



NON-IMMIGRANT VISAS

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This chapter has very detailed information on the non-immigrant visas which are available for the USA. A non-immigrant visa is not a permanent visa, you are only allowed to stay in the USA for a limited time on a non-immigrant visa.

You should read this chapter if you are thinking or applying for a non-immigrant visa or if you are not sure what visa to apply for.

Non-immigrant Visa information

Non-immigrant visas allow their holders to stay in the USA for a limited amount of time and for a specific stated purpose and are issued by the US Embassy/Consulate (although in some circumstances, a visa holder may change his/her status to another visa category while in the United States).

There are many types of non-immigrant visas, among them visas for students (F-1), specialty occupation workers (H-1B), and fiancé/e of US citizens (K-1).

The most common and widely used of the non-immigrant visas is the B visa.

There are 2 types of B visas:

- **B-1 (business visitor)** and
- **B-2 (visitor for pleasure).**

Most non-immigrant visas require that the holder does not have immigrant intent, which means that you must not have the intention to remain permanently in the USA (please see more detailed information on this in the paragraph below).

Non-immigrant visas are issued for varying periods of validity. It is important to understand that while the visa may be valid for up to 10 years, each time you enter the USA the immigration officer admitting you will determine how long you may remain in the country during that stay.

The times allowed for your stay will be indicated on your I-94W departure card (the small white card you receive at your port of entry). Non-immigrant visas may be issued for single use allowing one entry into the USA, or for multiple entries.

Most non-immigrant visas - including the B, F and J visas described below - require that the applicant demonstrate to the USCIS that she/he does not have the intention to remain in the USA. This means that you must show evidence to the USCIS that you intend to return to your home country at the end of the stay granted to you.

“Non-immigrant” intent is undoubtedly the most closely scrutinised element of the non-immigrant visa application process. When you apply for any non-immigrant visa at a US Embassy/Consulate overseas, consulate staff will need to be satisfied that you do not have the intention of immigrating permanently to the USA, falling out of status, or becoming a visa overstay. To demonstrate non-immigrant intent an applicant must show ties to his/her home country.

How can I prove my ties are to my home country?

Ties to your home country would include:

- **Family ties:** If you have immediate relatives (parents, children, brother, sister, spouse, fiancé) in your home country, document this for the visa application. A witnessed statement from a member of your community could include a family doctor, priest, minister, politician or police officer. It is always a good idea to have such letters witnessed or notarised
- **Community ties:** If you have a history of participating in community activities this may help to show that you are unlikely to abandon your home country. Document any ties to any organisations
- **Property and Economic interest:** The more financially rooted the applicant (or his/her family) is, the more likely it will appear

that the applicant will return to his/her own country. If you own a home, include a copy of your title or deed. If you are renting a home, include a copy of your lease agreement. If you own a car and it is registered and insured, include a copy of the registration and insurance policy. Including a letter from your employer that you are employed in your home country and expected back to work is another good way of demonstrating ties to your home country

- **Other ties:** If you are in college or school, include a letter from the college or school administrator verifying you are going to return there to continue your studies. A return airline ticket would indicate your intention to return to your home country on a certain date
- **Finance:** Another issue in obtaining a temporary visa is the issue of finance. You need to be prepared to prove that you have the means to support yourself while staying in the USA, especially if you plan to enter on a visa that does not allow you to work. You should obtain a letter from your bank and a bank statement to use with your visa application. This letter signed by a bank official should show when the account was opened, whose name the account is in and how much money is in the account. If you do not have funds or an account, perhaps a parent or sibling would be prepared to complete this part of the process showing their income and willingness to support you while you are in the USA

- **Warning:** A past visa overstay may demonstrate to USCIS that you have immigrant intent. If a relative or employer in the USA ever filed an immigrant petition for you, this would be evidence of immigrant intent.

The following is an overview of some popular types of non-immigrant visas:

B-1 - Visitor for Business

You would apply for this visa if you were going to the USA, for example, to enter into or negotiate contracts, purchase goods for shipment abroad, obtain orders for products manufactured abroad, attend business conventions, consult with business organisations, or to investigate business opportunities in the USA. Your stay in the USA must be temporary and you must have the clear intention to depart prior to the end of the authorised period of stay.

