
- Should hold a minimum of a bachelor's degree
- 3-week minimum, 5-year maximum with 24-month bar on repeat participation

Short-term Scholar

- Lecturing, conducting research, observing, or consulting
- no minimum, 6-month maximum, **no extensions**
- 6-month bar on repeat participation

Student Intern

- Students currently enrolled in and pursuing studies at a post-secondary academic institution outside the US; Research at Temple will fulfill graduation requirements for the home university
- 3-week minimum, 12 month maximum - **no extensions**
- iss.temple.edu/faculty-staff-and-researchers/j-1-research-scholars-professor/prospective-j-1-exchange-visitors/j-1-student-interns

Specialist

- observing, consulting, or demonstrating his/her highly specialized knowledge or skills
- 3-week minimum, 1 year maximum – subject to 12-month bar but not 24-month bar

Items Required for J-1s

You can find a list of Items Needed for a complete J-1 Application on our [website](#)

- [Proof of English Proficiency](#)
- [Proof of Mandatory Health Insurance](#)
- [Proof of Sufficient Funding](#)

Limitations

The maximum period of participation for J Professors and Research Scholars is a five-year period, which starts from the program begin date on the DS-2019.

There is a 24-month bar on "repeat participation" in the J Professor or Research Scholar categories. This means that any scholar who enters the US for any length of time (even one day) in the Professor or Research Scholar categories is prohibited from returning to the US in the J Professor or Research Scholar categories for a period of 24 months

The 24-month bar also applies to J-2 dependents

Limitations

Individuals who have been in the U.S. for more than six months in the previous year (12 months) in any J visa status (including J-2 status) are not eligible to enter the U.S. as a J-1 Research Scholar or Professor for a 12-month period.

- Time spent in the J-1 Short-term Scholar category does not count towards the 12-month bar.
- The 12-month bar applies to both the J-1 principal and any J-2 dependents.
- The 12-month bar does not prevent individuals from returning to the U.S. in any other visa status or in some other J categories such as Short-Term Scholar or Student.
- Visitors who are subject to the 12 Month Bar are not eligible to begin a new program in the J Professor or Research Scholar categories until 12 months have passed since they were in J status actively participating to their program

Two Year Home Residency Requirement

Some J-1 exchange visitors are subject to the U.S. Department of State Two-Year Foreign Residence Requirement INA 212(e) that requires them to return to their home country for two years at the end of their J-1 program.

Reasons that someone is subject:

- [Skills List](#)
- [US or Home Government Funding](#)
- Sponsored by ECFMG for US Medical Training

Grounds for Waiver of the 2 Year Residency Requirement

J-1 should speak with ISSS before applying for a J-1 Waiver from US Department of State

There are four grounds for waiver of the requirement.

- Exceptional hardship to your spouse or a unmarried minor child who is a citizen or permanent resident of the United States (example: J-1's US Citizen child has a serious medical condition that could not be treated in J-1's country)
- Fear of persecution (example: J-1 can demonstrate that, because of her/his race, religion, political opinions, or nationality, s/he would face persecution by their home government if they went back to their country)
- Interest of a United States government agency (Example: If J-1's participation in research or a project sponsored by a US government agency (like DOE) is of sufficient importance to that agency, **it** can apply to Department of State for a waiver **for** the J-1 in **its** interest, not J-1's.
- A "no-objection" statement (not permitted for medical trainees). J-1s embassy in Washington, DC can indicate in a direct letter to the US Department of State that it has no objection to J-1 receiving a waiver, or the foreign ministry in J-1's capital at home can write to the US embassy there. A "no-objection" statement may not lead to a waiver if the Exchange Visitor has received more than \$2,000 in funding from the United States government (so people sponsored by Fulbright are most likely not eligible for a waiver based on a no-objection statement. **This is the most common way to apply for a waiver.**

