

International Affairs Office at CUMC

- CUMC hosts over 1,200 foreign nationals who conduct research, teach and work in a variety of capacities throughout the campus.
- IAO is responsible for all immigration advisement and processing of immigration documents.
- IAO staff will assess the needs of the department and the foreign national and recommend the most appropriate immigration status.
- IAO staff will then work with the department and/or the foreign national to gather the necessary documents to be sent to U.S. Department of Homeland Security for processing.

Visa Sponsorship at CUMC

- The process of either applying for, or renewing an employee's/scholar's status should begin at least **three to six months** prior to the start date at CUMC.
- If a department has made an offer of employment to a foreign national, the foreign national must have a valid immigration status **prior to beginning employment** and maintain status for the duration of the academic appointment/employment at the University.
- Visa sponsorship requires a CUMC academic appointment/employment.
- **The Department of Homeland Security (DHS)** recognizes numerous categories of nonimmigrant status for almost every intervening letter in the alphabet. At CUMC we sponsor students, scholars and employees in only **six** of these categories—**F, J, H, O, TN and E-3**. Each category carries different qualifications and associated privileges.

International Affairs Office CUMC

- Visa Sponsorship at CUMC
 - F-1 Student Visa
 - J-1 Exchange Visitor Visa
 - H-1B Visa (Specialty Occupation)
 - O-1 Visa (Extraordinary Ability)
 - TN-1 (for Canadian and Mexican Nationals)
 - E-3 (for Australian Nationals)

An Overview of the F-1 Student Visa

- F-1 student's must maintain full-time enrollment and normal, full-time progress toward their degree or certificate. Failure to do so will result in violation of F-1 status. Students are expected to maintain full-time registration and make normal progress toward their degree.
- Full-time students are allowed to work on-campus up to 20 hours per week during the academic year and full time during vacation and recess periods. On-campus employment means that they are paid by Columbia. On-campus employment requires an I-9 form to be completed at the HR Office, Black Bldg. 1st Floor, in advance of beginning to work.
- Another important benefit of the F-1 student status is Practical Training which allows F-1 students to apply for temporary employment in their field of study. There are two types of practical training: Curricular practical training (CPT) and Optional practical training (OPT). Under OPT there are three possibilities: Pre-completion OPT, Standard post-completion OPT and STEM extension OPT. Each category has specific eligibility requirements. It is important to consult with IAO regarding these requirements.

Overview of the J-1 Exchange Visitor Program

- A DS-2019 is the eligibility document a J-1 Exchange Visitor will need to apply for J-1 visa.

There are several categories within the J-1 Exchange Visitor Program. CUMC welcomes visitors in the following categories: Professor, Research Scholar, Short Term Scholar, Student and Student Intern. J-1 status is appropriate for most Officer of Research positions. Tenure or tenure track positions, as well as support staff and administrative titles, are not eligible for J-1.

- The **Professor** category is for an individual who is primarily teaching or lecturing.
- The **Research Scholar** category is for an individual who is primarily conducting research, but may also be teaching, observing, or consulting in connection with a research project. The Research Scholar category is the category most used at CUMC.
- The **Short-term Scholar** category is the same as the Research Scholar category but limits the visit to six months, after which they are required to leave the U.S.
- The **Student** category is for an individual who is studying full-time in the U.S. Students can work on campus less than 20 hours per week.
- The **Student Intern** category enables students currently enrolled and pursuing a degree at a postsecondary academic institution outside the United States to engage in internships at Columbia University for up to 12 months. The IAO charges a \$500 fee for a Student Intern J-1. Other categories do not require a fee.

