



# **Willkommen, Bienvenue, Welcome**

Insights

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## **Open Doors for International Faculty and Students**

In today's global economy, more and more educational institutions are seeking to create a culturally diverse educational experience at the elementary, secondary and post-secondary levels through foreign student enrollment and through accessing the international community for faculty and professional staff. Attracting top notch students, teachers and researchers from other countries not only adds to the bottom line (especially in these tougher economic times) but opens doors to an international reputation and recognition.

### **Students**

Many believe that preparing U.S. students for a global society and providing foreign students exposure to U.S. education and values offers the opportunity to strengthen international and cross-cultural knowledge and skills. Educating international students in the U.S. also may provide opportunities for U.S. students to establish long-term relationships with individuals from other countries, expose them to foreign languages, and foster a greater understanding and interest in foreign relations.

Educational institutions seeking to admit foreign students in F-1 status must first be certified by U.S. Immigration and Customs Enforcement (ICE) to issue Form I-20 under the Student and Exchange Visitor Information System (SEVIS). The admitted student will be authorized to study only at the institution designated on Form I-20. Approved institutions must keep computerized SEVIS records on all Form I-20 students and notify SEVIS when the student starts, drops below a full course of study, fails to report to school, transfers schools, extends his or her stay, or engages in off-campus employment, curricular practical training or optional practical training.

Secondary school and college and university students may also attend school in J-1 status (exchange visitor) based on a valid DS-2019 issued by the educational institution. Approved institutions must keep SEVIS records and comply with SEVIS requirements for the J-1 designation in a similar manner to the F-1 requirements. Post-secondary students may be admitted in J-1 status for the time that is needed to complete the degree plus 18 months of practical academic training. Post doctoral degree J-1 visa holders are admitted for the degree program plus up to 36 months of academic training granted in 18 month increments.

Foreign students may not attend public elementary schools or publicly funded adult education programs. A foreign student may attend a public secondary school only if he or she attends for a period not to exceed 12 months and reimburses the school the full, unsubsidized per capita cost of the education.

### **Faculty, Scholars, and Researchers**

Attracting and retaining foreign scholars, researchers, and teachers to the U.S. may serve to strengthen our competitiveness in the global economy. Seeing the world through another's eyes allows us to better understand the international market and offers the opportunity to create a globally literate generation ready to operate in the world arena.

Professors and research scholars, short-term scholars, and teachers, may enter the U.S. on a variety of temporary nonimmigrant visas.

J-1 professors and scholars generally are limited to a period of stay of five years and short-term scholars under this designation are authorized for a six month stay. Certain J visa holders are required to return to their home country upon completion of the J-1 program and be physically present for two years before being able to apply for immigrant status or H or L status unless they obtain a waiver of this requirement.

H-1B visas are available for individuals in a specialty occupation (defined as one requiring a theoretical and practical application of a body of highly specialized knowledge and the attainment of a bachelor's or higher degree in the specific specialty or the equivalent). There is an annual cap of 65,000 H-1B visas plus 20,000 visas reserved per year for individuals who have earned a master's or higher degree from a U.S. institution of higher education.

Employees of public, primary, and secondary schools eligible for H-1B are subject to a cap. If the cap is reached the school will not be able to submit any new H-1B visa petitions. Institutions of higher education, related or affiliated nonprofit entities, or nonprofit research organizations or governmental research organizations, are exempt from the cap and as a result may submit H-1B visa petitions at any time even if the annual cap is reached.

The annual cap applies only to individuals who were not counted against the cap within the past six years even if changing employers. H-1B employers must certify to the U.S. Department of Labor that they will pay the required wage, provide working conditions that will not adversely affect other similarly employed workers, and that there is no strike or lockout in the occupational classification. If an H-1B employee is terminated before the end of the approval period, the employer is liable for the reasonable costs of return transportation abroad of the foreign national.

H-1B1 (reserved for citizens of Chile and Singapore) and E-3 (reserved for citizens of Australia), have similar requirements to the H-1B designation with respect to the specialty occupation aspect of the position. Unlike the H-1B visa applicant, the H-1B1 and E-3 applicant may apply directly at the U.S. Consulate without first obtaining approval from the U.S. Citizenship and Immigration Services.

O-3: Consulate without first obtaining approval from the U.S. Citizenship and Immigration Services (USCIS), are allowed unlimited extensions, and are not allowed to have dual intent (meaning they cannot have the intention of being in the U.S. on a temporary basis and have a long term intent to remain permanently).

O-1 visas are reserved for persons who can demonstrate extraordinary ability in the sciences, arts, education, business or athletics. The foreign national must seek to enter the U.S. to continue the type of work for which he or she has extraordinary ability. Extraordinary ability is defined as a level of expertise indicating that the person is one of the small percentage who have risen to the top of the field.

An individual may prove sustained national or international acclaim by receipt of a major internationally recognized award such as Nobel Prize or by documenting at least three of the following: 1) receipt of a national or international recognized award; 2) membership in an organization requiring outstanding achievement; 3) published materials about the individual in professional or major trade publications; 4) judgment of the work of others in the field; 5) original scientific or scholarly work of major significance; 6) authorship of scholarly works; 7) evidence that they have been employed in a critical or essential capacity at an organization with a distinguished reputation; and 8) that they have commanded or will command a high salary in relation to others in the field.

R-1 visas are reserved for a person working in a professional capacity in a religious vocation or occupation. The religious occupation must be an activity which relates to traditional religious functions. The beneficiary of the R-1 visa petition must be able to show that for at least two years immediately preceding, he or she has been a member of the bona fide religious denomination.

Canadian and Mexican citizens are eligible to apply for TN visas as professionals under the North American Free Trade Agreement (NAFTA). The TN category has similar requirements to the H-1B category except that there is no limit to the number of extensions allowed and the beneficiary may not have dual intent. Generally, a position under this designation will be one requiring at least a bachelor's degree and must be included on the list of TN professions, such as college, seminary, or university teacher, librarian, or computer systems analyst.

The TN, E-3 and O-1 visa classifications are allowed unlimited renewals as opposed to the H-1B, J-1, and R-1 designations. If you wish the H-1B, J-1 or R-1 foreign national to remain in the U.S. beyond the maximum allowed time, you would be required to apply for permanent residence for that individual. Requirements for permanent residence vary by visa category.

## **The Potential Rewards**

Tap into the international marketplace for foreign students and faculty. Take advantage of the various nonimmigrant visa categories to create a culturally-diverse educational experience. The key to positioning the U.S. to be competitive in the global economy in the future may start in your classroom.