The visa may be issued for varying periods of time and for single or multiple entries.

At your point of entry as B-1 visa holder you will normally be granted permission to stay in the USA for the period of time that is necessary to accomplish the purpose of your visit, usually from a few weeks up to 6 months.

B-2 Visitor Visa

You would apply for this visa if you were going to the USA temporarily for pleasure (for example if you intend to stay in the USA for more than the 90 days allowed under the Visa Waiver program). The US Department of State defines pleasure as any legitimate activity of a recreational character, including tourism, amusement, visits with friends or relatives, rest, medical treatment and activities of a fraternal, social or service nature.

As a B-2 visa holder you cannot use this visa to go to the USA primarily for the purpose of studying, but you may engage in brief incidental study. As a B-2 visitor you cannot engage in any type of employment whatsoever.

You must prove that your stay in the USA is only temporary and you must have the clear intention to depart prior to the end of the authorised period of stay. The visa may be issued for varying periods of time and may be issued for single or multiple entries. If you are entering the USA on a B-2 visa you will be admitted for a period of up to 6 months.

What options are there to extend this visa?

If, after you enter the USA as a B-2 visitor and discover that you will need additional time in order to accomplish the purpose of your trip, you may request an extension of time from the USCIS by filing Form I-539 before the expiration of your stay.

You must have a valid reason to extend your stay, and you must show your intention is to return to your permanent residence in Ireland and that you have sufficient funds to continue your trip without working. Extensions are not always granted. If the USCIS feels that you are applying for an extension to prolong your stay indefinitely, they will deny your application and you will have to leave the country immediately.

If I want to study temporarily in the USA, what visa can I apply for?

If you want to study temporarily you can apply for an F-1 Student visa. The definition of a student eligible for an F-1 visa is; a student who has a residence in a foreign country, which he or she has no intention of abandoning and who is a bona fide student, qualified to pursue a full course of study and who seeks to enter the US temporarily and solely for the purpose of pursuing such a course of study at an established college, University, Seminary, Conservatory, Academic high school,

elementary school or other academic institution or in a language training program in the United States, which program must have been approved by the immigration service.

In order to be admitted to a school as an F-1 student you must first be accepted by the school and obtain Form I-20 from the school's foreign student advisor. As a prospective student you must also submit evidence that you have enough money to pay all school related expenses and enough money to support yourself for the duration of the academic program.

As an F-1 visa holder when you apply for admission to the United States at a port of entry you will be granted permission to stay for your "duration of status" (D/S), or for as long as it takes for you to complete the course of study, maintaining a sufficient course load and not otherwise violating your visa status.

Can I work in the USA while on an F-1 student visa?

While in the USA as an F-1 student, you are only allowed to work at an on-campus job, and only for up to 20 hours per week during school sessions and full-time during holidays, breaks, and the student's annual vacation.

Can my family accompany me to the USA if I am granted an F-1 Student visa?

Yes, you can apply to have your spouse and minor children accompany you to the USA. You can include them with your application or you can apply at a later stage to have them join you in the USA. If successful they will be granted an F-2 visa. When making the application you will have to prove that you can financially support them, as they cannot enter into employment in the USA. For more detailed information on this please see the website www.uscis.gov

J visas - Exchange Visitors

J-1 visas are available to immigrants who want to participate in an Exchange Visitor Program. The J-1 Exchange visitor program allows participants to pursue education, training or research in the USA. A participant can also take part in this program to teach in the USA.

The type of immigrants who can take part in the J-1 program may include (but are not limited to) students, industrial and business trainees, professors and research scholars, foreign medical graduates, international and government visitors, teachers, camp counsellors and au pairs.

J-1 visa holders must be sponsored in order to apply for this category of visa. Sponsors of J-1 programs would include:

- An existing US agency or organisation
- A recognised international agency or organisation that has US offices
- A reputable organisation that is considered to be a citizen of the US (for more detailed information on this please see **Chapter 14 - Definitions** definitions).

There are many educational institutions and large companies who participate in this program. For more information on participating organisations please see the website

www.exchanges.state.gov/jexchanges

The Exchange Visitor Program is administered by the Office of Exchange Coordination and Designation in the Bureau of Educational and Cultural Affairs. The internet website for information on the Exchange Visitor Program is www.exchanges.state.gov/education/jexchanges

At the conclusion of their program participants are expected to return to the home countries to use the experience and skills they have acquired while in the USA.