Special Characteristics of J-1 Status

- **Must be a bona fide non-immigrant** – Must maintain residence abroad.
- **Bachelor's degree requirement** – The Exchange Visitor must possess the equivalent of a U.S. bachelor's degree (diploma) to be issued a DS-2019.
- **Five Year Limit** - Those in the J-1 research scholar or professor category may remain in the U.S. up to five years. The time limitations include prior periods spent at another institution.
- **Medical insurance requirement** - Exchange visitors and their dependents are required by regulation to have comprehensive medical insurance while in the U.S. Failure to do so may result in termination of Exchange Visitor status. Columbia University faculty and officer insurance offering a deductible of \$500 or less will cover the needs of the exchange visitor since Columbia University provides coverage towards the required repatriation and medical evacuation provisions of the regulations.
- **English Language Proficiency** – J-1 regulations mandate that all Exchange Visitors have sufficient English language proficiency to ensure success in the academic program and to ensure well-being, health and safety while in the U.S.
- **30 Day Grace Period** - J-1 visitors are allowed a 30-day grace period beyond the end date on their DS-2019. This additional 30-day period is **NOT** for employment.
- **Dependents** – J-2 is the dependent of a J-1. Dependents are allowed to work in the U.S. They must apply to the DHS for an Employment Authorization Document (EAD).

Special Characteristics of J-1 Status (cont'd)

- **Twelve-Month Bar** - A foreign national may not enter the U.S. in the J-1 category of professor or research scholar if he or she has been physically present in the U.S. in J-1 status for all or part of the twelve month period immediately preceding the projected start date of his or her Form DS-2019 unless:
 - The participant is transferring to the sponsor's program and has not exceeded the maximum allowed time of five years
 - The participant's presence in the United States was pursuant to a short-term scholar exchange activity.
- **Two Year Repeat Participation Bar** - Those who complete a J-1 research scholar/professor program, regardless of the duration of their program, are barred for two years from beginning a new J-1 research scholar/professor program. This bar does not apply to those who are in the J-1 short term scholar category (limited to a maximum stay of six months).
- **Two-year home residency requirement** - This requirement applies to those (1) whose exchange visitor program has been financed to some extent by the U.S. government or their home government, (2) whose skills are needed by their home country as indicated in the Exchange Visitor Skills List or (3) whose purpose in coming to the U.S. is to receive graduate medical education or training.

How to Request a J-1

Complete and Submit Preliminary DS-2019 to IAO

- ✓ Complete all information on Preliminary DS-2019 for an initial J-1 request, an extension or a transfer of J-1 sponsorship from another institution.
- ✓ Be sure all attachments are included, e.g. proof of funding, degree, etc.
- ✓ All supporting documents must translated to English.
- ✓ Financial support must be documented, e.g. award letter, bank statement, etc.

Funding minimums

\$ 2,800 per month for J-1

\$ 1,000 per month for J-2 spouse

\$ 500 per month for J-2 child

For postdoc positions, funding must meet NIH minimum. All post-doc positions must be funded either by CUMC or by an outside entity. Personal funds cannot be used as financial support for postdoc positions. If dependents will accompany foreign national, personal funds can be used to support the family.

- ✓ Required signatures from faculty sponsor and departmental administrator.

IAO Processing for Initial J-1

- One week processing at IAO.
- Contact person listed on Preliminary DS-2019 will be notified to pick up actual DS-2019 at the IAO.
- DS-2019, along with a Welcome Letter provided by the IAO, should be Federal Expressed to foreign national.
- Await foreign national's arrival to U.S.
- Must check-in with IAO within 30 days from start date listed on DS-2019.
- Following check-in and validation of entry to U.S., foreign national can be appointed/hired at CUMC.

IAO Processing for J-1 Extension

- One week processing at IAO.
- Once complete, foreign national will be contacted to pick up DS-2019 at the IAO.
- IAO will direct foreign national to complete I-9, if applicable, and then go to department with DS-2019.
- Foreign national's academic appointment can then be extended.

IAO Processing for J-1 Transfer

- One to two weeks.
- Transfer DS-2019 cannot be initiated/validated until the requested transfer date (begin date at CU). This requires the arrival/check-in of the foreign national to the IAO.
- Following check-in and validation of the transfer of sponsorship, foreign national can be appointed/hired at CUMC.
- IAO will direct foreign national to complete I-9, if applicable, and then go to department with DS-2019, passport, etc.

