



# Hosting/Hiring International Visitors at UAF

Things to consider

# Mile markers

- We are going to discuss
  - Sponsoring and hiring international visitors
    - Immigration status options - what visa will they need to come
    - Allowable payments
    - Export Control
- We are NOT going to discuss
  - The “nuts and bolts” paperwork involved
  - How to apply for the visa
  - Professional entertainers

I want to hire a post-doc....

Why can't I .....

Why do I have to .....



I want to have Joe come and research....

Why can't I .....

Why do I have to .....



# Immigration categories

- Common categories used for visiting researchers
  - B-1/WB (aka visa waiver for Business): Business Visitor
  - J-1: U.S. Department of State Exchange Visitor Program
  - H-1B: Specialty Occupation
  - TN: Trade NAFTA limited to Canadian and Mexican citizens
  - E-3: Special category limited to Australian citizens
- I want to hire....
  - J-1???
  - H-1B
  - F-1 OPT
- How do I know when to use which???????

## Questions, questions, questions....

- What exactly are they going to do?
  - Collaborative research?
  - Independent research?
  - Contracted services?
  - Meetings?
  - Conference/seminar attendance
- How long will they be here (temporary - really? Or long term employment?)

## More questions....

- Are we (UAF) paying them anything?
  - Salary (hiring)?
  - Travel expenses?
  - Honorarium?
  - Contractual obligations?
- Are we (UAF) providing them anything?
  - Office space?
  - Housing?
  - Other resources?

In order to select the proper immigration status, the questions must be answered first.....

Immigration status and allowable activities and payments are integrally related.

IRS requirements for payments.





## B-1 – Business Visitor (aka Visa Waiver-Business)

- Allowable activities
  - Consultation with business associates/business meetings
  - Attend/participate in scientific, educational, professional or business conventions, conferences, seminars
  - Observe business operations and activities
  - Independent research
- NOT allowed:
  - Contractual obligations
  - Collaborative research

## B-1 – Business Visitor, continued

- Allowable payments
  - Travel expenses or reimbursement
  - Honorarium and related incidental expenses if
    - Participating in activities lasting not longer than 9 days
    - No more than 5 institutions within
    - Previous 6 months
- Not allowed:
  - Employment/salary
  - Contractual payments

NOTE: Does NOT apply to B-2 Tourist Visitor/WT. Make sure your visitors enter in B-1/WB NOT B-2/WT. Travel expenses are NOT reimbursable.

# J-1 Exchange Visitors

- Subcategories
  - Professor
  - Scholar (Research - up to 5 years; Short-term - up to 6 months)
  - Student Intern (up to 12 months)
  - Students (Degree and non-Degree)

## J-1 Exchange Visitors, continued

- Allowable activities
  - Collaborative research
  - Teaching
  - Contractual activities
  - Students (J-1 Non-Degree) may be employed subject to student employment rules
  - Special rules for J-1 Student Interns
- NOT allowed:
  - Tenure-track assignments
  - “Trial” employment
  - Clinical patient care, to include veterinary clinicals - differentiate between patients and research subjects

# J-1 Exchange Visitors, continued

- Department of State program
  - Purpose: Promote mutual understanding between the people of the U.S. and other countries by means of educational and cultural exchange.
  - May be paid or unpaid but must document available funding to support program activity(ies)
  - Requirements:
    - Orientation
    - Health insurance coverage - UA health plans do NOT meet DOS requirements
    - Cultural component
  - Bars to repeat participation:
    - 2-year home stay - direct government funding from U.S. or home gov't OR if skill is on Home Skills list
    - Research Scholars/Professors - 2-year out of U.S. requirement following program
  - Allowable Payments
    - Employment
    - Travel expenses
    - Honorarium

## J-1 Exchange Visitors, continued

- Department of State program Government Funding
  - When is it U.S. government funding:
    - Proposed visitor named by name in grant or contract proposal OR
    - International person/researcher specified by category
    - Just because program is funded by U.S. government does not make it direct government funding unless one of above applies
  - Home government funding: any funding from home country government