Be careful of the 2-year foreign residency rule

One issue J visa applicants have to beware of is known as Section 212 E. This is a rule that requires J recipients to a 2 year foreign residency rule after completion of the practical training. Many medical trainees are subject to 212 E. Check with the program administrator to make sure you are not subjecting yourself to this rule if it is a cause of concern to you.

What are the J-1 Exchange Visitor Program categories?

The Exchange visitor program categories are:

Au pair program

This program allows a foreign national between 18 and 26 years of age to participate in the home life of a host family. The participant will provide limited childcare services for up to 12 months. Childcare is limited to a maximum of 10 hours per day and to a maximum of 45 hours per week. Host families are required to pay up to \$500 toward the cost of the au pair's required academic course work. The sponsoring organisation is required to screen and select both host families and au pairs as program participants. The sponsor provides au pairs with training in child development and child safety prior to their placement with a host family.

For more detailed information on the au pair program please see the website www.exchanges.state.gov/education/jexchanges

Camp Counsellor program

Camp Counsellors interact directly with American youth groups by overseeing their activities in a camp setting during the US summer season. Foreign university students, youth workers, and other specially qualified individuals at least 18 years of age and proficient in English may work as Counsellors in US. summer camps for up to 4 months. Extensions to this program are not

permitted. Participants receive pay and benefits in line with those offered to their US counterparts. For more detailed information on the Camp Counsellor program please see the website

www.exchanges.state.gov/education/jexchanges

Student Program (college/university)

The Student Exchange Program (college/university) allows foreign students the opportunity to study at a degree-granting post-secondary accredited educational institution. Students may participate in degree and non-degree programs. Academic training for undergraduate or pre-doctoral students may not exceed 18 months, including prior academic training in the USA, or the duration of the student's full course of study in the USA, whichever is less. Academic training for postdoctoral students may not exceed 36 months, including prior academic training in the USA or the duration of the student's full course of study in the USA whichever is less.

For more information on the Student program please see the website

www.exchanges.state.gov/education/jexchanges

Student Program (secondary)

The high school exchange program allows foreign secondary school students to enter the United States to complete up to 1 year of academic study at an accredited public or private secondary school. During their stay participants live with American host families or reside at accredited US boarding schools. Students attend school as full time students and may attend for not less than 1 term or more than a full academic year.

Participants must be between the age of 15 and 18-and-a-half years at the time of initial school enrolment (by the first day of school) or have not completed more than 11 years of primary and secondary school. Students are not allowed to work on a part- time or full-time basis, but may accept occasional work for example, babysitting. For more detailed information on this student program please see the website www.exchanges.state.gov/education/jexchanges

Government Visitor Program

The Government Visitor Program is for the exclusive use of US federal, state, or local government agencies. Government visitors are authorised to participate in the Exchange Visitor Program for the length of time necessary to complete the program but this will not exceed 18 months. Participants in this category include editors, business and professional persons, government officials and labour leaders. For more detailed information on the Government Visitor program please see the website

www.exchanges.state.gov/education/jexchanges

Alien Physician Program

Through this category foreign medical graduates may pursue graduate medical education or training at accredited schools of medicine or scientific institutions. The Educational Commission solely sponsors participants in this category for Foreign Medical Graduates (ECFMG). Please see the website www.ecfm.org

To be eligible, foreign medical graduates must meet certain criteria. For more detailed information on the Alien Physician Program please see the website www.exchanges.state.gov/education/jexchanges

Professor/Research Scholar Program

Any person participating in this program can engage in research, teaching, and lecturing with their American colleagues. Professor and research scholar participants may not be in the USA in (or have J-visa status) for any part of the 12-month period preceding the start date of their programs. Professors may engage in research and research scholars may engage in teaching/lecturing, at the discretion of the responsible officer (a person appointed by the sponsoring organisation to administer the program). This will not be considered a change of category. The maximum duration for these categories is 3 years. For more detailed information on the Professor/Research scholar program please see the website www.exchanges.state.gov/education/jexchanges

Short-term Scholar Program

The short-term Scholar Program allows the participant (a professor, research scholar or person with similar education) to visit the USA to lecture, observe, consult, train or demonstrate special skills at research institutions, museums, libraries, post-secondary accredited educational institutions or similar types of institutions. The program duration is for a maximum period of 6 months. Extensions are not permitted in this category.

