

H-3 Training Visa Regulations

The H-3 visa classification is designed for foreign nationals who wish to enter the United States to receive training. Unlike the H-1B category, the H-3 is not a dual-intent visa, so the beneficiary cannot have immigrant intent and must demonstrate the training will benefit future endeavors in her/his home country. The regulations allow for training in "any field of endeavor." The regulations give examples of agriculture, commerce, communications, finance, government, transportation, the professions, as well as purely industrial areas. The only sort of training that is specifically excluded is graduate medical training. Nurses may, in some circumstances, receive training in the US in H-3 status, and foreign medical students on school vacation can participate in externships at US hospitals.

While the category initially appears very appealing, it is subject to many detailed requirements and limitations that render it less useful. Indeed, about only 3000 H-3 visas are issued each year.

- 1) Petitions must document that the proposed training is not available in foreign national's home country. The petition must include the reason why the applicant cannot obtain the training in his home country.
- 2) The Petition must document or evidence that the foreign national will not be placed in a position in which a citizen or Legal Permanent Resident is regularly employed.
- 3) The position/training must include in-classroom training and may also include supervised on-the-job training.
- 4) No productive employment is allowed, unless incidental to the training. I.e., the program must not result in productive employment, beyond that incidental & necessary to training program. Nor can the program be designed to recruit and train foreign nationals for the ultimate staffing of operations in the U.S.
- 5) The petition must show the training will benefit the foreign national in pursuing a career overseas (i.e., not in the U.S.).
- 6) The program must have a fixed schedule, specific goals/objectives and documented means of evaluation.
- 7) The Training program must be compatible with the company's business activities.
- 8) The foreign national must not already possess substantial training and expertise in the proposed field of training.
- 9) The training must be in a field likely to be utilized outside of the U.S.
- 10) The petition must establish that the company has the physical plant and sufficiently trained manpower to provide the training specified, and the reason the training program is a benefit to the company as well as to the foreign national.
- 11) The petition must disclose the source and amount of remuneration to be paid to the foreign national trainee.

The H-3 visa is initially granted for the length of the training program, but no more than 2 years. After the two year training period, no extension, change of status or readmission in H or L status will be granted unless the foreign national has resided and is physically outside of the U.S. for six (6) months. The only exception is where an H-3 visa holder was present in the U.S. for less than six months, or where the training was seasonal/intermittent.

There is no restriction to an application for a change status before the end of the training period or if the training period is for a short duration. However, the change of status application will trigger a request for evidence if the petitioner is the same (because it would conflict with # 4, above).

In order to obtain H-3 classification, the United States employer or organization must file a Form I-129, Petition for Nonimmigrant Worker. The petition must be accompanied by the information provided above. The filing is \$320

The form can be downloaded from the US Citizenship and Immigration Service - <http://www.uscis.gov>