

# IMMIGRATION LAW OFFICES OF RON KATIRAEI

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## H-3 VISA (Nonimmigrant Trainee)

The H-3 nonimmigrant visa category allows noncitizens coming temporarily to the United States as either a:

- Trainee to receive training in any field of endeavor, other than graduate medical education or training, that is not available in the noncitizen's home country.
- Special Education Exchange Visitor to participate in a special education exchange visitor training program that provides for practical training and experience in the education of children with physical, mental, or emotional disabilities.

### Qualifications

An H-3 "trainee" must be invited by an individual or organization for the purpose of receiving training, in any field including but not limited to:

- Agriculture, Commerce, Communications, Finance, Government, Transportation, Other Professions

In order to obtain H-3 classification, a U.S. employer or organization must demonstrate that:

- The proposed training is not available in the noncitizen's native country;
- The noncitizen will not be placed in a position which is in the normal operation of the business and in which U.S. citizens and resident workers are regularly employed;
- The noncitizen will not engage in productive employment unless such employment is incidental and necessary to the training; and
- The training will benefit the beneficiary in pursuing a career outside the United States.

Each H-3 petition for a trainee must include a statement that:

- Describes the type of training and supervision to be given, and the structure of the training program;
- Sets the proportion of time that will be devoted to productive employment;
- Shows the number of hours that will be spent, respectively, in classroom instruction and in on – the-job training;
- Describes the career abroad for which the training will prepare the noncitizen;
- Indicates the reasons why such training cannot be obtained in the noncitizen's country and why it is necessary for the noncitizen to be trained in the United States; and
- Indicates the source of any remuneration received by the trainee and any benefit which will accrue to the employer/organization for providing the training.

## **Special Education Exchange Visitor**

There is a numerical limit (or “cap”) on the number of H-3 special education exchange visitors. No more than 50 may be approved in a fiscal year.

A petition requesting an H-3 “special education exchange visitor” must be filed by a facility which has professionally trained staff and a structured program for providing education to children with disabilities, and for providing training and hands-on experience to participants in the special education exchange visitor program. It should include a description of:

- The training the noncitizen will receive;
- The facility’s professional staff; and
- The noncitizen’s participation in the training program.

In addition, the petition must show that the special education exchange visitor is:

- Nearing the completion of a baccalaureate or higher degree program in special education; or
- Has already earned a baccalaureate or higher degree in special education; or
- Has extensive prior training and experience teaching children with physical, mental or emotional disabilities

## **Application Process**

In order to obtain H-3 classification, the U.S. employer or organization must file a Form I-129, Petition for Nonimmigrant Worker. The petition must be filed with the information provided above.

## **Period of Stay**

If the petition is approved, the trainee may be allowed to remain in the United States for up to 2 years. If the trainee petition is approved for a special education exchange visitor, the trainee may remain in the United States for up to 18 months.

## **Family of H-3 Visa Holders**

Trainees’ spouses and children who are under the age of 21 may accompany them to the United States as H-4 nonimmigrants. However, H-4 nonimmigrants are not permitted to work in the United States.