
LAW OFFICE OF MARISA A. DeFRANCO

• Licensed in Massachusetts •

Basic Information About the TN Category

Key Requirements

To qualify for TN status, the intended U.S. activity must:

- be in a profession listed on Schedule 2, and
- the alien must possess the credentials to be considered a professional in one of the Schedule 2 fields.
- A bachelor's or higher degree is usually required, unless Schedule 2 lists alternative qualifications.
- Equivalency to a required degree through a combination of experience and education will not be accepted for TN purposes; aliens in this situation must apply for H-1 status.

Duration of Stay

- An alien may be admitted to the United States in TN status for a period of up to one year.
- TN professionals can receive extensions of stay in one-year increments.
- The limits on stay for H-1B (six years) and L visas (five or seven years) do not apply to TN aliens.
- The only limitation on the duration of stay of TN nonimmigrants is that the purpose of the stay must continue to be temporary (If permanent residence in the U.S. is an ultimate goal, TN status is not appropriate).

Procedures for the TN Category

- Canadian professionals may enter the United States without the requirement of an INS petition approval required in the H-1 category;
- These professionals can enter the United States simply by providing documentation at the port of entry, an offer letter from a U.S. employer and educational papers.
- Mexican nationals seeking TN status must comply with a procedure that is identical to that for H-1B classification for nationals of other countries. Furthermore, once the petition is approved, the Mexican TN must obtain a visa from a U.S. consulate prior to admission to the United States.

Special Conditions

Nonimmigrant intent and permanent residence papers. Dual intent is not recognized for TN nonimmigrants. A TN's intent to remain in the must be only temporary. If your intent is to remain permanently in the U.S., you must change status to an H-1B while your permanent petition is pending.

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Schedule 2 of the North American Free Trade Agreement

1. Accountant-baccalaureate degree, licenziatura degree, C.P.A., C.A., C.G.A., or C.M.A.
 2. Architect-baccalaureate degree, licenziatura degree, or state/provincial license
 3. Computer Systems Analyst-baccalaureate or licenziatura degree; or post-secondary diploma or certificate and three years' experience
 4. Disaster Relief Insurance Claims Adjuster-baccalaureate or licenziatura degree and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or 3 years' experience in the field of claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims
 5. Economist-baccalaureate degree or licenziatura degree
 6. Engineer-baccalaureate degree, licenziatura degree, or state/provincial license
 7. Forester-baccalaureate degree, licenziatura degree, or state/provincial license
 8. Graphic Designer-baccalaureate or licenziatura degree; or post-secondary diploma or certificate and three years' experience
 9. Hotel Manager-baccalaureate or licenziatura degree in hotel management; or post-secondary diploma or certificate and three years' experience
 10. Industrial Designer-baccalaureate or licenziatura degree; or post-secondary diploma or certificate and three years' experience
 11. Interior Designer-baccalaureate or licenziatura degree; or post-secondary diploma or certificate and three years' experience
 12. Land Surveyor-baccalaureate degree, licenziatura degree, or state/provincial/federal license
 13. Landscape Architect-baccalaureate or licenziatura degree
 14. Lawyer (including Notary in the province of Quebec)-L.L.B., J.D., L.L.M., B.C.L., licenziatura degree (five years), or membership in a state/provincial bar
 15. Librarian-M.L.S. or B.L.S. (for which another baccalaureate or licenziatura degree was a prerequisite)
 16. Management Consultant-baccalaureate degree, licenziatura degree, or 5 years' experience in consulting or related field
 17. Mathematician (including Statistician)-baccalaureate or licenziatura degree
 18. Range Manager/Range Conservationist-baccalaureate or licenziatura degree
 19. Research Assistant (working in a post-secondary educational institution)-baccalaureate or licenziatura degree
 20. Scientific Technician/Technologist
- * Must work in direct support of professionals in the following disciplines: chemistry, engineering, geology, geo physics, meteorology, physics, astronomy, agricultural sciences, biology or forestry
- * Must possess theoretical knowledge of the discipline
- * Must possess ability to solve practical problems in the discipline, or the ability to apply principles of the discipline to basic or applied research

