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# H-3 Visa Trainees

## H-3 Visa Trainees <sup>[1]</sup>

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### General Information

An H-3 classification applies to an alien who is coming temporarily to the United States:

- (1) As a trainee, other than to receive graduate medical education or training, or training provided primarily at or by an academic or vocational institution, or
- (2) As a participant in a special education exchange visitor program which provides for practical training and experience in the education of children with physical, mental, or emotional disabilities.

There is currently no annual cap on H-3 admissions to the U.S. However, there is a limit of 50 visas per fiscal year allocated to H-3 aliens participating in special education training programs. As of March 30, 2009, three of these H-3 visas had been approved with a start date in FY 2009.

### How to Apply for the H-3 Classification

In order to be considered as a nonimmigrant under the H-3 classification, the applicant's prospective employer or agent must file Form I-129, Petition for Nonimmigrant Worker, with the United States Citizenship and Immigration Services in the Department of Homeland Security (USCIS). More than one beneficiary may be included in an H-3 petition if the beneficiaries will be performing the same service, or receiving the same training, for the same period of time, and in the same location. For more detailed information regarding filing the Form I-129, as well as requirements, please refer to the USCIS [Temporary Workers](#) <sup>[2]</sup> webpage.

The petitioning employer or sponsors must demonstrate that the:

- 1) Proposed training is not available in the beneficiary's home country
- 2) Beneficiary will not be placed in a position which is in the normal operation of the business, and in which citizens and resident alien workers are regularly employed
- 3) Beneficiary will not be productively employed except as incidental to training

4) Training will benefit beneficiary in pursuing a career outside the U.S.

The U.S. employer should file the petition with:

- 1) A detailed description of the training program, including the number of classroom hours per week and the number of hours of on-the-job training per week;
- 2) A summary of the prior training and experience of each alien in the petition; and
- 3) An explanation of why the training is required, whether similar training is available in the alien's country, how the training will benefit the alien in pursuing a career abroad, what benefits the employer will derive from the training, and why the employer will incur the cost of providing the training without significant productive labor from the trainee(s).

For applications pertaining to the H-3 Special education training program:

- The petition (Form I-129) must be filed by the U.S. employer who has a professional staff and a structured program for providing education to children with disabilities.
- The petition must be filed with:

1) A description of the training, staff and facilities, evidence the program meets the above conditions and details of the alien's participation in the program; and

2) Copies of evidence the alien is nearing completion of a baccalaureate degree or higher in special education, or already holds such a degree or has extensive prior training and experience in teaching children with physical, mental, or emotional disabilities.

## Family Members

H-3 Visa holders may bring their dependent spouse as well as unmarried children under 21 on the H-4 visa. Please note the H-4 visa holder is not eligible to work in the United States, however they may partake in educational degrees/courses without applying for the F-1 student visa.

## Limitations

Certain limitations of the H-3 visa include that if the H-3 visa holder remains in the U.S. for the maximum period of time, the H-3 holder may not seek a change of status, and/or extension, and/or readmission to the United States in either L or H status until (s)he has resided outside of the U.S. for a duration of at least six months. However, an H-3 holder may apply for change of status while he or she is on the H-3 visa, if the H-3 holder has not remained in the US for the maximum period of time.

**Note:** H-3 status is not appropriate for graduate education, including medical training, except under special circumstances. Petitioning employers may not use H-3 classification for training programs primarily designed to benefit the U.S. companies and/or where U.S. workers would be employed but for the trainees' services.

## Nonimmigrant Visas:

H-3 Visa <sup>[3]</sup>

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## Links:

[1] <https://immigration.com/visa/h-3-visa/h-3-visa-trainees>

[2]

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=13ad2f8b69583>

[3] <https://immigration.com/visa/nonimmigrant-visas/h-visa/h-3-visa>