We provide legal services for foreign-born religious workers.

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Information and Resources Related to COVID-19 Pandemic

https://cliniclegal.org/covid-19

Please check back frequently for updates.
What We Will Cover

- Learning the “Lingo”
- F-1 Students
- R-1 Religious Workers
- Immigration Updates
- Q & A

DHS and DOS

- Immigration law is FEDERAL LAW
- Two Federal Agencies

- USCIS – U.S. Citizenship & Immigration Services
- CBP – Customs & Border Protection
- ICE – Immigration & Customs Enforcement
Visa versus Status

- A visa is an “entry” document.
- Immigration status shows how long you can “stay.”

Immigrant versus Non-immigrant

- Immigrant means “permanent.”
- Non-immigrant means “temporary.”
- Applies to visas, status, and intent.

Types of Visas for Religious

- B1/B2 – Tourist Visa
- F-1 – Student Visa
- J-1 – Cultural Exchange Visa
- R-1 – Religious Worker Visa
- H-1B – Professional Visa

All are Non-immigrant Visas
R-1 Nonimmigrant Visa

Change of Status & Extension of Status

- Temporary status can be extended
- A person with status can request a change of status
- Timely file request (application or petition)
- Maintain status (do not work without authorization!)

Some Tips...

- Keep track of expiration dates of passports, visas, I-94 records.
- Keep up to date on foreign travel and return travel to the U.S. (before trip is made).
- A visa and I-94 record may have different expiration dates.
F-1 Student

- Full-time student at immigration-approved educational institution.
- Diocese / Religious Organization will cover costs and tuition.
- Must show non-immigrant intent.
- Admitted for D/S (duration of status).
- Generally used by seminarians & candidates in religious formation.
- Cannot enter the U.S. more than 30 days prior to start of academic program.

Ways to Obtain F-1 Status

- If outside the U.S., use I-20 issued by school to apply for the F-1 visa at the U.S. Consulate. (Will have visa interview.)
- If in the U.S. and changing status, work with school to file for a change of status to F-1 with USCIS. (Form I-539) No interview.
- If in the U.S. in F-1 status and transferring to a new school, must be accepted at the new school and notify current school of transfer.

Who is the DSO?

- The Designated School Official (DSO) uses the Student and Exchange Visitor Information System (SEVIS) to issue an I-20.
- The main point of contact for all foreign-born students.
- Person who will assist the student in obtaining work authorization.
- When in doubt about whether activity is allowed while in F-1 status, the DSO is a good place to start.
What is an I-20?
- The I-20 shows how long the student is expected to attend school and provides relevant information about the program and the foreign national.
- SEVIS tracks and monitors nonimmigrant students and exchange visitors. [https://www.ice.gov/sevis](https://www.ice.gov/sevis)

Admittance Stamps for F-1 Status

F-1 Status and Work
- A student in F-1 status CANNOT WORK UNLESS obtains permission from the School/DSO.
- Examples:
  - Curriculum Practical Training (CPT) = PT or FT. Must be part of curriculum. Job offer required.
  - Optional Practical Training (OPT) = PT or FT. No job offer required. Related to major but does not need to be part of curriculum.
Denial of an F-1 Visa: Immigrant Intent

- U.S. consular officers automatically assume that ALL applicants have immigrant intent. It can be more difficult for students to overcome the presumption. Even more so for religion students, because they have no spouse or job waiting for them abroad.

Some Tips...

- Get to know your DSO!
- Keep up to date on foreign travel and return travel to the U.S. (before trip is made).
- A working student may also need TAX advise/guidance (may become important for future immigration benefits).
Overview of R-1 Process

1. Sponsor files an I-129 Petition with USCIS inside the U.S.
2. I-129 Petition is approved.
4. R-1 Visa is approved.
5. Beneficiary applies for entry at Port of Entry with CBP.
6. FN receives R-1 status via I-94.

R-1 Religious Worker

- Member of denomination for two (2) years.
- Denomination is a nonprofit, federally tax-exempt religious organization in the U.S.
- Coming to U.S. to work at least 20 hours per week.
- Coming for a temporary period of time – not more than five (5) years (2.5+2.5=5 years total).
- Must fit into one of three (3) categories:
  - Minister
  - Religious Vocation
  - Religious Occupation

Must fit into one of three (3) categories:

- Minister
- Religious Vocation
- Religious Occupation
Minister (Priest or Deacon)

► Authorized by a recognized denomination to conduct religious worship and perform other duties traditionally reserved for the clergy.

► Fully trained according to the denomination’s standards.

Religious Vocation

► What is a Vocation?
► Formal lifetime commitment
► AND
► Demonstrated by vows or other ceremonies
► AND
► Evidence of a traditional established class different from secular members.

Religious Occupation

► Primarily relates to traditional religious function/duties
► Recognized as a religious occupation within the denomination
► Primarily related to, and clearly involves, carrying out the religious belief or creed of the denomination.

But remember...

► Limited administrative duties allowed.
► Clerks, maintenance workers and fundraisers are specifically excluded.
► Does not include study or training, except if incidental to status.
Must fit into one of three (3) categories:

• Minister
• Religious Vocation
• Religious Occupation

Overview of R-1 Process

1. Sponsor files I-129 petition with USCIS outside the U.S.
2. I-129 petition is approved.
3. Beneficiary applies for R-1 visa at DOS abroad.
4. R-1 Visa is granted/approved.
5. Beneficiary applies for entry at Port of Entry with CBP.
6. FN receives R-1 status via I-94.

