

Visa Waiver Program

Visas

There are a number of different visas that an alien can apply for based on their individual circumstances. Some of the more common types and the documents needed for the applications are listed here:

B1 Visa: Business Visitors

B2 Visa: Tourist

Visa Waiver Program for Guam

EB-1 Visa

EB-2 Visa

EB-3 Visa

F-1 Visa: Student

J1 Visa

K1 Visa: Fiancée

K3 Visa

Extension of Stay

U Visa

T Visa

B1 Visa: Business Visitors

The B1 Visa is for temporary business visitors. This visa allows for a variety of business and economic activities in the U.S. Individuals eligible for this visa range from board members and athletes to musicians, entertainers and servants of immigrants. Although the B1 visa is available to business visitors, it is important to note that this visa does not allow employment in the United States. Business visitors may attend meetings, conventions, conferences or negotiations on behalf of a foreign employer, however, performing productive work in the U.S. is not allowed, nor is receiving payment from a U.S. entity.

B2 Visa: Tourists

The B2 is a tourist visa. This type of visa is suitable under the following conditions: Tourists on a pleasure trip to the U.S.

People visiting friends and relatives in the U.S.

People coming to the U.S. for medical treatment

Foreign nationals coming to the United States to marry a U.S. citizen or to obtain a green Card

Amateur athletes, musicians, etc. who participate in their respective activities in the U.S. without remuneration

People coming to participate in the conventions of social organizations

Dependents of crewmembers or B1 Visa holders solely to accompany the principal foreign national

Dependents of nonimmigrant for whom no derivative classification is available (for example, the elderly parent of an E visa holder)

Persons to enter the U.S. to apply for special naturalization benefits on the basis of U.S. military service

Persons seeking a change to another visa status (as long as they so advise the U.S. Consulate and the Consulate is fully apprised of the circumstances)

U.S. Citizens, green card holders, and nonimmigrant visa holders to invite their friends and relatives to the U.S.

Visa Waiver Program (VWP) and Visa Waiver for Guam

Generally, the same activities as B-1/B-2 visas apply, but without the visa requirement and more limited periods of stay/opportunities for extension or change of status.

EB-1 Visa

The EB-1 classification is open to:

- Individuals with extraordinary ability in the arts, sciences, education, business or athletics

- Outstanding professors or researchers

- Managers and executives soon to be transferred to the U.S.

Aliens with extraordinary ability are defined by USCIS as individuals who have “extraordinary ability in the sciences, arts, education, business, or athletics and have been demonstrated this by sustained national or international acclaim. The achievement must have been recognized in the field through extensive documentation.” The Nobel Prize or similar awards duly prove this status. However, there are alternative means of proving your extraordinary ability. As an outstanding professor or researcher, you should be internationally recognized in your field. You should be coming to the U.S. to accept a tenure track or permanent position and should have at least three years experience in your academic field. If your employer is not a university or college, but a private institution/corporation, the employer must be able to show that it employs at least three other full-time researchers and that it has achieved accomplishments in an academic field. To be eligible as a manager or executive transferred to the United States, you must have been employed outside the U.S. as a manager or executive for at least one out of the past three years for a company affiliated with the U.S. The petitioning company must have been doing business with the U.S. for at least one year.

EB-2 Visa

The EB-2 classification is open to:

- Individuals with exceptional ability in the sciences, arts or business

- Professionals with advanced degrees

- Physicians intending to practice in underserved areas A petition for a foreign national holding an advanced degree can be made when a position requiring an advanced degree becomes available in the U.S. Interested candidates must show that they hold the educational equivalent of a U.S. Master’s Degree or have a Bachelor’s Degree and five years of progressively responsible experience in the field.

EB-3 Visa

The EB-3 classification includes:

- Individuals with at least two years experience as skilled workers

- Professionals with a Bachelor’s Degree

- Aliens with at least two years of experience as skilled workers

- Workers with fewer skills who can contribute abilities otherwise unavailable in the U.S.

Skilled workers should have at least two years experience, either through hands-on or post-secondary education. Professionals should have either a U.S. bachelor’s degree or a foreign equivalent.

F-1 Visa: Student

Academic or language student, with substantial opportunities for extended stays, change of status, and ancillary work on and off campus. More commonly referred to as a student visa,

this applies to an alien who has a residence in a foreign country which he/she has no intention of abandoning and who wishes to come to the United States to pursue a course of study at an academic institution accredited by the USCIS. The alien must have a valid educational purpose for coming to the United States and must be able to support him or herself while in the United States without working. The student visa applicant must have sufficient funds and outside financial support available to ensure that he or she will not become a public charge or accept unauthorized employment. He or she must be proficient in English or receive training to make him or her proficient, intend to depart the United States at the conclusion of his or her studies, and be qualified to attend the particular institution. All F-1 students are given permission to be in the United States for "duration of status," that is, for the period of time needed to complete the educational program plus 60 days. At the end of the course of study, a period of work authorization may be requested for the purpose of gaining experience in the field of study, known as "practical training". If qualified, the student may also change the non-immigrant status to a temporary non-immigrant work visa or permanent resident visa.