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21. Social Worker-baccalaureate or licenciatura degree
22. Sylviculturist (including Forestry Specialist)-baccalaureate or licenciatura degree
23. Technical Publications Writer-baccalaureate or licenciatura degree; or post-secondary diploma or certificate and three years' experience
24. Urban Planner (including Geographer)-baccalaureate or licenciatura degree
25. Vocational Counselor-baccalaureate or licenciatura degree

Medical/Allied Professional

1. Dentist -D.D.S., D.M.D., Doctor en Odontologia, Doctor en Cirugia Dental, or state/provincial license
2. Dietitian-baccalaureate degree, licenciatura degree, or state/provincial license
3. Medical Laboratory Technologist (Canada)/ Medical Technologist (Mexico)-baccalaureate or licenciatura degree; or post-secondary diploma or certificate and three years' experience
4. Must be seeking entry to perform chemical, biological, hematological, immunologic, microscopic, and bacteriological tests, procedures, experiments, and analyses in laboratories for diagnosis, treatment, or prevention of disease
5. Nutritionist-baccalaureate or licenciatura degree
6. Occupational Therapist-baccalaureate degree, licenciatura degree, or state/provincial license
7. Pharmacist-baccalaureate degree, licenciatura degree, or state/provincial license
8. Physician (teaching and/or research only)-M.D., Doctor en Medicina, or state/provincial license
9. Physio/Physical Therapist-baccalaureate degree, licenciatura degree, or state/provincial license
10. Psychologist-licenciatura degree or state/provincial license
11. Recreational Therapist-baccalaureate or licenciatura degree
12. Registered Nurse-licenciatura degree or state/provincial license
13. Veterinarian-D.V.M., D.M.V., Doctor en Veterinaria, or state/provincial license

Scientist

1. Agriculturist (including Agronomist)-baccalaureate or licenciatura degree
2. Animal Breeder-baccalaureate or licenciatura degree
3. Animal Scientist-baccalaureate or licenciatura degree
4. Apiculturist-baccalaureate or licenciatura degree
5. Astronomer-baccalaureate or licenciatura degree
6. Biochemist-baccalaureate or licenciatura degree
7. Biologist-baccalaureate or licenciatura degree
8. Chemist-baccalaureate or licenciatura degree
9. Dairy Scientist-baccalaureate or licenciatura degree
10. Entomologist-baccalaureate or licenciatura degree
11. Epidemiologist-baccalaureate or licenciatura degree
12. Geneticist-baccalaureate or licenciatura degree
13. Geochemist-baccalaureate or licenciatura degree
14. Geologist-baccalaureate or licenciatura degree
15. Geophysicist (including Oceanographer in Mexico)-baccalaureate or licenciatura degree
16. Horticulturist-baccalaureate or licenciatura degree

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17. Meteorologist-baccalaureate or licenciatura degree
18. Pharmacologist-baccalaureate or licenciatura degree
19. Physicist (including Oceanographer in Canada)-baccalaureate or licenciatura degree
20. Plant Breeder-baccalaureate or licenciatura degree
21. Poultry Scientist-baccalaureate or licenciatura degree
22. Soil Scientist-baccalaureate or licenciatura degree
23. Zoologist-baccalaureate or licenciatura degree

Teacher

1. College-baccalaureate or licenciatura degree
2. Seminary-baccalaureate or licenciatura degree
3. University-baccalaureate or licenciatura degree

Preparation of the TN Application

Canadian professionals seeking admission to the U.S. in the TN category must present the case for admission at the port of entry. No prior petition, labor certification, visa or other approval is required of Canadian citizens seeking admission as TN nonimmigrants. The major ports of entry now have NAFTA officers designated by the INS. The TN application consists of the following:

1. Proof of Canadian citizenship (a passport only for entries from outside of the Western Hemisphere).
2. Evidence that the intended U.S. activity is one listed on Schedule 2.
3. Evidence that the alien has the necessary credentials to be considered a professional in one of the Schedule 2 fields. (Degree + Transcripts; if using experience, experience letters from previous employers stating start and end dates of employment and job title)
4. Proof of a license to practice the profession if one is required in the state of intended employment.
5. Documentation of the arrangement for remuneration for the U.S. activity.
6. A statement that the purpose of the entry is temporary.
7. Filing fee of \$50 (This may be more now).