I-129 Petition Processing Times

- Regular Processing:
  - Cost = $460
  - Current processing time is 5-7 months.
- Premium Processing:
  - **15 days or less with additional fee of $1440
    - Only available for religious organizations that have had successful USCIS pre-adjudication site inspection.
Regular Processing Times

- Significant delays over past year for I-129 petitions for religious workers.
- Petitions cannot be filed more than six months prior to start date!
- Be prepared for delays and make any possible accommodations (i.e. flexibility in assignments) for this fact.
- Check processing times for California Service Center at https://egov.uscis.gov/cris/processTimesDisplayInit.do

Maintaining Lawful Status

Terms of Stay
- Abide by the terms of the visa.
- Can only do what is permitted in status.
- Compensation.

Period of Stay
- Watch out for the expiration date on I-94.
- Must leave the U.S., extend, or change status before the I-94 expiration date.

Notification Requirement

- Notify USCIS within 14 days when a person in R-1 status is no longer with the Diocese or is working less than the required number of hours.
- Email Address: CSCR-1EarlyTerminationNotif@dhs.gov
- Include the following information:
  - Reason for notification or late notification;
  - USCIS receipt number of approved R-1 petition;
  - Diocesan name, address, and phone;
  - R-1 beneficiary information (name, date of birth, country of birth, last known physical address and phone).
R-1 Nonimmigrant Visa

- Visa Type is “R” for Regular versus “D” for Diplomatic
- Visa Number (in red)
- Visa class is “R-1” for R-1 Religious Worker
- Visa Expiration Date – expiration date is the last date on which an individual may apply to enter the U.S.

R-1 Visa Site Visits

- These are unannounced pre- and/or post-adjudication site inspections to verify information contained in certain visa petitions.
- Always provide most up-to-date and correct phone number and email address when filing the I-129 petition. Check daily for USCIS communication.
- Assign designated person to respond to USCIS. Inform reception staff and other personnel to direct the USCIS officer (via phone or in person) to the designated person.
- Keep beneficiary’s and religious organization’s documents easily accessible and readily identifiable.
- Notify USCIS of all non-citizen address changes (Form AR-11).

Best Practices for R-1 Compliance

- Follow the 14-day USCIS notification requirement.
- Assist beneficiary in maintaining legal status.
- Timely file extensions of status.
- File appropriate change of employer petition if hiring new foreign born religious worker already working in the U.S.
- Do not employ religious workers without proper work authorization.
- No secular work (unless religious vocation).
Overview of R-1 Process

- Sponsor files I-129 petition with USCIS outside the U.S.
  - I-129 Petition is approved.

- Beneficiary applies for R-1 Visa at U.S. consulate (DOS) abroad.
  - R-1 Visa is granted/approved.

- Beneficiary applies for entry at Port of Entry with CBP.
  - FN receives R-1 status via I-94.

Some Tips...

- Keep up to date on foreign travel and return travel to the U.S. (before trip is made).
- Keep copies of current immigration documents (passport, visas, I-94s, approval notices, etc.). Review for errors and expiration dates.
- Make sure compensation records are current and accurate (for site visit and future petitions/applications).
- Abide by employment terms outlined in petition.
- New residential address needs Form AR-11.

Immigration Updates

- Many new policies in last 4 months
- USCIS Furloughs – 08/30/2020?
- F-1 Students and Online Classes; Limited
- USCIS Filing Fees going up soon!
USCIS Adjudications

- June 2020 - Premium Processing resumed (expedited processing) for initial petition and change and extension of status (I-129)
- File extensions 6 months before status expires
- Public Charge Rule still in effect (2/24/2020)

U.S. Embassies/Consulates and Visa Appointments

- 3/22/2020 – Routine visa services suspended in most countries (e.g. visa appointments)
- 07/15/2020 DOS announces visa services/appointments to resume!!!
- Check embassy/consulate website for current operating status

Travel/Border Issues

- China, Iran, Europe Travel Proclamations – suspend entry into the U.S. for those non-U.S. citizens who were physically present within the impacted countries during the 14 days before his/her attempted entry into the U.S.
- Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and Switzerland (later Ireland and the United Kingdom were added).
- Brazil
**Travel/Border Issues**
- Travel into U.S. limited to certain airports
- Travel limits still effect until terminated by President

**Travel/Border Issues**
- 3/24/2020 - Canada-Mexico "Essential Travel" Limits
  - In effect until 08/20/2020 (could be extended)
  - Applies to land port and ferry terminal entry (not air travel)
  - Travel limited to essential travelers
    - USC and LPR
    - Individuals traveling to attend educational institutions
    - Individuals traveling to work in the United States

**Executive Proclamations and Other Administrative Actions**
- 04/22/2020 - Presidential Proclamation to Limit Entry of Certain Immigrants
  - Suspends entry of new immigrants who do not have an approved immigrant visa (visa for permanent residence)
Executive Proclamations and Other Administrative Actions

- Currently does not impact adjustment of status applications in the U.S. or R-1 religious worker visa
- H, J, and L Visas suspended.

Executive Proclamations and Other Administrative Actions

- More to come? Election year
- Don't forget the Sunset of the Non-minister Program - 09/30/2020 (permanent residence for non-minister religious workers)

DACA Update

- Supreme Court decides...termination of DACA improper (inconsistent with APA)
- New cases should be accepted
- Administration could try again to eliminate DACA
- See update from 7/28/2020!!!
DACA Update

- Since legal challenges in 2017, DACA beneficiaries have been permitted to renew the status
- Over 680,000 currently with DACA

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