

ABCs of Immigration or Immigration Light

In grade school, we learned that A is for Apple; B is for Baby, etc. In immigration, there also are ABCs. These are different nonimmigrant statuses which allow “aliens” (we’ll call them “Foreign Nationals” or “FNs”) to reside and/or work in the US for varying times. Generally, a FN is anyone who is not a US citizen or national. Sometimes, the category works out to be the first letter of the first word of a nonimmigrant classification; for instance, status for A, I, R. This Article will largely be limited to definitions.

The Immigration and Nationality Act (INA) of 1952, as amended (8 USC 1101), lists nonimmigrant categories, from (A) to (V). The Act is normally referred to as “INA” and then the section. Each category has its detailed requirements contained in INA 214; Regulations largely at 8 CFR 214. The USCIS has its set of interpretations set forth in the Adjudicator’s Field Manual. Nonimmigrants are different from lawful permanent residents (green card holders); the latter may live and work permanently in the US. Nonimmigrants may only remain for the length of time and for the activities approved by the USCIS and/or Customs Border Protection (CBP).

All the sections below would be prefaced with INA 101(a)(15). So, the first would be INA 101(a)(15)(A). Most FNs coming as nonimmigrants need visas. Generally, Canadians do not need visas. Same sex married persons are treated the same as heterosexual marriages.

A is not for apple, but for Ambassadors, public ministers, and consular officers accredited by a foreign government, and dependent family members; perhaps attendants and personal servants.

B is for business (B-1) and pleasure/tourists visitors (B-2). Over 50,000,000 separate entries into the US each year. May not receive US-based income. B-1s normally admitted for 90 days; B-2 admitted for 180.

C is for transits; persons just coming to an airport to change planes primarily.

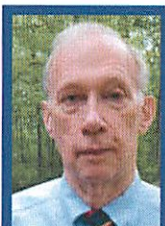
D is for crew members. Members of airlines’ crews, vessels. Pretty restrictive, though they do get their own queues at CBP.

E, the first category allowing FNs to come to work for a US employer in the US. Employer must be majority owned by non-US citizens/nationals and green card holders. FNs here must have the same “nationality” as the foreign company. Visa is for five years; admitted for two years at a time toward the five years; may be renewed every five years. E-1 for treaty traders working for US companies involved in certain types of international trade; treaty investors (E-2) who have made a qualifying investment in the US. Spouse may apply to the USCIS to receive work permission. One of the categories for which Canadians need visas. Also, covers E-3 for Australians; has the same basic requirements as H-1Bs, the Regulations for that category cover the E-3; see H below.

F is for students who have F-1 visas; dependents receive F-2. Most F-1s are at the college level; some primary and secondary schools are authorized to admit students. May work under limited circumstances, including Optional Practical Training (OPT) which may be sought as a student completes an academic program and generally lasts for one year. Those in OPT who have STEM degrees may seek an extension of 17 months. Dependents not allowed to work.

G for employees (and dependents) of certain international organizations. Allowed to work in the US for such; dependents may apply for work authorization. Good for multiple years. Canadians need visas for this class.

H has a bunch, including “specialty occupation workers” (H-1B); also, temporary/seasonal employees in agriculture (H-2A) or non-agriculture (H-2B). Requires the employer to pay a minimum salary determined by various State and National labor agencies; some require ads to be placed seeking US workers and approval by the Department of Labor as well as USCIS. H-1Bs must work in an occupation which normally requires at least a bachelor’s degree in a specific specialty; subject to a yearly quota (oversubscribed last few years). Most H-1Bs in engineering and high tech;



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may be allowed to stay for six years, but a new Petition must be filed every three years. H-1B1 for Singapore and Chile, meeting same requirements as H-1B. Good for one year at a time; renewable; may apply directly at US consulate without USCIS approval. Spouses of H-1B or H-1B are H-4; under limited circumstances, may seek work permission. E-3s go under the same process, subject to the same requirements; limited to two years at a time, but no upper limit on stay; spouses may apply for work permission.

I is—bad grammar exception—for information media, foreign press representatives; dependents.

J covers a whole range, from au pairs to exchange scholars and foreign medical graduates; allowed to work. Spouse may be allowed to apply for work. Some must leave US for two years at end of the J-1 status.

K covers (sorry, couldn’t avoid it) two primary groups. K-1 is for fiancées of US citizens; K-3 for spouses of US citizens who are waiting for immigrant visas. K-1 must marry the US fiancée within 90 days after entry into the US; then complete green card. If receive a K-3, come to US and complete the green card process in the US. Canadians need visas for these.

M status for vocational training; dependents may accompany. Not allowed to work in US.

N is for parent of a child who has “special immigrant status;” conversely, for child of such a parent. May be allowed to apply for work permit.

O is for FNs with extraordinary ability in the sciences, art, education, certain motion picture/television production, business or athletics; must prove sustained national or international acclaim; and those assisting such persons in the artistic or athletic performance. Dependents may not work.

P status covers a wide range of athletes (lesser standard than “O” above), performers, artists; part of a group. Must have certain level of international recognition; athletes who are members of foreign leagues of specified size and stature. Dependents may not work.

Q is for FN coming to US as part of cultural exchange program; referred to by wags as the Disneyworld worker. Maximum 15 months; has pay requirements.

R is for religious workers who have belonged to a denomination having a bona fide religious organization in the US; allowed to work. Status for five years. Dependents may not work.

S is set aside for witnesses and informants who have critical, reliable information about a criminal enterprise or terrorist organization who is willing to supply such information.

T is allowed for victims of severe form of trafficking in persons; or, is present in US as result of such trafficking, including to participate in investigation or judicial processes connected with such. Very complex set of requirements. Limited to 5000 per year. May work, as may dependents.

U is meant for those who suffered substantial physical or mental abuse as a result of a number of crimes including rape, torture, incest, domestic violence, being held hostage. Need certificate from law enforcement agency that FN has helpful information. May apply for work.

V is reserved for certain persons whose green card cases have been pending more than three years and which cases were filed, but must have filed before 2000; realistically, no use any more. May work.

W, X, Y, Z. Radio and TV station in Detroit; no INA sections.



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