J1 Visa

The J1 Visa is designed to provide educational and cultural exchange programs and to promote the sharing of individuals, knowledge and skills in education, arts and sciences. This visa enables people to participate in exchange visitor programs in the United States. Participants in this visa include:

- Students
- Trainees involved in on-the-job training
- Teachers engaged in research and teaching
- International visitors interested in traveling, researching, consulting and demonstrating specific knowledge

The applicant must demonstrate that he or she has binding ties to a residence in a foreign country which he or she has no intention of abandoning and that the visit to the United States is temporary.

K1 Visa: Fiancée

A K1 or fiancée visa is a travel document that allows a foreign fiancée of a U.S. Citizen to enter the United States for the sole purpose of getting married. Fiancée Visas are generally considered the quickest vehicle to legally bring a foreign fiancée to the U.S. with the intentions of marriage and immigration. U.S. Citizens who intend to marry a foreign national in the United States may file a petition. The U.S. Citizen and foreign fiancée must be free to marry. This means that they are either both unmarried, or that any previous marriages have ended in divorce, death or annulment. The couple must also have met in person at least once within the last two years prior to the filing of the petition. There are extraordinary and extremely limited circumstances in which fiancée visas have been issued to couples who have never met. For example, fiancée visas may be issued under rare instances where a couple has not met in person due to certain religious or other extreme hardship circumstances. These Visas will often apply to Military members wishing to marry a foreign national that the service member met overseas.

K3 Visa

The non-immigrant K3 Visa was created to reunite families that have been, or could be,

subject to a long separation while their immigrant visa petitions are being processed by the U.S. Citizenship and Immigration Services (USCIS). The visa entitles the holder to travel to the United States to await the approval of the immigrant visa petition. Eligible applicants for the K3 Visa include spouses of U.S. citizens and their children who are under the age of 21 for whom an immigrant visa petition (I-130) has been filed with the USCIS and is awaiting approval.

Extension of Stay

An Extension of Stay Visa can extend nonimmigrant visa status for the following visas: •A-1, A-2, A-3: Diplomatic and foreign government officials, their immediate family members and employees

- B-1, B-2: Temporary visitors for business or pleasure

- F-1, F-2: Academic students and their immediate family members

- G-1, G-2, G-3, G-4, G-5: Representatives to international organizations and their families and employees

- I Visa: Representatives of foreign media and their immediate family members

- J-1, J-2: Exchange visitors and their immediate family members

- M-1, M-2: Vocational students and their immediate family members

- N-8, N-9: Parents and children special immigrants

U Visa: Victims of Criminal Activity

The U nonimmigrant status (U visa) is available to victims of certain crimes who have been exposed to physical and/or mental abuse and help police or government officials in halting and prosecuting crime. The U non-immigrant visa was enacted by Congress in October of 2000 via the Victims of Trafficking and Violence Protection Act. The legislation was meant to reinforce the capability of police to investigate and prosecute cases of sexual assault, domestic violence, trafficking of immigrants and other crimes, while also safe-guarding crime victims who have undergone substantial physical or mental abuse and are cooperative in helping police with their investigation or prosecution of crime(s).

T Visa:

Victims of Human Trafficking

The U.S. Congress established the T nonimmigrant status in October of 2000 via passage of the Victims of Trafficking and Violence Protection Act. The legislation offers to police supplementary tools to investigate and prosecute human trafficking while, at the same time, safe-guarding crime victims. Human trafficking, also referred to as trafficking in persons, is a form of modern slavery that involves traffickers luring individuals into a perilous situation through a false promise of employment or better life in America. Traffickers usually target poor, unemployed individuals who do not have access to social services. The T nonimmigrant status is available to individuals who are or have been victims of human trafficking. The status protects human trafficking victims and permits them to remain in America to assist in an investigation or prosecution of human trafficking. To see if you or a loved one qualifies for a visa, contact Tully Rinckey at 518-218-7100 to set up a free consultation with one of our

attorneys. The most popular City / Village / Town Courts our lawyers serve:

Albany, Altamont, Amsterdam, Berne, Bethlehem, Brunswick, Clifton Park, Cohoes, Colonie, Coeymans, Delaware, Duanesburg, East Greenbush, Fulton, Glens Falls, Glenville, Gloversville, Grafton, Greene, Guilderland, Hoosick, Hudson, Johnstown, Malta, Mechanicville, Menands, Montgomery, Nassau, New Scotland, Rensselaer, Rensselaerville, Rotterdam, Saratoga, Schenectady, Schoharie, Schodack, Scotia, Syracuse, Troy, Ulster, Voorheesville, Warren, Washington, Watervliet

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