WELCOME

Hosting and Hiring International Scholars
December 19, 2013
Overview Of Presentation

• ISSS – Who We Are & What We Do

• Choosing the Appropriate Nonimmigrant Visa Type
  – J-1 Exchange Visitors
  – H1B Temporary Workers in Specialty Occupations
  – E-3, TN, O
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ISSS Role

• We provide services to approximately 1,400 international students and 500 international scholars each fiscal year; these numbers continue to increase yearly.

• ISSS exists to ensure that the University of Colorado Denver is able to welcome students and scholars from overseas to study, teach, conduct research, present work and ideas, and collaborate with colleagues in compliance with current U.S. immigration laws and regulations.
ISSS Role

• ISSS fulfills our mission by:
  – Obtaining and maintaining our F and J visa program designations from the U.S. Department of Homeland Security’s Student and Exchange Visitor Program (SEVP) and the U.S. Department of State;
  – Ensuring compliance with the increasingly complex laws and regulations that govern nonimmigrants who come to the University to study, teach, observe, conduct research, and engage in clinical activities;
  – Providing expert advice on immigration matters and cultural adjustment issues;
  – Delivering ongoing training to the academic units and departments who educate, host, and hire international students and scholars; and
  – Offering a variety of programming events and activities.
J Exchange Visitor Program

• The University of Colorado Denver is an official program sponsor for the J-1 Exchange Visitor Program as authorized by the U.S. Department of State.

• The broad purpose of any J-1 program is to promote international educational and cultural exchange, in order to develop mutual understanding between the people of the United States and other countries.
When to Use a J

• J-1 status in a Professor, Research Scholar, or Short-Term Scholar category is appropriate for:
  – Basic scientists of all academic ranks, including individuals who are graduate students in their home countries (we must use the Student Intern category for undergraduate students);
  – Postdoctoral Fellows engaged in a specific and time-limited research project; and
  – Physicians doing research who are not involved in any direct patient care and do not have any form of contact with patients.
  – Any form of clinical contact that would require a medical license is strictly prohibited for J-1 exchange visitors sponsored by the University of Colorado Denver.
Minimum Funding for J-1 Scholars

• $24,300 per year/$2,025 per month for principal J-1 exchange visitor.
• $6,000 per year/$500 per month for each J-2 dependent.
• A family of 3 (J-1 exchange visitor, plus spouse and 1 child) would require a minimum of $36,300 per year/$3,025 per month.
J-1 Insurance Requirements

• All J-1 principals and any dependents that accompany them must be covered by adequate health, repatriation of remains, and emergency medical evacuation insurance.

• Failure to comply with this requirement can lead to termination of the exchange visitor’s J-1 status.

• University employees who are eligible for health insurance may purchase health insurance through the CU Benefits program. They must purchase repatriation and evacuation insurance separately.

• Exchange visitors scholars who are not eligible for benefits may present evidence of insurance coverage either from their home country or a private carrier in the United States.
J-1 Eligibility Limitations

• J-1 status CANNOT be used for anyone who will hold a tenure-eligible position or have patient contact.

• **12-month bar** - If an individual has held J-1 status in any category except Short-Term Scholar during the preceding 12 months, he/she is only eligible for J-1 Research Scholar or Professor category if transferring from another J-1 program.

• **24-month bar** – Time spent in the U.S. as a J-1 Exchange Visitor or J-2 dependent impacts eligibility for future J-1 status in the “Research Scholar” or “Professor” categories. To be eligible for either category, a potential J-1 Exchange Visitor must show that s/he has not participated in and concluded a program as a Research Scholar or Professor within the 24 month period preceding the start date of the new program.
J-1 Advantages

• No employer filing fees.
• Relatively fast turnaround (DS-2019 can be issued within 1 week after ISSS receives complete request package).
• ISSS has more control of the process because USCIS (U.S. Citizenship & Immigration Services) approval is not required.
• J-2 spouses can obtain work permission.
• A J-1 or J-2 Exchange Visitor is granted a 30 day grace period following the completion of a J program. This time is designed to allow time to travel in the U.S. or make preparations for departure.
J-1 Disadvantages

• Sponsored individual must pay SEVIS Fee of $180 before applying for initial J-1 visa.
• For temporary visits only; requires that individual maintain a residence in his/her home country and have no intent to immigrate to the US.
• Two-year home residency requirement for those whose skills are on their home country’s skills list, who receive government funding for their J-1 program, or who are J-1 physicians sponsored by ECFMG.
• May be relatively difficult (but not impossible) to change from J-1 to another nonimmigrant visa status if exchange visitor is subject to the two-year home residence requirement.
• J visa holders on University’s J program forbidden to touch patients.
When to Use an H-1B

• H-1B is a nonimmigrant classification used by an employer offering a position in a specialty occupation to an employee who will be temporarily employed (up to 6 years). The employee must also be a professional in a specialty occupation.