For more detailed information on the short-term Scholar Program please see the website www.exchanges.state.gov/education/jexchanges

Specialist Program

The Specialist Program is for participants who are experts in a field of specialised knowledge or skill and who go to the USA to observe, consult, or demonstrate their special skills. Participants in this program would include mass media communication, environmental science, youth leadership, international educational exchange, and museum exhibitions. The purpose of the specialist category is to facilitate exchange among experts at scientific institutions, government agencies, museums, corporations, libraries, and similar types of organisations. The maximum duration of this category is 1 year. For more detailed information on the Specialist program please see the website www.exchanges.state.gov/education/jexchanges

Teacher Program

The Teacher Program allows foreign nationals to have the opportunity to teach in primary and secondary accredited educational institutions in the USA for up to 3 years.

To be eligible to participate in this program the foreign national must meet the qualifications for teaching in primary or secondary schools in their country of nationality or last legal residence. The participant must have a minimum of 3 years of teaching or related professional experience and satisfy the standards of the US state in which they will teach. The participant must be of good reputation and character and seeking to enter the USA to teach full time at a primary or secondary accredited educational institution in the USA. For more detailed information on the Teacher Program and for information on the program regulations please see the website www.exchanges.state.gov/education/jexchanges

Trainee Program

The Training Program allows exchange visitors to enhance their skills in their chosen career field by participating in a structured training program and to improve their knowledge of American techniques, methodologies and expertise within their chosen field. The training program must be different to the participant's prior training and experience. The maximum length of any training program with the exception of flight training programs is not more than 18 months. For more detailed information on the Training program please see the website www.exchanges.state.gov/education/jexchanges

Flight Training

To participate in this program you must meet the training program regulations. For more detailed information on this please refer to the website www.faa.gov. The maximum program duration for Airline Transport Pilot (ATP) certification is 24 months. The maximum program duration of all other flight training programs is 18 months. Any requests for extensions must be submitted to the Department of State for approval.

For more detailed information on the flight training program please see the website www.exchanges.state.gov/education/jexchanges

I am at college and want to go to the USA for the summer, can I apply for a J-1 Visa?

Yes. The J-1 Summer work/travel program is available for college students.

Summer Work /Travel Program

The J-1 Summer work/travel program allows a foreign post-secondary student (a bona fide post-secondary student currently enrolled in and actively pursuing a degree or a full-time course of study at an accredited educational institution) to enter the USA to work and travel for a maximum of 4 months during their summer vacations.

Participants in the J-1 summer work/travel program must show that they have sufficient funds to cover all expenses. As a participant in this program you should try and secure employment before you go, but if you do not you must have enough money to support yourself until to find a job. If you are travelling to the USA as a J-1 summer work/travel participant you should contact your nearest Irish Immigration Center (please see **Chapter 13 - Irish Contacts**) in the USA, as they often provide information packs including accommodation and job handouts.

J-1 Summer work/travel participants are not allowed to work as a domestic help in US households or in positions requiring them to invest their own money for inventory for example as a door-to-door sales person.

Summer work/travel program participants are required to have medical insurance that covers them for sickness or accidents during the entire period of their stay in the USA.

Is there any other information I need to be aware of as a J-1 summer work/travel participant?

Yes. The following pointers are based on some of the difficulties that Irish J-1 students have faced in the USA in recent years. Information received from Irish consulates and Irish immigrant organisations in the USA who have been working with J-1 students down through the years have been the main source of information for this leaflet.

Support services

- Students should make use of all support services available including **USIT** and **SAYIT** orientation and information packs as these contain valuable pre- and post-departure information
- The Irish Immigration Pastoral Center in San Francisco compiles an accommodation and job handout for J-1 students. For more information on their contact details please refer to **Chapter 13 - Irish Contacts**
- The Irish Outreach San Diego has scheduled orientation days for J-1 students with job handouts available. An employer and bank representative will be present. Community Relations Police representatives are there to give advice on how to stay out of trouble in San Diego

- If you find yourself in trouble (getting arrested or losing your passport) you should contact your nearest Embassy or Consulate as soon as possible
- Please refer to the website www.dfa.ie/home/index.aspx?id=5535 for information on Consular services in the USA
- Irish Embassies and Consulates do not assist people in finding accommodation or employment.

