

3.212 RCUH Nonimmigrant Visas

I. Policy

All employees working in the United States (U.S.) must have work authorization (as authorized/granted by the applicable U.S. government agencies described in the policy below). As such, RCUH Human Resources will provide visa assistance to projects that would like to invite foreign national individuals to engage in research and employment on a temporary basis, when appropriate.

All changes to a nonimmigrant employee's employment and/or personal status, whether or not they may affect their visa or work authorization, must be reported to the RCUH Human Resources/Immigration at least one (1) month prior to the effective date of change. Failure to report changes to RCUH Human Resources/Immigration may result in loss or denial of nonimmigrant status and termination of employment. It is ultimately the foreign employee's responsibility to ensure that these changes do not affect their ability to continue employment with the RCUH. Failure to maintain work authorization may result in termination of employment.

II. Responsibilities

A. RCUH Employee or Prospective New Employee

1. Notify RCUH Human Resources/Immigration of any changes to employment status (e.g., termination, leave of absence, FTE changes) and/or personal status (e.g., marriage, divorce, birth of child, etc.) whether or not they may affect their visa or work authorization.
2. Notify Principal Investigator and RCUH Human Resources/Immigration immediately if work authorization is revoked.
3. Notify RCUH Human Resources/Immigration of upcoming personal/business travel at least two (2) weeks in advance so that we can provide necessary travel documents.
4. Failure to maintain work authorization may result in termination of employment.

B. Principal Investigators

1. Submit applicable request form(s), supporting documentation, fees, etc. to the RCUH Human Resources.

2. Inform RCUH Human Resources/Immigration of any changes to an employee's employment status and/or personal status that may affect the employee's visa/work authorization status.

III. Applications

This policy applies to all Principal Investigators and/or designees who would like to invite foreign national individuals or workers to engage in research or employment on a temporary basis. This policy also applies to employees on an RCUH-sponsored visa.

IV. Details of Policy

Assistance is generally limited to regular-status employment and includes providing visa eligibility documents for new individuals or current employees and filing petitions with the appropriate government agencies, as needed.

A. Types of Nonimmigrant Visas – (sponsored by the RCUH)

1. TN-1 - NAFTA (North American Free Trade Agreement): The TN nonimmigrant classification is based on a treaty between the U.S., Canada, and Mexico, where eligible professionals whose occupation fall within the treaty terms (listed on [NAFTA Professional Job Series List, Appendix 1603.D.1](#)) may enter the U.S. to engage in temporary business activities for an initial period of up to three (3) years. See the USCIS website for more information on the [TN classification](#).
2. H-1B/H-1B1 Specialty Occupation: The H-1B/H-1B1 nonimmigrant classification is generally for workers with advanced degrees (i.e., MS, Ph.D.) who wish to perform services in a specialty occupation. H-1B classification can be granted in increments of up to three years, with a six-year maximum total. See the USCIS website for more information on the [H-1B classification](#).
3. O-1 Outstanding Researcher: The O-1 nonimmigrant classification is for individuals who possess extraordinary ability in the sciences, arts, education, business, or athletics. To qualify for an O-1, the beneficiary must demonstrate extraordinary ability as evidenced by sustained national or international acclaim and must be coming temporarily to the U.S. to continue work in the area of extraordinary ability. See the USCIS website for more information on the [O-1 classification](#).
4. E-3 Certain Specialty Occupation Professionals from Australia: The E-3 nonimmigrant classification applies only to nationals of Australia. Like the H-1B, the individual must be coming to the U.S. solely to perform services in a specialty occupation. Only positions that have been externally recruited are eligible for E-3 classification. See the USCIS website for more information on the [E-3 classification](#).
5. J-1 Exchange Visitor: The J-1 nonimmigrant classification is for individuals approved to participate in work- and study-based exchange visitor programs, such as the RCUH. It is an authorization to participate in an approved exchange program overseen by the U.S. Department of State, Bureau of Educational and Cultural Exchange.

