

USCIS Policy Manual

Current as of November 10, 2015

Volume 2 - Nonimmigrants

Part J - Trainees (H-3)

Chapter 4 - Special Education Exchange Visitor Program Requirements

There are requirements for H-3 petitions involving special education exchange visitors that are distinct from H-3 trainees.^[1] [Requirements for trainee petitions are not applicable to petitions for special education exchange visitors. See 8 CFR 214.2\(h\)\(7\)\(ii\) and 8 CFR 214.2\(h\)\(7\)\(iii\). See 8 CFR 214.2\(h\)\(7\)\(iv\)\(A\)\(3\).](#) An H-3 beneficiary in a special education training program must be coming to the United States to participate in a structured program which provides for practical training and experience in the education of children with physical, mental, or emotional disabilities. No more than 50 visas may be approved in a fiscal year,^[2] [See 8 CFR 214.2\(h\)\(8\)\(i\)\(D\).](#) and participants may remain in the United States for no more than 18 months.^[3] [See 8 CFR 214.2\(h\)\(13\)\(iv\).](#)

The petition must be filed by a facility which has: a professionally trained staff; and a structured program for providing:

- Education to children with disabilities; and
- Training and hands-on experience to participants in the special education exchange visitor program.^[4] [See 8 CFR 214.2\(h\)\(7\)\(iv\)\(A\)\(2\).](#)

The petition should include a description of:

- The training the foreign national will receive;
- The facility's professional staff; and
- The beneficiary's participation in the training program.^[5] [See 8 CFR 214.2\(h\)\(7\)\(iv\)\(B\)\(1\).](#)

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;
- 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. ^[6][See 8 CFR 214.2\(h\)\(7\)\(iv\)\(B\)\(2\).](#)

Any custodial care of children must be incidental to the beneficiary's training.

Officers review each piece of evidence for relevance, probative value, and credibility to determine whether the petitioner submitted sufficient evidence establishing that the petition is approvable. ^[7] [The standard of proof applied in most USCIS adjudications, including H-3 petitions, and administrative immigration proceedings is the “preponderance of the evidence” standard.](#) The table below serves as a quick, non-exhaustive, reference guide listing the forms and evidence required when filing a petition for an H-3 special education exchange visitor.

Special Education Exchange Visitor H-3 Petition Forms and Documentation
Petition for a Nonimmigrant Worker (Form I-129), Including H supplement
If the beneficiary is in the United States, a copy of the I-94 or other proof of current lawful, unexpired immigration status (Note that Canadians who enter as a B-1 or a B-2 will not typically have an I-94)
Filing fee; see USCIS' website for current fees
Application To Extend/Change Nonimmigrant Status (Form I-539) for dependents of an H-3 who are also in the U.S. dependents should fill out and sign this form, not the petitioner for the H-3 beneficiary (one Form I-539 and fee covers all dependents)
Copies of each dependent's I-94 or other proof of lawful immigration status and proof of the family relationship with the primary H-3 beneficiary (such as marriage and birth certificates)
Notice of Entry of Appearance as Attorney or Accredited Representative (Form G-28) (if applicable)
A copy of his or her passport, if the beneficiary is outside the United States
A description of the structured training program for providing education to children with

disabilities and for providing hands-on experience to participants in the special education program, including noting the professionally trained staff, facilities, and how the exchange visitor will participate in the program

Evidence that any custodial care of children will be incidental to the training program

Evidence that participant has nearly completed a baccalaureate or higher degree in special education, already has a baccalaureate degree or higher degree in special education, or has extensive prior training and experience in teaching children with disabilities

If Requesting Premium Processing:

Request for Premium Processing Service ([Form I-907](#)) (see [USCIS' website](#) for current fees)

Footnotes

1.

Requirements for trainee petitions are not applicable to petitions for special education exchange visitors. See [8 CFR 214.2\(h\)\(7\)\(ii\)](#) and [8 CFR 214.2\(h\)\(7\)\(iii\)](#). See [8 CFR 214.2\(h\)\(7\)\(iv\)\(A\)\(3\)](#).

2.

See [8 CFR 214.2\(h\)\(8\)\(i\)\(D\)](#).

3.

See [8 CFR 214.2\(h\)\(13\)\(iv\)](#).

4.

See [8 CFR 214.2\(h\)\(7\)\(iv\)\(A\)\(2\)](#).

5.

See [8 CFR 214.2\(h\)\(7\)\(iv\)\(B\)\(1\)](#).

6.

See [8 CFR 214.2\(h\)\(7\)\(iv\)\(B\)\(2\)](#).

7.

The standard of proof applied in most USCIS adjudications, including H-3 petitions, and administrative immigration proceedings is the “preponderance of the evidence” standard.

Updates

POLICY ALERT – Nonimmigrant Trainees (H-3)

September 09, 2014

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance on the trainees (H-3) nonimmigrant visa category.