Social Security Number

- It is very important that you contact your program sponsor and register with the Student and Exchange Visitor Information System (SEVIS) to provide them with your local address and details of where you will be employed
- It usually takes 7-10 days for your information to be updated in SEVIS. This update is necessary for you to get a Social Security Number
- Once this has been done apply for a Social Security Number (SSN) as soon as possible
- **Delays of 6-8 weeks** in previous years in some cities in obtaining a SSN have meant that some students have been unable to get work, as some larger employers will not employ someone without a SSN
- It is not a legal requirement on the employer but some larger firms have this policy
- Bring back-up funds to see you through an extended period of not being able to find work
- Please refer to the website www.socialsecurity.gov/online/ss-5.html for further information on getting a SSN. The link will also take you to the application form (SS-5) for your social security number. You will also find information on how to find your nearest office in the USA.

Finding a job

- It is important to do some research on jobs before you leave for the USA if you do not have prearranged employment
- Do an American style résumé before you go and/or bring your CV
- If possible talk to friends/other students who were there last year and ask them for tips on jobs and accommodation
- Contact any friends and family you have in the area you are traveling to and ask their suggestions or leads on jobs and accommodation
- The earlier you arrive in the USA the better chance you have of getting a job
- The website www.craigslist.org is a widely used site across the USA (there are sections for searching for employment).

Accommodation

- Costs for deposits for accommodation are very large. They can range from up to \$1000 to \$3000 (2007 figures) depending on the area and what is required
- Some landlords request the first month, the last month and another month deposit in advance
- Be aware that most accommodation will not have furnishing so read your rental agreement carefully. It is easy to pick up second-hand furniture that will do you for the summer
- Check out www.craigslist.org - This website is widely used across the USA (there are sections for searching for accommodation)
- How you treat your accommodation this year will affect the prospects of Irish students getting accommodation next year, so leave your apartment in the same condition you found it.

Identification

- Irish Consular Services in the USA report that lost, stolen and confiscated passports cause problems for J-1 students every summer
- It is recommended by Consular official that J-1 students should take a copy of the biographical page of their passport. It will make the replacement process easier if you lose or have your passport stolen
- Make a copy of your DS-2019 (your J-1 Visa) - it is extremely difficult to replace
- Store and use your passport safely
- If you dishonestly use a friend or relative's passport as your own identification it can be confiscated
- Rather than risk taking out your passport to prove your age you can get less valuable and equally effective ID from your local Department of Motor Vehicles (DMV) office. To find your local office in the USA please refer to the website www.usdmv.org

Breaking the law

- Some students have misjudged what a publicly acceptable level of partying is and have ended up in trouble with the local police force
- Students should be aware that some public disorder offences and what might be perceived as misdemeanors in Ireland are penalised more severely in the USA
- Most people do not get away with a proverbial 'slap on the wrist'
- Offences such as drinking alcohol in public can result in a court date
- Criminal arrests/convictions in the USA may affect your future entry prospects
- Treat US police officers with respect. They will assume you are a threat to them until you prove otherwise, so do everything you are told to do. Don't argue with or annoy them, as they will have no hesitation in handcuffing you and putting you in a cell to cool off.

Other information

- It is very important to open a bank account as soon as possible after you arrive in the USA to avoid the possibility of having your money stolen
- While exam time is an extremely busy time for students, job and accommodation prospects should be researched before travelling
- While this is not always possible students should at the very least know what to expect to pay in rent and what the work availability situation is like
- Every year students return home early as they have misjudged the amount of money they need to bring with them or have misjudged how difficult it will be to get a job
- Use your opportunity well and try to avoid such a situation.

Websites to check for accommodation and employment

Irish immigrant organisations in the USA have suggested the following sites.

Employment

www.blueandgoldfleet.com, www.hornblower.com -

Many students get work with these tour companies.