An Overview of the H-1B Visa Status

- The job must qualify as a **specialty occupation**.
- The H-1B is employer, position, and site specific.
- Employer must pay higher of prevailing wage or actual wage.
- Foreign national must receive a salary. (Employer payroll records must reflect payment to foreign national).
- Cumulative 6 yr. duration; can apply for 3 yrs. at one time.
- Regulations permit multiple concurrent H-1B employers.
- Employer is responsible for return transportation if foreign national is dismissed before petition expires.
- The IAO will file H-1B petitions for those engaged in FT teaching, research, administrative and support staff positions that require a minimum of a bachelor's degree in a specific field.

Special Characteristics of the H-1B

- The H-1B Temporary Worker status is a nonimmigrant immigration classification used to hire a foreign national professional for a temporary period of time in a specialty occupation. A **specialty occupation** is one that requires the attainment of a bachelor's degree or higher degree, or its equivalent, in a specialized field and the theoretical and practical application of a body of specialized knowledge.
- The **educational requirement** specifies that the foreign national possess at least a bachelor's degree or its equivalent. If the applicant was awarded his/her degree from an institution not located in the U.S., that degree must be evaluated to determine if it is comparable to a U.S. awarded degree.
- Employers are required to obtain prior clearance from the DOL before an H-1B petition may be filed with the DHS. This is done by filing a Labor Condition Application (LCA). The LCA requires that Columbia certify that the salary being paid to the H-1B applicant is the higher of the prevailing wage or actual wage.
 - The **prevailing wage** is the average of the rate of wages paid to workers similarly employed in the geographic area of intended employment. Similarly employed means having substantially comparable jobs in the occupational classification in the area of intended employment.
 - The **actual wage** is the wage paid by the employer to all others in the department with qualifications and experience similar to the H-1B worker for the specific employment in question at the place of employment.

Special Characteristics of the H-1B (con'td)

- The H-1B is **employer**, **position**, and **site specific**. Therefore, if a person receives an H-1B from one employer, the person cannot work for another employer, or in another position for the same employer, without filing an application for change of employment or concurrent employment with the USCIS.
- The H-1B is valid for a maximum initial period of three years with a possible renewal for another three years, for a total of six years. At the end of the six year period, the person must leave the U.S. or change to another status. The only exception is for certain individuals in the permanent residency process.
- Dependents of the H-1 visa enter the U.S. in H-4 status and are not eligible for employment, except in very rare circumstances.

How to Request an H-1B

- Application for H-1B should be made **6 months in advance of the intended start date.**
- The H-1B applicant, or a departmental representative, must make an appointment with an IAO staff member in order to review the required H-1B documentation.
- The IAO prepares the H-1B application, which is a 3-step process involving both the Dept. of Labor (DOL) and Dept. of Homeland Security (DHS).
 - **Step 1 – Find the prevailing wage for the area of intended employment.** The DOL maintains a database with applicable current prevailing wage levels based on occupation and work location.
 - **Step 2 – Submit a Labor Condition Application (LCA) to the DOL** for certification. This form will commit CU to pay the prevailing wage, offer the same benefits to H-1B visa holders as other employees, and assure that employment of the foreign national will not negatively affect the conditions of the other workers, including strikes involving the worker's occupation. Processing time for the LCA is 7 business days.
 - **Step 3 – Once DOL certifies LCA, the H-1B petition (Form I-129) is created and filed with DHS** with all the necessary supporting documents and fees. The IAO files all H-1B petitions on behalf of CUMC. Attorneys representing individuals are **not** authorized to file H-1B petitions on behalf of the University.
 - Processing times vary but can take from two to six months for DHS to approve an H-1B petition.

H-1B Filing Fees

- **\$500** Fraud Prevention and Detection Fee required for submission of all H-1 petitions, except extensions. Must be paid by CU.
- **\$325** I-129 petition
- **\$290** I-539 change of status/extension for dependents
- **\$1,225** If the application for H-1B is not submitted with sufficient lead time, the hiring department or the H-1B applicant may opt to speed the process by paying a \$1,225 USCIS premium processing fee. This ensures that the USCIS will process the application in 15 days rather than the usual 2 to 4 months. This does not speed the process with the DOL, the U.S. Consulate or the IAO, but it may reduce total processing time by two to three months.
- All fees, except \$500 fee, may be paid by the foreign national as long as the payment of the fee does not effectively reduce the amount of the prevailing wage or actual wage. For union positions, all fees must be paid by CU department.