Note the following regarding the application:

- With regard to #2, above, merely citing the Schedule 2 profession is insufficient; evidence must be submitted describing the actual professional-level activities to be performed in the United States. A letter from the U.S. employer describing the nature of the U.S. activity is appropriate. If the applicant is employed by a Canadian employer, a letter from the employer should be prepared describing the U.S. contracts on which the alien will work. The letter from the employer should contain a description of the professional activities, including a brief summary of the daily job duties, if appropriate, which the applicant will engage in while in the United States.
- With regard to #3, above, proof of a required bachelor's or higher degree is required, or proof of the alternative evidence of qualification included on the list. Certified copies of relevant university degrees and affidavits of work experience should be attached to the application. Other indications of professional status, such as membership in professional associations and licensure in a Canadian or U.S. jurisdiction would also be appropriate. Note that

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degrees, diplomas, or certificates received by the applicant from an educational institution not located within Canada, Mexico or the United States, must be accompanied by an evaluation by a credentials evaluation service which specialized in evaluating foreign educational credentials.

- With regard to #5, above, the letter from the U.S. or Canadian employer should specify the alien's salary.
- With regard to #6, above, the letter from the employer should contain an affirmation of temporariness, which in most cases should be sufficient for TN purposes. In some situations, however, TN aliens may have a difficult time gaining TN entry at the border based on their intention to obtain U.S. permanent residence. The INS recently confirmed that, unlike H-1B and L aliens, TN aliens are not exempt from the presumption of immigrant intent. If the alien's intent is to remain the United States temporarily, the fact that a TN alien is a beneficiary of an approved employment-based petition may not be the sole reason for a denial of an application for admission (or extension or readmission) but is a factor to be taken into account, along with all other relevant factors, each time a TN nonimmigrant applies for admission.

Presentation of the TN Application

While the application can be presented at the port of entry when the Canadian professional arrives for his or her flight, many applications are complex enough and have sufficient amount of supporting documentation to require at least a few hours for evaluation. Therefore, each NAFTA officer has established ground rules for submission of the application prior to the flight. The best policy is to call the port of entry and ask for the NAFTA officer to determine the latest procedures for a TN application. Dorval Airport-Montreal/(514) 631-2097/: TN applications may be submitted between the hours of 5:30 a.m. - 7:00 p.m. Arrival at least two hours prior to flight is required for processing of the TN application; appointments cannot be scheduled in advance. The alien must have a boarding pass before an application will be accepted; therefore, check-in procedures must have already occurred. Toronto International Airport/(905) 676-2563/: Arrival at least two hours prior to flight is required for processing of a TN application. The alien must tell the initial pre-screening officer that he or she wants to make a TN application; the officer will then refer the alien to secondary inspection for review of the application.

Vancouver Airport/(604) 278-3360/: Applications may be submitted between the hours of 5:00 a.m. and 11:00 p.m. Same-day processing is available, although NAFTA officers prefers to review applications at least three days before the TN applicant's scheduled departure. In the latter case, applicants may appear in person three days before their scheduled departure or submit their application by mail sufficiently in advance to allow three days for evaluation. On the day of the flight, the applicants should appear at least one hour before their scheduled departure to receive the decision on their cases. If the same-day processing is sought, the applicant should arrive at the airport at least two hours prior to flight for processing of the TN application. The applicant may submit the TN application prior to check-in and receive a decision on case after check-in.

Because there is no time pressure of a departing flight, Canadian business persons who apply for TN status at a land border crossing post can do so at the time they drive across the border.