The primary purpose of this visa is to promote the exchange of culture and knowledge between the U.S. and the individual's home country. Principal Investigators must provide a description of the cultural and educational exchange activities that will take place. Most importantly, J-1 exchange visitors are expected to return to their home country upon completion of their activity in the U.S. Therefore, RCUH will only sponsor a J-1 for positions that are identified as "limited" term (e.g., postdoc type, temporary or other limited-term regular positions). In addition, RCUH will not sponsor a J-1 if the intent of the individual or position is to seek a new visa status or immigrant petition, since filing for a change of status violates the intention of the exchange program. See the [U.S. Department of State's J-1 visa website](#) for general J-1 information. See our RCUH Pre-Arrival and Orientation Information for J-1 Exchange Visitors for more information on RCUH's J-1 program.

B. Categories of the RCUH J-1 Exchange Visitor Program

1. **Research Scholar:** An individual primarily conducting research, observing, or consulting in connection with a research project at research institutions, corporate research facilities, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions. Requires minimum of Bachelor's degree-level knowledge. Duration of program can be three (3) weeks up to five (5) years.
2. **Short-Term Scholar:** A professor, research scholar, specialist, or person with similar education or accomplishments coming to the United States on a short-term visit for the purpose of lecturing, observing, consulting, training, or demonstrating special skills at research institutions, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions. Requires minimum of Bachelor's degree-level knowledge. Duration of program can be one (1) day up to six (6) months. No extensions beyond the 6-month maximum period are allowed.
3. **Specialist:** For experts in non-academic fields who seek to travel to the United States for the purpose of observing, consulting, or demonstrating their special knowledge or skills and who will not fill a permanent or long-term position of employment while in the United States. Requires minimum of Bachelor's degree-level knowledge. Duration of program can be three (3) weeks up to one (1) year.

C. Application Fees – There are two broad categories of fees that the federal government charges for visa/work-authorization related services.

1. **Fees for Petition:** USCIS charges filing fees for applications to grant new or extended work authorization for individuals in visa categories such as the H-1B/H-1B1, TN, E-3, or O-1. There are also additional fees for premium processing and fraud prevention (if applicable). The fee schedule changes from time to time, so it is best to check the [USCIS website](#) for current fee information.

Fees for Visa Application: The nonimmigrant employee must pay a visa application fee to the U.S. consulate or embassy abroad to obtain the visa stamp in his/her passport. J-1 exchange visitors must pay an additional SEVIS application fee. SEVIS (or Student and Exchange Visitor Information System) is a web-based system that provides tracking and monitoring functionality, with access to accurate and current

information on nonimmigrant students and exchange visitors, and their dependents. SEVIS enables schools and program sponsors to transmit electronic information and event notifications, via the Internet, to the DHS and DoS throughout a student's or exchange visitor's stay in the United States. More information about SEVIS can be found on the J-1 Visa Exchange Visitor Program website. The visa application fees change from time to time. Check the Department of State's travel.state.gov website for current information.

- D. Immigrant Visas (Permanent Resident Status)** – At the request of the Principal Investigator (and approval from the RCUH Director of Human Resources), the RCUH will provide limited assistance for the program and employee in petitioning for the employee's permanent residence status (i.e., employment-based petition). RCUH's expertise is limited with respect to immigrant petitions; therefore you will be required to work with an immigration attorney who is mutually agreed upon by both the program and employee.

V. Procedures

Principal Investigators who would like to invite foreign national individuals or workers to engage in research or employment on a temporary basis must complete the request form(s) for the appropriate visa type.

A. TN-1 (NAFTA)

1. TN Request Form
2. Dependent Information Form (if applicable)

B. H-1B/H-1B1 (Specialty Occupations)

1. H1-B/H-1B1 Request Form
2. Dependent Information Form (if applicable)

C. Special Requirement Pertaining to H-1B and O-1 Nonimmigrants

If the H-1B or O-1 nonimmigrant employee's work involves being exposed to technologies or technical data specified by the EAR and/or ITAR, the program must obtain prior approval from the U.S. Department of Commerce and/or U.S. Department of State before allowing the employee to participate in the research, partnering with a foreign company, and/or sharing research (verbally or in writing) with persons who are not U.S. citizens or permanent resident aliens. The consequences of violating these regulations can be severe, ranging from loss of research contracts to monetary penalties to jail time for the individual violating these regulations.

The Principal Investigator/supervisor must complete the UH Office of Export Control's [I-129 Certification Decision Tree](#) prior to submitting the H-1B or O-1 Request form. The Principal Investigator/supervisor and the Dean/Director must sign the I-129 Export Controls Compliance Certification Form and forward back to RCUH Human Resources. If you have any questions regarding the I-129 Certification Decision Tree, please contact [UH Export Controls Office](#).

