# SUMMARY OF MAJOR NONIMMIGRANT EMPLOYMENT CLASSIFICATIONS

This summary is not legal advice nor should it substitute for specific legal advice in any situation.

<table>
<thead>
<tr>
<th>Visa Category</th>
<th>Eligibility Criteria</th>
<th>Terms &amp; Conditions of Employment</th>
<th>Maximum Length of Stay</th>
<th>Procedure</th>
<th>Fees</th>
<th>Miscellaneous</th>
<th>Dependents</th>
</tr>
</thead>
</table>
| **E-3**       | Australian Specialty Occupation | - Employment permitted only with sponsoring U.S. employer.  
- Must adhere to DOL PW requirements | 2 years at entry, with no fixed limit on 2-year extensions. | File LCA with Department of Labor and then Australian nationals may apply for visa directly at U.S. Consulate. If already in U.S., consult with USCIS petition. | $325 Filing Fee (unless apply at Consulate) | - No premium processing  
- No Portability  
- No 240 day rule | Spouses of E-3 may not work incident to status, but are eligible to request work authorization (EAD card) from USCIS |
| **H-1B**      | Temporary Worker in Specialty Position | - Employment permitted only with sponsoring U.S. employer.  
- Must adhere to DOL PW requirements  
- Subject to Export Control | 3 years at entry, with extensions for a total stay of 6 years. Extensions beyond 6 years sometimes available w/pending green card application. Employee eligible to recapture time spent abroad. | File LCA with Department of Labor and then USCIS petition. If abroad, must then apply for visa stamp at U.S. Consulate. Canadians are visa exempt. | $325 Filing Fee  
- $500 Anti-Fraud (first H-1B Only) | - Dual Intent  
- Best visa for applying for PR  
- 240 day rule applies | Spouse (H-4) and unmarried children under 21 cannot work but may attend school |
| **O-1**       | Individual of Extraordinary Ability | - Employment permitted only with sponsoring U.S. employer.  
- No PW requirements  
- Subject to Export Control | 3 years at entry, with no fixed limit on 1-year extensions. | File petition. If abroad, must then apply for visa stamp at U.S. Consulate overseas. Canadians are visa exempt. Premium processing is allowed for the USCIS petition. | $325 Filing Fee  
- $4,000 Legal Fees | - Great visa for J-1s subject to the 2 year home residence req  
- No portability | Spouse (O-3) and unmarried children under 21 cannot work but may attend school |
| **TN**        | NAFTA Occupations | - Employment permitted only with sponsoring U.S. employer.  
- No PW requirement | 3 years at entry. No fixed limit on number of extensions. USCIS may limit entry where nonimmigrant intent is questioned. | Canadians may apply directly at major U.S./Canada border crossings, or at Pre-Flight Inspection at certain airports in Canada. Mexican citizens must make a visa application at a U.S. consulate. If in the U.S., extensions or change of employer may be filed with USCIS. Premium processing is allowed for the USCIS petition. | $325 Filing Fee (unless apply at border) | - Portability Allowed  
- 240 day rule applies | Spouse (TD) and unmarried children under 21 cannot work but may attend school |
## Other Nonimmigrant Classifications Allowing Work (In Limited Situations)

This summary is not legal advice nor should it substitute for specific legal advice in any situation.

<table>
<thead>
<tr>
<th>Visa Category</th>
<th>Eligibility Criteria</th>
<th>Terms &amp; Conditions of Employment</th>
<th>Maximum Length of Stay</th>
<th>Procedure</th>
<th>Fees</th>
<th>Miscellaneous</th>
<th>Dependents</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B-1</strong> Visitor for Business</td>
<td>Must demonstrate temporary activity in U.S. will benefit foreign employer and not be considered productive employment for U.S. company. Must be on foreign payroll. Must show ties to home country and intent to return abroad.</td>
<td>No income from any U.S. employer. However, B-1 can be reimbursed for travel expenses and may be eligible to receive academic honorarium.</td>
<td>Admitted for up to 6 months; visa waiver admitted for 90 days only</td>
<td>Apply for visa stamp directly at Consulate. Nationals of some countries are visa exempt or eligible to enter U.S. under Visa Waiver Program.</td>
<td>N/A</td>
<td>9, 6, 5 Rule for Academic Honorarium (9 days, 6 months, 5 institutions)</td>
<td>Dependents cannot work or go to school</td>
</tr>
<tr>
<td><strong>F-1</strong> Students with Optional Practical Training (OPT)</td>
<td>Must be enrolled on a full-time basis for 1 full year to be eligible for OPT (Note: Most students apply for OPT AFTER graduation)</td>
<td>OPT is authorized by USCIS through issuance of Employment Authorization Document (&quot;EAD&quot;). -No PW requirement -Students on OPT are eligible to work in any job that is related to their major; not tied to a specific employer.</td>
<td>OPT valid for 1 year; certain students eligible for a 17 month STEM extension</td>
<td>File Form I-765 with USCIS Service Center</td>
<td>$380 Filing Fee</td>
<td>No Sponsorship -Job does not need to meet H-1B standards (&quot;specialty occupation&quot;) -Can be self-employed or work multiple jobs -Max of 90 days of unemployment</td>
<td>Spouses (F-2) cannot work or go to school; F-2 children may attend K-12</td>
</tr>
<tr>
<td><strong>J-1</strong> Exchange Visitor (Professor or Research Scholar)</td>
<td>Must not be subject to 12 month or 24 month bar. Must demonstrate temporary stay in the US and ties to home country</td>
<td>Employment permitted only with sponsoring US employer -No PW requirement</td>
<td>Up to 5 years (cannot recapture time spent abroad); 3 week minimum</td>
<td>DS-2019 issued by RO/ARO; EV can take DS-2019 to Consulate abroad to get visa stamp</td>
<td>$180 SEVIS Fee</td>
<td>Not valid for tenure track positions -12 month bar -24 month bar -2 year home residence requirement</td>
<td>Spouse (J-2) may not work incident to status, are eligible to request work authorization (EAD card) from USCIS</td>
</tr>
</tbody>
</table>