Compliance is Important

- Once H-1B sponsorship has begun, the employing department must inform the IAO, in writing, of any substantial changes in the H-1B's employment, such as a new location, different duties, change in title or change in funding. CU may be required to file a new LCA and an amended petition.
- The department must pay return airfare if an H-1B's employment is terminated before the end of the period of authorized stay.
- Willful violation of the regulations can result in the University being fined and barred University-wide from filing both H-1B and permanent residence petitions for one year.
- Site visits by DHS officials can randomly occur.

Overview of the O-1 Extraordinary Ability Status

- The O-1 immigration category is reserved for an individual of extraordinary ability in the sciences, arts, education, business or athletics which has been demonstrated by sustained national or international acclaim and who is coming temporarily to the United States to continue work in the area of extraordinary ability.
- Extraordinary ability in the sciences, education, business or athletics implies a level of expertise indicating that the person is one of the small percentage who have risen to the top of the field of endeavor. "Extraordinary ability" in the arts translates to "distinction:" a high level of achievement that is substantially above the normal.
- The O-1 category is often the last category available for those who have completed six years in H-1 status or for those subject to the two-year home residency requirement of the J-1 Exchange Visitor Program. An approved O-1 can be valid up to three years, with extensions granted in one-year increments.

Special Characteristics of O-1 status

- The O-1 immigration status is employer and position specific. It is possible to have more than one employer concurrently if a separate O-1 petition is approved for each position. The O-1 can be obtained for an initial period of three years and may be extended indefinitely in one year increments. O-1's are not eligible for employment "portability" as are H-1B holders.
- Another important aspect of O-1 status is that it is a viable status to seek for aliens subject to the two-year foreign residency requirement of the J-1 exchange visitor program. These individuals may obtain O status without fulfilling the two-year residency requirement or obtaining a waiver of the requirement. In such cases, however, the foreign national may not change status to O-1 in the United States, but must obtain an O-1 visa either in the home country or a third country.
- Dependents of the O-1 visa enter the U.S. in O-3 status and are not eligible for employment.

How to Request an O-1

- Contact the IAO.
- Outside legal counsel can be retained for filing O-1 petitions, unlike the H-1B which does not allow attorneys to file on behalf of CU.

An Overview of the TN Visa Status

- TN status was created under the terms of the North American Free Trade Agreement as a way to facilitate the entry of Canadian and Mexican professionals in specific occupations into the U.S. See following link for list of occupations.
<http://canada.usembassy.gov/visas/doing-business-in-america/professions-covered-by-nafta.html>
- A baccalaureate degree is the minimum requirement to qualify for TN status in certain professions.
- Minimal documentation is required for entry to the U.S.: evidence of citizenship, copy of diploma and support letter from CUMC.
- An entry visa is not required to enter the U.S.
- Up to three year duration.
- Dependents of the TN visa enter the U.S. in TD status and are not eligible for employment.

How to Request TN

- TN status is applied for at the Port of Entry. Please contact the IAO for instructions.

E-3 (for Australian Citizens only)

- The E-3 visa is similar in many respects to the H-1B visa. The prospective employer of the E-3 visa holder must first file a Labor Condition Application with the DOL. After the LCA is certified, the Australian citizen can immediately apply for the E-3 visa at a U.S. Consulate. The employer is not required to file a petition to USCIS for adjudication.
- Minimal documentation is required for entry to the U.S.: evidence of citizenship, copy of diploma and support letter from CU.
- Australians who are already in the United States on another type of temporary/non-immigrant visa may also apply to change their status to an E-3 visa.
- Important differences from the H-1B include the fact that spouses of E-3 visa holders may work in the United States, that the E-3 visa is renewable indefinitely in two-year increments.