

Updated as of March 16, 2009

Employment of Foreign Students and Graduates

There are several visa categories available to foreign students and recent graduates who can work for your company.

Optional Practical Training

You can hire a current student or recent graduate through a program called Optional Practical Training. The student is allowed to work for up to twelve months. If the student is engaged in Scientific, Technical, Engineering, or Medical work as his field of study, the student is allowed an additional 17 months of employment.

Notes:

- When can they work: student/graduate can work upon receipt of the work authorization card (called the Employment Authorization Document – EAD)
- Your obligations are minimal in that you must treat the student/graduate like your other employees.
- The student should pay for his own fees to obtain the EAD.

H1B Visas

This is a visa that is available to foreign nationals who will be working in a job that requires a college degree and is in a specialty occupation. The employer must complete a Labor Condition Application with the Department of Labor and file a I-129 petition for a temporary worker. Currently, 65,000 new H-1B are approved each year, the annual cap. An additional 20,000 are issued each year to employees holding a Masters degree or PhD. Employees already in H1B status may renew without being subject to the cap.

Notes:

- allows employers to find employees in hard-to-fill positions, such as engineering, programming, and scientific backgrounds
- certain categories of employment are exempt from the LCA requirement
- non-profit organizations, educational institutions, and national interest employers are exempt from the cap

H3: Trainee

This is a more limited type of visa that allows a foreign national to come temporarily to the U.S. for training in his field of endeavor. The petitioner must describe the type of training to be given, the source of remuneration for the trainee and whether any benefit will accrue to the petitioner, and must demonstrate why it is necessary for the foreign national to be trained in the U.S.

TN: Nationals of Canada and Mexico

Canadian and Mexican citizens engaged in professional business activities on a temporary basis. The TN job must be on the NAFTA list of occupations found here:

www.nafta-sec-alena.org/DefaultSite/index_e.aspx?DetailID=167#Ap1603.D.1

Other Options

Depending on the foreign workers nationality, skills, and experiences, other employment-based visa options may be available. Please contact our firm for more information.

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