<http://jobsearch.traderjoes.newjobs.com> - Many also get jobs in grocery stores like this www.irishabroad.com/Resources/J-1

New York

Check the Classifieds, Section of www.irishecho.com and www.irishvoice.com for accommodation and employment adverts in the New York area.

Ocean City

www.oceancity.org

San Diego

www.sdreader.com

www.signonsandiego.com

San Francisco

www.sfgate.com/jobs - This is the San Francisco Chronicle's website (the main daily newspaper).

Accommodation

San Francisco

www.thefillmorecenter.info

www.goldengatewayapts.com

www.thevillasparkmerced.com

www.oakwood.com

www.housing.berkeley.edu - The University of California at Berkeley offers summer housing from June 1st to Aug 11th.

Hostels

www.hostels.com

www.adelaidehostel.com

www.norcalhostels.org

Visiting Mexico

A lot of J-1 summer work/travel participants visit Mexico. Irish organisations and Consulates on the West Coast and the Irish Embassy in Mexico have asked students to take extra caution with personal security if they intend to travel to Mexico.

Some of the factors you need to consider if you plan to visit Mexico:

- There are reports that there is a market for stolen passports in Mexico, so store your passport safely and use alternative ID or a photocopy of the personal information page of your passport when possible
- Make copies of your passport and DS-2019 and leave them in the USA when you travel
- You will not be able to re-enter the USA from Mexico if you do not have a valid machine-readable passport and it can take several days to obtain an emergency replacement so try to keep all your travel documents and valuables secure at all times
- Your American mobile phone may not work in Mexico, check this before you travel

- Do not walk alone after dark and even if in a group, be very vigilant
- Use only authorised taxis from taxi ranks
- Be very careful when withdrawing money from ATM machines, withdraw only small amounts and ensure that you use ATM machines in secure areas and during daylight hours
- Exercise due caution at all times; remember that the consumption of a large amount of alcohol may impair your judgment and lead you into serious difficulties
- If you find yourself in trouble in Mexico you should contact the Irish Embassy for assistance
- The embassy has an emergency answering service that operates during the evenings and at weekends.

Contact Details for the Irish Embassy in Mexico:

Cda. Boulevard Avila Camacho 76-3

Col. Lomas de Chapultepec

C.P. 11000

Mexico D.F.

Telephone: (from outside Mexico) 0052 55 5520 5803

(from within Mexico) 01 55 5520 5803

Email: embajada@irlanda.org.mx

My Fiancé/e is a US citizen and we are planning to get married. Is there a fiancé/e visa available for the USA?

Yes, if your fiancé/e is a US citizen and you plan to marry in the USA they can apply for a K-1 fiancé/e visa for you. The K-1 visa allows you the fiancé/e, to enter the USA in order to marry your US citizen fiancé/e within 90 days from the date of your entry to the USA. There are several requirements for the fiancé to receive a K-1 visa.

Both the US citizen and foreign national fiancé/e must be free to marry. This means that either of you are unmarried, or that any previous marriages have ended through divorce, annulment or death.

The US citizen and fiancé/e have met in person within the last 2 years. This requirement can be waived only if meeting your fiancé/e in person would violate long-established customs, or would create extreme hardship for you.

The US citizen and fiancé/e must marry within 90 days of your fiancé/e entering the United States.

If the marriage takes place outside the USA, you as the foreign national spouse would enter the USA as an immigrant or green card holder after following a procedure distinct from the K-1 process (see family sponsored visas, **Chapter 5 - Immigrant Visas**).

Application procedure

The first step in applying for a fiancé/e visa is that, your fiancé/e (US Citizen) makes an application on Form I-129F with the USCIS. After the petition is approved, the USCIS will forward the case to your local US Embassy/Consulate for further processing. At that time the Consulate will send you a detailed list of supporting documents that you will need to provide to apply for the K-1 visa.

When all of the documents are ready, the Consulate will schedule a visa interview for you to attend and your K-1 visa can be issued on the same day if your application is approved. Once the visa is issued you must enter the USA within 6 months from the date of issue of the visa. After you marry, you must file an application with the USCIS for you as the foreign national spouse to receive a green card. Children under the age of 21 are eligible to accompany a K-1 visa holder to the United States. Their name/s should be included on the application.

