

Part 2 - Non-Immigrant US Visas

There are a large number of non-immigrant visas available to foreign nationals who desire to visit America for business, pleasure or work on a temporary basis.

The Visitor

An individual can apply at the American Embassy or Consulate in South Africa for a visitor visa. There is a visa for pleasure or medical treatment and one for business. Most commonly a visitor visa will be granted for business and pleasure in one (known as a B1/B2 visa).

Individuals coming to the United States for business are limited in the scope of their activities. Examples of "business" purposes include, consultation with a business, travel for a scientific, educational, professional or business convention or conference on specific dates, to settle an estate, or negotiate a contract.

Individuals in this visa category may not take up employment with an American employer, nor may they enroll in a course of study.

The Worker

Non-immigrant work visas include, but are not limited to, visas for registered nurses, temporary agricultural workers or those performing other services or labor, intra-company transferees; and foreign nationals with extraordinary ability in the sciences, arts, education, business, or athletics and internationally recognized athletes or members of an entertainment group.

There is also a visa available for foreign nationals in specialty occupations. This visa is a very common category, and therefore I have chosen this one to elaborate upon. The foreign national must be offered employment in a field requiring highly specialized knowledge, which in turn would require a Bachelor's or higher degree or its equivalent. As an H-1B nonimmigrant, you may be admitted for a period of up to three years. Your stay may be extended, but generally it cannot go beyond a total of six years, though some exceptions apply. There are a limited number of visas in this category that are made available in a fiscal year, however there are certain sub-categories of professionals who are not subject to the cap at all.

The spouse and unmarried children under 21 years of age of the non-immigrant employee may also seek admission as non-immigrants. However, these family members may not engage in employment in the United States.

The Student

If you wish to pursue full-time academic or vocational studies in the United States, you may be eligible for one of two non-immigrant student categories. Alternatively,

there is a visa available for educational and cultural exchange programs.

I will focus on the academic student visa, which is mostly used. The foreign national must be enrolled as a full-time student in an "academic" educational program at a school approved by the United States Citizenship and Immigration Service. The term "school" can include a college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language training program.

The two most important requirements are that the academic student must have sufficient funds available for self-support during the entire proposed course of study, and must maintain a residence abroad, which he/she has no intention of giving up.

Academic students may only work on-campus during the first academic year, subject to certain conditions and restrictions. There are various programs available for these students to seek off-campus employment for practical training purposes, which must be related to their area of study.

Conclusion

With all non-immigrant categories, you have to show that you do not have the intent to immigrate, and that you have "ties" to your country of origin. Examples include proof of ownership of property or a letter of employment.

If you are in the United States as a visitor and wish to work or study then you would have to change your non-immigrant status to that of worker or student respectively. This involves an entirely separate visa application for the particular category of visa sought. Please note that if you do so and your authorized stay as visitor expires while your application for a student or work visa is pending, you will start accruing days of unlawful presence. If the work or student visa is ultimately denied then you will be considered out of status and subject to the 3/10-year reentry bar.