D. O-1 (Outstanding Researcher)

1. O-1 Request Form
2. Dependent Information Form (if applicable)

E. E-3 (Specialty Occupation Professionals From Australia)

1. E-3 Request Form
2. Dependent Information Form (if applicable)

F. J-1 (Exchange Visitor)

1. J-1 Request Form
2. RCUH Pre-Arrival & Orientation for J-1 Exchange Visitors
3. J-2 Information Form (if applicable)
4. Special Requirements Pertaining to J-1 Exchange Visitors

- a. *Student and Exchange Visitor Information System (SEVIS)*: In order to issue Form DS-2019, which permits the exchange visitor to apply for the J-1 visa, RCUH Human Resources enters the program information into the SEVIS database. Once the form is issued, RCUH must report all visa-status-related activities in the SEVIS database. Therefore, projects must maintain direct supervision of their J-1 visa holders and promptly report any changes such as work location, early completion of program, transfer to another program, etc., to RCUH Human Resources. The J-1 Change Form must be submitted to RCUH Human Resources at least one (1) month prior to the change.
- b. *Personal Information Change*: Exchange Visitors and their dependents are required to notify RCUH Human Resources of any change in their personal information (i.e.: telephone number, email address, actual and current U.S. home and mailing addresses, and site of activity) within ten (10) calendar days. The exchange visitor must complete and submit the RCUH J-1 Change Form. Projects are advised to remind their exchange visitors of this requirement, as failure to do so will result in termination of their visa status.

5. Completing Your RCUH J-1 Program

Prior to your RCUH exchange visitor program end date (at least 2 weeks before the program end date), you must complete and submit the RCUH J-1 Program Completion Form with a copy of your return air tickets/itinerary to your Principal Investigator/administrator. The Principal Investigator/administrator will forward these documents to RCUH Human Resources.

G. Immigrant VISA (Permanent Resident Status)

1. The Principal Investigator must submit a written memo, requesting RCUH's assistance in filing for permanent residence (i.e., green-card) status for their employee.

2. Any applicable fees are non-refundable (e.g., will not be returned by the government if individual's petition is denied, etc.).
3. The employee must agree that if he/she resigns or is involuntarily terminated from his/her job during the application process or within 12 months after receiving his/her permanent residence status, he/she will reimburse the RCUH (e.g., program) for all RCUH/project-sponsored costs associated with sponsoring the permanent residence application (including attorney's fees, filing fees, recruitment fees, etc.).
 - a. For this policy, involuntary terminations do not include employees who were terminated through no fault of their own or terminations that were beyond their control (e.g., project termination, budgetary constraints, etc.).
 - b. Reimbursement will NOT include fees that are required by law to be paid by the employer (e.g., costs associated with the Labor Certification/PERM process).
4. The RCUH reserves the right to stop the process if attorney's requests are believed to be in violation of the law, or actions are not taken or made in good faith, or if the process jeopardizes RCUH's good standing.

VI. Related Policies/Links

A. Relevant Immigration (Government) Agencies

1. [U.S. Department of State \(DOS\): J-1 Visa Exchange Visitor Program](#)
2. [U.S. Citizenship and Immigration Services \(USCIS\)](#)
3. [U.S. Embassies and Consulates](#)
4. [U.S. Visas](#)
5. [U.S. Customs and Border Protection \(CBP\)](#)
6. [U.S. Department of Labor](#)
7. [U.S. Social Security Administration](#)
8. [UH Export Controls Office](#)
9. [NAFTA Professional Job Series List, Appendix 1603.D.1](#)

VII. Contact

RCUH Immigration: (808) 956-0871
rcuh_immigration@rcuh.com

VIII. Relevant Documents

[I-129 Certification Decision Tree](#)
[TN Request Form](#)
[H-1B Request Form](#)
[O-1 Request Form](#)

[E-3 Request Form](#)

[J-1 Request Form](#)

[J-1 Change Form](#)

[J-1 Completion Form](#)

[J-2 Information Form](#)

[RCUH Pre-Arrival and Orientation Information for J-1 Exchange Visitors](#)

[Dependent Information Form](#)

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