

OVERVIEW OF MOST COMMON WORK VISAS AND EMPLOYMENT-BASED IMMIGRATION

B-1 Visa: For business people making sales, conducting negotiations, attending meetings and seeking investments.

I. **Temporary Work Visas:** A Temporary Worker visa is a nonimmigrant visa for individuals who wish to work temporarily in the United States. There are several categories ("classifications") of Temporary Worker visas. Some of these classifications have annual limits. The worker's qualifications, type of work to be performed and other factors determine the type of visa that required under U.S. immigration law. Common temporary work visas include the TN, H-1B, L-1, O-1, R-1 & J-1 visa types. Each visa is briefly described below:

A. NAFTA or TN Visa: NAFTA stands for North American Free Trade Agreement. It is special trade agreement between Canada, United States and Mexico. The NAFTA Professional (also known as the TN Visa, TN1 Visa, TN Status) allows Canadian and Mexican citizens to work in the United States. They must be working in a jobs classified as professionals or as a NAFTA Professional.

- Must be a citizen of Canada or Mexico;
- The U.S. job requires a NAFTA Professional;
- Job must be listed on NAFTA professions list;
- The Mexican or Canadian applicant will work for a U.S. employer (self-employment is not allowed); and
- The Mexican or Canadian applicant is qualified for the NAFTA profession.

B. H-1B professional worker Visa: For individuals having the equivalent of a US bachelor degree (Foreign degrees and/or work experience may be found to be equivalent to a US bachelor degree).

- Country of nationality is not relevant;
- Must have a minimum bachelors degree or equivalent;
- Job must require a minimum a bachelors degree in specific field; and
- Must have a minimum bachelors degree or equivalent in specific field.

C. L-1 Intracompany Transferee Visa: The visa allows for foreign executives and managers to relocate to the corporation's US office. after having worked abroad for the company for at least one year prior to being granted L-1 status.

- Must be an executive or manager;
- Worked for at least one year in the past three for a foreign parent, subsidiary, affiliate, or branch office of the US company that will employ them; and
- There must be some type of relationship/nexus between the US office and foreign company, i.e. must be a parent, subsidiary, branch, or affiliate

D. O-1 Extraordinary Ability Alien Visa: Must have extraordinary ability in the sciences, education, business, or athletics and must demonstrate sustained national or international acclaim and recognition for achievements in the field of expertise by providing evidence of:

1. Receipt of a major, internationally recognized award, such as the Nobel Prize; or
2. At least three of the following forms of documentation:
 - Receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
 - Membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields;
 - Published material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation;
 - Participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought;
 - Original scientific, scholarly, or business-related contributions of major significance in the field;
 - Authorship of scholarly articles in the field, in professional journals, or other major media;
 - Employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation;
 - Commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence.

E. R-1 Religious Worker Visa: Available to members of the clergy and also to key employees of religious organizations.

- Must have been a member of a legitimate religious denomination for at least 2 years;
- US Employer must be a tax exempt religious organization;

Examples of persons in religious occupations include, but are not limited to, liturgical workers, religious instructors, religious counselors, cantors, catechists, workers in religious hospitals or religious healthcare facilities, missionaries, religious translators, or religious broadcasters. This group does not include janitors, maintenance workers, clerks, fundraisers, or persons involved solely in the solicitation of donations.

F. J-1 Practical Training Visa: The J-1 Visa or Exchange Visitor Program was first implemented in 1961 as part of the Mutual Educational and Cultural Exchange Act of 1961. The act aims to promote the understanding of other cultures by the people of the United States and likewise the understanding of the America culture by people of other countries through educational and cultural exchanges. A J-1 Visa is a non-immigrant visa

available to foreigners that fall under the designation of "Exchange Visitor". To obtain a J-1 Visa, the sponsor must be accredited through the Exchange Visitor Program designated by the U.S. Those who qualify for J-1 status and sponsored through an accredited Exchange Visitor Program include, but are not necessarily limited to secondary school and college students, including students working towards a graduate degree; business trainees; au pairs, and camp counselors. The duration of the programs differ based on the type of training program and normally range from 3 to 18 months. J-1 trainees can be paid or unpaid.

II. EMPLOYMENT BASED LEGAL RESIDENCE: There are two ways to obtain a so-called US Green Card (permanent residence). One way is through a family member. The other way is to obtain an employment-based Green Card. This section discusses three types of Employment-based Green Cards. Most employment-based green cards require an approved labor certification. The more commonly used categories are:

1. EB-1 Priority Workers: Labor Certification and job offer from an employer are not required. The category includes:
 - A. Multinational executives and managers;
 - B. Outstanding professors and researchers;
 - C. Extraordinary ability aliens in the sciences, arts, education, business or athletics.

2. EB-2 Members of Professions Holding Advanced Degrees: Category refers to three types of professionals:
 - A. Foreign nationals with a masters degree or higher with a job offer from a U.S. company;
 - B. Foreign nationals with 'exceptional ability' in the sciences, business or arts and with a job offer from a U.S. company; and
 - C. Foreign nationals with exceptional ability, or an advanced degree, who can show that their activities will substantially benefit the U.S. national interest.

3. EB-3 Skilled, Professionals or Other Workers: Labor certification is required. Category applies to three types of workers.
 - A. Skilled workers: minimum two years of training or experience and a job offer from a U.S. company;
 - B. Professionals: A U.S. bachelor's or foreign equivalent degree and a job offer from a U.S. company;
 - C. Unskilled workers: less than two years training or experience and a job offer from a U.S. company.

Labor Certification: Application filed by a US employer on behalf of prospective foreign employee with the US Department of Labor. An approved labor certificate application is required before the employer can sponsor the foreign worker. Prior to filing the labor certification application the employer must:

- Test the labor market by conducting a recruitment and show that employees are unavailable, unqualified or unwilling;
- Job duties advertised must not be unduly restrictive;
- Offer to pay the prevailing wage rate as determined by the State Employment Agency (EDD in CA).