Southern Methodist University

Visas for International Employees

Hiring international employees requires that the university and the department to consider several factors, including the foreign national current visa situation, intent to stay in the U.S., intent to travel outside the U.S. and duration of employment. This guideline provides the basic information on the common categories of employment visas SMU sponsors.

The International Student and Scholar Services (ISSS) Office advises and issues F and J visas. All other visa types (e.g. H-1B visas, TN, O-1) are handled by the Department of Human Resources and SMU’s contract immigration attorney. If you are unsure the type of visa the foreign national may require, please contact The International Student and Scholar Services (ISSS) Office so we can advise you on the best way to proceed.

Processing time for employment visas vary based on the visa type. The new international employee must obtain a visa (work authorization) before he or she can begin working.

**During search departments may ask candidates “Are you authorized to work for any employer in the U.S?” to determine if prospective employee will require visa sponsorship.**

All inquiries should be sent to: internationalscholars@smu.edu

**J-1 Exchange Visitor Program**

The J-1 Exchange Visitor Program (EVP) was developed by the Department of State (DOS) in 1967 “to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchanges.” J-1 scholars and professors are exchange visitors pursuing a specific program objective at academic institutions in the U.S., as designated by the Department of State and the United States Citizenship & Immigration Services (USCIS). J-1 exchange visitors are categorized as research scholars, professors, short-term scholars, or specialists. The ISSS staff members are DOS-designated Responsible Officer (RO) & Alternate ROs for SMU’s Exchange Visitor Program.

**Basic criteria for selecting a prospective exchange visitor:** Each department/school should have in place a system to screen and select a prospective exchange visitor whereby the exchange visitor’s academic background, needs and experience meet the objective of the program they are participating in. The exchange visitor must also possess sufficient proficiency in the English language to participate in his or her program. Each school should determine the proficiency of their participating exchange visitor’s English language based on the methods each School has developed.

**When to use the J-1 Program:**
**Purpose of category:** research, teaching, observation, consulting, or collaboration, and/or demonstration. Includes non-tenure track faculty, postdoctoral scholars, staff and visiting scholars.

**Maximum length of stay:**

Research Scholar: 5 years  
Professors: 5 years  
Short-term scholars: 6 months  
Specialist: 1 year

*An individual who participates in the Exchange Visitor Program as a Professor or Research Scholar becomes subject to the 24-month bar on “repeat participation” after they complete their appointment. However, if a professor/research scholar completes their program participation before the five-year period is over, the continuity of the five-year period is broken and the window is “closed.” Therefore, the individual is not eligible to access the remaining unused time and must wait for two years before beginning a new program as a J-1 Professor or Research Scholar.

**Fees:** $180.00 SEVIS fee for new J-1 applicants. No additional fees for dependents. The SEVIS fee does not include any additional visa issuance fees levied at US Consulates/Embassies.

**Length of the DS-2019 request process before visa application:** ISSS must receive a complete DS2019 request including all data in My.SMU.edu at least two months before their program start date. All requests take up to five business days to process.

**Employees’ intention to remain in the United States:** Dual intent is not inherent to the J-1 program. Some are subject to two-year home residency requirement, based on government funding of field (which must be fulfilled or waiver prior to changes to other visa categories).

*if you want to hire someone who is currently working on Optional Practical Training, we should they are sponsored for an H1B visa.

**Dependents: J-2**

- Eligible to work after individual has received employment authorization document.
- Must apply for employment in periods of up to 1 year at a time.
- May not volunteer unless traditionally a volunteer position.
H-1 B, TN and O-1 Visas

The H-1 B category:

This visa category is for the temporary employment of foreign nationals in a specialty occupation category by a specific employer. The position must require a minimum a bachelor’s degree. In addition, the foreign national must meet the minimum qualifications for the position and SMU must attest to the Department of Labor that the university will pay the H-1B nonimmigrant worker the actual wage SMU pays other employees with similar experience and qualifications for the same job, or the prevailing wage for the occupation determined by the Department of Labor - whichever is greater.

**Purpose of category:** Employment authorization for temporary employment in specialty occupations (position must require at least a bachelor’s degree). Includes faculty, postdoctoral scholars, and staff.

**Maximum length of stay:** Approved in increments of up to 3 years at a time but renewable up to a maximum of 6 years continuous stay in the US.

**Fees:** The $325 filing fee and the $500 anti-fraud fee must be paid by the SMU department who will employ the foreign national. The legal fee of $1775 can be paid by the SMU department, the prospective employee or the department and the prospective employee can split the cost of the legal fees. The SMU department is not required to pay the legal fee so should the department choose to pay the legal fees, it is reportable and taxable income for the foreign national.

**Length of application process:** Processing times vary depending on USCIS caseload and hiring department document preparation. The average processing time is 3 to 5 months for regular processing and 5-7 week average for premium processing.

**Employee’s intention to remain in the United States:** Dual intent inherent. Person may apply for permanent residency directly from H-1B status and typically can renew H-1B status until permanent residency is approved. Please consult with the Department of Human resources.

The TN-1 category:

This category was created as part of the North America Free Trade agreement (NAFTA) for individuals from Canada or Mexico employed in specific fields. Persons who qualify may apply at the border or inside the United States. Contact Human Resources regarding positions that qualify under NAFTA.

**Purpose of category:** Temporary employment in a professional occupation authorized under NAFTA-only available to Canadian or Mexican nationals. Includes non-tenure track faculty, postdoctoral scholars, and staff.

**Maximum length of stay:** approved in 1 year increments with no defined maximum on extensions, but must maintain evidence of intent to return to home country.

**Fees:**
Length of application process: processing times vary depending on USCIS caseload and hiring department document preparation. 2-3 months average for regular processing; 2-6 weeks average for premium processing; processing times at border: N/A

Employee’s intention to remain in the United States: dual intent is not inherent; application for permanent residency will eliminate ability to renew/extend TN-1 status; also, may not be able to renew after extended period of stay in U.S.

Dependents: H-4

Not authorized for employment, may not volunteer unless it is traditionally a volunteer position. May engaged in full-time study.

The O-1 category: This category is specifically for the employment of professionals with “Extraordinary Ability.” To qualify, the foreign national must be in the top 3-5% of his/her field of specialty. Contact Human Resources for further questions.

Purpose of category: extraordinary ability in sciences arts, education business or athletics. Authorizes temporary employment for professionals in top 3-5% of field of expertise.

Maximum length of stay: approved for up to 3 years initially and renewable in 1 year increments thereafter until program/employment objective completed.

Fees:

Length of application process: processing times vary depending on USCIS caseload, hiring department document preparation & time required to obtain testimonial letters; 3-5 month average for regular procession; 1-2 month average for premium processing before filing with USCIS.

Employees' intention to remain in the United States: dual intent is not inherent; application for permanent residency will eliminate ability to renew/extend O-1 status; also, may not be able to renew after extended period of stay in U.S.

Dependent: O-3: Not authorized for employment; may not volunteer unless traditionally a volunteer position; may study.