• A specialty occupation requires theoretical and practical application of a body of specialized knowledge, consistent with a profession requiring a minimum of a bachelor’s degree or its equivalent.
When to Use an H-1B

At the University of Colorado Denver, H-1B status is appropriate for the following positions:

• Assistant, Associate, or Full Professors, including Clinical Faculty
• Lecturers/Instructors
• Professional Research Assistants; Research Associates
• Postdoctoral Fellows
• GME Residents and Fellows under certain circumstances
• Other Professional Exempt Staff where a specific degree is minimum requirement
An H-1B Employer Must

- Pay at least the prevailing wage.
- Provide benefits similar to US workers.
- Create and Maintain a Public Access File.
- Pay return transportation to home country if H1B employee is terminated prior to the requested end date of the H1B petition.
- Pay employee regardless of whether employer has work for employee or not, unless petition and Labor Condition Application are withdrawn.
- Pay USCIS filing fees.
H-1B Advantages

• “Dual intent” category with no requirement that H1B visa holder maintain a residence in home country.
• H1B visas are generally easier to obtain because intent to immigrate is not an issue.
• If employee is already in H1B status and is “porting” to the University of Colorado Denver from another employer, s/he can begin working as soon as petition filed.
• An individual can generally hold H1B status for maximum of 6 years.
H-1B Disadvantages

• Employer must pay salary that meets or exceeds the prevailing wage as determined by the U.S. Department of Labor.

• Filing fees can add up quickly, especially if timing requires the use of premium processing.

• If employee is terminated for any reason before the requested H1B expiration date, employer must pay cost of transportation to employee’s home country.

• H-4 dependents cannot work.
When to Use an E-3

- E-3 status is designed for Australian citizens employed in specialty occupations.
- E-3 status is appropriate for faculty of all ranks, professional exempt positions, and postdoctoral fellows.
E-3 Advantages & Disadvantages

E-3 Advantages

• E-3 status can be obtained without prior petition to USCIS or filing fees in US, if employee is outside the U.S.
• No maximum limit to time Beneficiary can spend in E-3 status, but a person may remain in the U.S. in E-3 status for only two years at a time.
• E-3 dependents are eligible to apply for employment authorization.

E-3 Disadvantages

• Employer must pay prevailing wage and file a Labor Condition Application.
• Employer must track validity of LCA to ensure that it is consistent with validity of E-3 status, which can be difficult if employee travels frequently.
• Employee must pay $390 visa application fee at US Consulate abroad.
• May be used for temporary visits only; applicant must demonstrate that s/he will be returning to Australia.
When to Use a TN

• Treaty NAFTA (TN) status is available to Canadian, Mexican, Singaporean, or Chilean citizens working in one of the professions specified in the NAFTA Treaty.
When to Use a TN

TN status is appropriate for

• Scientists of all academic ranks.
• Post-doctoral fellows engaged in a specific and time-limited research project.
• Physicians doing research who are not involved in any direct patient care and do not have any form of contact with patients.
• IT Professionals.
TN Advantages & Disadvantages

TN Advantages
• No employer filing fees.
• Employee presents offer letter, TN-specific cover letter, and academic credentials for entry or visa.
• No maximum eligibility period, although each TN entry is valid for up to three years.

TN Disadvantages
• Employee must pay $50 TN fee at the border (Canadians) or before applying for visa (Mexicans, Chileans, Singaporeans).
• May be used for temporary visits only; requires that person have a residence in their country and no intent to immigrate to the US.
When to Use an O

• O-1 status is an alternative to H-1B status for senior and well-known faculty and researchers.

• Eligibility for O status requires evidence that the person is “within the small percentage of those who have arisen to the very top of their field of endeavor.”
O Advantages & Disadvantages

O Advantages

• Possible to apply for an O-1 while still subject to 212(e).
• No maximum eligibility period; initial O-1 petition may be valid for up to three years, extensions are valid for only one year.

O Disadvantages

• Evidentiary standard is very high.
• May be used for temporary visits only; requires that person have a residence in their country and no intent to immigrate to the US.
THANK YOU!

Thank you for helping to internationalize the University of Colorado Denver by inviting international visitors and hiring international employees.

ANY QUESTIONS?