

Overview of the E-3 Visa Category

- For Australian nationals
- Coming to the US to work in a “specialty occupation” requiring bachelor’s degree in a specific discipline to enter the profession
- Applicant must possess degree or equivalent and meet other job requirements
- Requires prior approved LCA
- Usually admitted in 2-year increments (like other Es)
- Foreign national can apply for E-3 visa abroad without prior approved USCIS petition
- US Employer can file Form I-129 with USCIS (VSC) requesting that foreign national’s status be extended or changed to E-3
- Can be extended indefinitely; no 6 year limit like in H-1B visa
- E-3 does not recognize “dual intent”; foreign national must intend to depart US on termination of E-3 status but need not prove unabandoned residence abroad; statement of intent to return abroad usually sufficient
- E-3 may not be denied solely on basis of approved PERM or I-140 immigrant petition
- Employer not required to pay fraud detection fee or training fee (as in H-1B)
- Employer not liable for costs of return transportation as is H-1B employer
- Spouse and children will get E-3 classification (even if they are not Australian); can file I-539 with I-129 if applying for change or extension of status
- E-3 spouses can apply for work authorization (at Service Center with jurisdiction over the spouse’s residence unless filing with principal’s E-3 petition at VSC)
- No premium processing
- Foreign national cannot “port” to new E-3 employer; must wait for approved petition or admission in E-3 status
- Timely application for extension does not automatically extend work authorization
- 10,500 E-3 visas allotted per FY; foreign national recounted with new employer
- *See Memorandum by Michael Aytes, Acting Assoc. Director, USCIS Domestic Operations (Dec. 15, 2005) (including revisions to Adjudicator's Field Manual (AFM) at Chapter 34.6)*