Differences Between J-1 and H-1B

H-1B is a Working Status - J-1 is for the purpose of exchange: The Department of State and USCIS make a distinction between the H-1B alien who comes specifically to perform services and the J-1 exchange visitor who comes as a participant in an exchange visitor program designed to "promote interchange of persons, knowledge, and skills, and the interchange of developments in the field of education, the arts and sciences," in such a way as to promote "mutual understanding between the people of the United States and the people of other countries." [22 CFR 514.1]

H-1B has Dual Intent which means it's acceptable to file for a green card while holding H-1B status: J-1 status has "Non-Immigrant Intent" which means that the individual in J-1 exchange status is encouraged to depart the US upon completion of his/her objective. It is difficult to apply for a green card while holding J-1 status

Individual can hold H-1B status longer than J-1 Status: While temporary, it allows a maximum period of stay of 6 years, whereas J-1 visiting professors and researchers are admitted for up to 5 years. If someone holding an H-1B has had a combination of a Labor Certification and/or an I-140 (Application for Permanent Resident or "green card") pending for 365 days or more, ISSS can request yearly extensions of H-1B work permission until s/he adjusts to Permanent Resident

H-1B Status Does Not Have the Two-Year Home Residency Requirement, unlike a J-1: An H-1B alien may apply for adjustment of status to permanent resident or for change of status to another nonimmigrant classification, whereas some J-1 aliens are prohibited from such changes because of the 2-year home-country physical presence requirement

Differences Between J-1 and H-1B

- **J-1 status does not require an LCA, unlike the H-1B;** ISSS does not need to prove that Temple is paying the higher of the Prevailing and Actual Wage
- **Issuing a DS-2019 is faster than waiting for an H-1B Approval Notice from USCIS:** Obtaining H-1B status takes more processing time than J-1 status
- **USCIS must approve a petition for H-1B classification before an alien may apply for a visa:** An alien may apply for a J-1 visa stamp at a US Consulate Abroad immediately upon receiving Form DS-2019 from our office
- **There are no application or Anti-Fraud fees associated with the J-1:** A fee is required for an H petition and for extension of stay in H status. There are no application or Anti-Fraud fees associated with the J-1
- **It is much easier for [J-2 Dependents](#) to obtain work permission from USCIS.** [H-4 Dependents](#) cannot apply for work permission until the H-1B primary has submitted an application for US Permanent Residency (green card) to USCIS.

O-1 Extraordinary Ability or Achievement



iss.temple.edu/faculty-staff-and-researchers/international-employees/o-1-extraordinary-ability-or-achievement

O-1 Status

Non-immigrant employment-based visa classification for foreign nationals who can demonstrate the sustained national or international acclaim and recognition for achievements in the science, education, business or athletics.

The O-1 visa category is reserved for those individuals who have risen to the very top of their fields of endeavor and can provide documentary evidence to substantiate this claim.

Employment is position, employer, and date specific:

- The employer must submit a petition that is employer and position specific to USCIS on behalf of the employee
- The foreign national granted O-1 visa classification is authorized by USCIS to only work for the employer, time period and position listed in the petition
- The employee may not begin working before the start date listed in the petition
- The employee must stop working no later than the date authorized in the petition
- If the O-1 wishes to change employer, the new employer must file an O-1 Transfer Petition and is not permitted to employ the foreign worker until it has received approval from USCIS for its O-1 application.
- If the individual works for more than one employer at the same time, each employer must file a separate petition with the USCIS.

Duration of O-1 Visa Classification

- No limit on how long someone may hold O-1 status
- O-1 only has partial dual intent
- Initial authorized period of stay up to 3 years
- Extensions in 1 year increments only
- O-1 must be continuing in the same position or activity

J-1 Two Year Foreign Residence Requirement

The J-1 may be subject to the requirement and still apply for the O-1 visa outside the US – but no Change of Status inside the US

Obtaining O-1 Status

All O-1 Petitions require a \$460 application fee. The \$2500 Premium Processing Fee may be required, depending upon the applicant's circumstances.

Lawyers' Fees can range between \$5000 to \$8000. It is the hiring department's prerogative to pay, or not to pay, any portion of the fees associated with their employee's O-1 petition.