## J-1 Exchange Visitors, continued

- Fees
  - Internal Processing fee:
    - Scholars/Professors: \$300 must be paid by UAF hosting unit
    - Student interns: \$150 may be paid by intern or hosting unit
  - SEVIS fee: \$180
    - May be paid by visitor or UAF hosting department

# H-1B (Specialty Occupations)

- Employment category
- Must meet U.S. Department of Labor requirements
  - Position must require a specialized body of knowledge
  - Wage levels
  - Employer-specific
- Must be approved by U.S. Citizenship and Immigration Services
  - Requires petition and fees (USCIS - \$325+500; UAF = \$150)
- Petition for up to 3 years at a time; maximum 6 years
- If employer terminates prior to authorization end date, return transportation to home country



# J-1 vs. H-1B

J-1 Professor/Researcher versus H-1B for employment purposes

J-1	H-1B
Program sponsorship – under auspices of U.S. Department of State	Employer is the sponsor
5-year maximum participation	6-year maximum authorization eligibility
	May "recapture" time out of U.S. during authorization
	Unlimited extensions after approved I-140 (Permanent Residency sponsorship)
Section 212(e): 2-year home stay requirement if (1) the country has a home skills list and the skill/areas of expertise is listed or (2) government funding is used to directly support the visitor	
2-year out of U.S. provision before return as Professor/Researcher	1-year out of U.S. provision before return in H-1B status
1-year bar to repeat participation	
Changes in position must remain related to original program objectives; program objectives cannot change from the original	Any changes in employment require the filing of an amended petition before changes can be implemented
Cannot be tenure-track position	

## J-1 vs. H-1B, continued

J-1	H-1B
No federally-mandated minimum salary	Wage must meet higher of actual or prevailing wage
Nonimmigrant category – generally means that the individual must have the intent to return to the home country following program participant; makes permanent residency applications more difficult	Dual intent category – the individual may have immigrant or nonimmigrant intent
Department of State insurance requirements	
Required orientation	Optional orientation offered
Required cultural component	
Spouse in J-2 status may apply for employment authorization in one-year increments	No spousal employment eligibility as a dependent
	If terminated prior to authorization end, employer responsibility for reasonable cost of return transportation to the home country
OIPI Processing Fee: \$300 for initial	OIPI Processing Fee: \$150 for initial
SEVIS fee \$180 (employer optional)	USCIS Processing fee for initial: \$825
No federally-mandated extension fee	USCIS Processing fee for extension: \$325

## TN Trade NAFTA

- Restricted to Canadian and Mexican citizens
- Position must be on NAFTA Professional Job List
  - Includes university Research Assistants, Scientific Technician/Technologists and Faculty
- May apply on entry to the U.S.
- Up to 3 years; renewable indefinitely but must retain permanent home in home country

## E-3 Australian Treaty Specialty Workers

- Employment category restricted to Australians
- Labor Condition Application required (same as H-1B DOL requirements)
- No USCIS petition required
- Admitted to U.S. in E-3 status after obtaining E-3 visa

## F-1 OPT

- May be employed in major field of study
- No DOL/USCIS wage requirements
- Standard OPT - 1 year after degree completion
- STEM extension OPT - additional 17 months
- Generally eligible for change of status to H-1B at end of OPT IF no previous unmet J-1 home stay provision

# Export Control

- Attestation required for H-1B petitions
- OIPI requires export control form for any beneficiary - J-1, H-1B, J-1, TN, etc.
- Because:
  - The Export Administration Regulations (EAR) and International Traffic in Arms Regulations (ITAR) are not limited to sponsorship of new employees in H-1B status
  - Apply to all non-U.S. citizens and maybe naturalized U.S. citizens
  - Educational institutions employing foreign nationals must have compliance processes in place to determine whether a deemed export license is required under U.S. export control laws
  - Questions: UAF Office of Research Integrity

## Contact info for paperwork assistance:

- For specific questions or clarification of which status is most appropriate, please contact OIPI.
- For how to complete forms and start the process, contact your UAF School/College/Institute Executive Officer or PPA. Forms require Dean or Director level approval.
- Office of International Programs and Initiatives  
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[www.uaf.edu/oip](http://www.uaf.edu/oip)

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