

# Immigration Law $\approx$ Foodservice

## Visa Classifications for Hospitality Workers

by Becki L. Young

**A**re you familiar with the following visa classifications, all of which can be used to bring professional hospitality workers and hospitality trainees to the U.S.?

The following visa classifications apply to professional hospitality workers:

### H-1B Specialty Occupation

Workers are hospitality professionals who possess a Bachelor's degree or equivalent in a specialized field (such as hotel, restaurant, or culinary management), and who are coming to the U.S. to perform services in that field.

**O-1 Workers of Extraordinary Ability** are hospitality professionals who can boast a significant record of achievement in the field (as evidenced by, for example, prior employment at award-winning properties, recognition from leaders in the field, and receipt of prestigious awards).

**TN NAFTA Professionals** are Canadian and Mexican hospitality workers who may qualify for immigration status under the North American Free Trade Agreement ("NAFTA"). For example, an individual with a Bachelor's degree in hotel/restaurant management, or a postsec-



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ondary certificate in hotel/restaurant management and three years experience in the field, is eligible for admission as a TN hotel manager.

**H-2B Temporary Workers** are skilled and unskilled workers who come to the U.S. to meet temporary or seasonal needs (of less than one year) in positions for

which qualified U.S. workers are not available. Seasonal properties (such as ski resorts or beach clubs) often use this category to fill their temporary employment needs.

**E-2 Treaty Investors and Essential Employees** are nationals of countries that have a qualifying investment treaty with the U.S., and who invest a substantial amount of capital in a bona fide U.S. enterprise (such as a hotel or restaurant); these investors can also sponsor other workers from the same country for E-2 status.

**L-1 Multinational Managers & Specialized Knowledge Workers** are individuals who are coming to the U.S. to work in a managerial or specialized knowledge capacity for a U.S. company, and who have worked for at least one year out of the preceding three years for a foreign affiliate of that U.S. company in a managerial or specialized knowledge capacity.

The following visa classifications apply to hospitality trainees:

**J-1 Exchange Visitors:** The purpose of the J-1 exchange visitor program is to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchanges. J-1 exchange visitors must have sufficient scholastic preparation or professional training to participate in the designated training program, including knowledge of the English language (unless the exchange program is designed to accommodate non-English speakers).

**H-3 Trainees:** An H-3 training program must offer a training opportunity that is not available in the trainee's own

country, and that will benefit the trainee in pursuing a career outside the United States. H-3 trainees may not be placed in a position which is in the normal operation of the business and in which citizens and resident workers are regularly employed, and they may not engage in productive employment unless such employment is incidental and necessary to the training.

### Q-1 International Cultural

**Exchange Visitors:** The Q-1 international cultural exchange program provides practical training and employment, the essential purpose of which is the sharing of the history, culture, and traditions of the participant's home country with the American public. Q-1 exchange visitors must be at least 18 years old and must be able to communicate effectively about the cultural attributes of their home country.

**F-1 Optional Practical Trainees:** F-1 Optional Practical Training provides academic students who are completing an Associate's or Bachelor's degree program at a U.S. college or university with practical exposure to their field of study. F-1 students can request authorization for "optional practical training" on a part-time basis while still in school, and on a full-time basis thereafter.

Sometimes the best visa choice may not be the most obvious one. For more information and advice on which category is best in a particular case, you should contact a qualified immigration attorney.



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