Only Two Law Firms may file O-1 petitions for Temple:

| Firm | Address Address | Phone # |
|--------------------------------------|---|--------------|
| Green and Spiegel | 1524 Delancey Street, 4th Floor Phila, PA 19102 | 215-395-8959 |
| Klasko Immigration Law Partners, LLP | 1601 Market Street, Suite 2600 Phila, PA 19103 | 215-825-8600 |

E-3 Australian Specialty Occupation Workers



isss.temple.edu/faculty-staff-and-researchers/international-employees/e-3-australian-specialty-occupation-employees

General Information Regarding E-3 Status

- Only for Australian citizens
- Very similar to H-1B status
- E-3 Specialty Occupation Workers may be admitted initially for up to 2 years, and extensions of stay may be granted indefinitely in increments not to exceed 2 years (unlike 3 years for an H-1B)
- Job must require at least a Bachelor's degree in a specialized field
- E-3 does not allow for Dual Intent, so inappropriate to file for Green Card in this status. We would recommend a switch to H-1B status if possible
- Unlike many H-4 spouses, E-3 Dependent spouses can apply for an EAD to work in the US. Spousal employment may be in a position other than a specialty occupation, and may be full time, part time or casual work.

Acquiring E-3 status from abroad

- Department submits a completed E-3 Application in DestinyOne. Most aspects of H-1B application are included in the E-3 application, including the need for a completed Actual Wage Form
- ISSS submits a Labor Condition Application (LCA) to the Department of Labor for no more than a two year period
- ISSS forwards completed Controlled Technology Form to OVPR
- ISSS will forward a copy of the LCA certified by the Dept of Labor to the Applicant if OVPR has notified ISSS that no license is needed for Controlled Technology
- Applicant schedules a visa interview at a US Embassy or Consulate abroad; An I-129 petition is not required.
- Applicant enters the US in E-3 status
- Applicant can begin employment once HR clears her/him for employment.

Items Needed for E-3 Visa Application

- Copy of the employer's LCA certified by DOL
- Documentation showing eligibility for employment in a specialty occupation
- Proof of a legitimate offer of employment in the US
- Documentation that the position qualifies as specialty occupation employment (under the same standards as an H-1B specialty occupation)
- Proof of Australian citizenship such as a Passport Issued By Australia
- Required academic and other qualifying credentials
- Any required licensure
- Proof that the stay will be temporary
- Proof of payment of the Machine Readable Visa

With an E-3 visa, an Australian citizen can then apply for admission to the U.S. in E-3 status at a U.S. port of entry.

Submitting a Change of Status Petition if Applicant is in the U.S.

- Department submits a completed E-3 Application in DestinyOne. Most aspects of H-1B application are included in the E-3 application, including the need for a completed Actual Wage Form
- ISSS submits a Labor Condition Application (LCA) to the Department of Labor for no more than a two year period
- ISSS forwards completed Controlled Technology Form to OVPR
- ISSS will forward a copy of the LCA certified by the Dept of Labor to the Applicant if OVPR has notified ISSS that no license is needed for Controlled Technology
- ISSS prepares and submits an E-3 Petition to USCIS
- Upon approval of the petition, USCIS mails an E-3 Approval Notice to ISSS
- Applicant can begin employment as of the E-3 start date and once HR clears her/him for employment.

Extension of E-3 Status

E-3 can be extended either by traveling outside the US and reentering the US in E-3 status with a new LCA or by filing an E-3 extension petition with USCIS

Please note that ISSS can not file an LCA with the Department of Labor more than 6 months in advance of the LCA start date.

Employment Dates for E-3s

The E-3 worker's employment start date will be the LCA start date or the I-94 card start date, whichever is later.

The E-3 worker's last date of employment will be the LCA end date or the I-94 card end date, whichever is earlier.

If the dates on the E-3 employee's I-94 card differ from the LCA dates, immediately contact ISSS.