TN (TRADE NAFTA) STATUS

Who and what types of position will qualify?
Citizens of Canada and Mexico are eligible to apply for TN status provided they hold the appropriate professional level credentials and the position they intend to occupy in the US qualifies under Schedule 2 of the NAFTA treaty. Only citizens are eligible, not landed immigrants or permanent residents of either country.

Only those professional level occupations which appear on Schedule 2 (attached to this handout) qualify, unlike the H-1B status which permits one to apply based on any position that requires the attainment of at least a Bachelor’s degree. A person in TN status may not have the intent to establish permanent residence in the United States. TN status is therefore inappropriate for tenure-track or tenured positions, or for any individual who clearly has the intent to immigrate permanently. The position can be part-time, but self-employment is not permitted.

What are the benefits of TN status?
The primary benefit is the speed and ease of the application process. No prior petition must be filed by the US employer. Canadians do not need to obtain a visa at a US consulate to enter, but Mexicans do.

The TN also can be beneficial if the person is subject to the two-year home residence requirement (HRR) of the J-1 visa. Obtaining TN status does not waive the requirement (the person would still be ineligible for H, L or permanent resident status until the HRR had been either waived or complied with), but it is possible to work in the US as a TN without complying with the HRR.

Although the TN must be renewed every three years and may not be for permanent employment, there is no maximum number of years that a person may remain in the US in TN status. Each application for extension of stay or readmission will be examined by the USCIS officer to determine if the employment is indeed temporary, but in theory a TN could remain in the US for many years. The H-1B is limited to a maximum of six years.

What is the application procedure?
Canadians
Canadian professionals seeking admission into the US in TN status may present their application at any of the following: a class A port of entry into the US, a US airport handling international traffic, or a US pre-clearance/pre-flight station. All major ports of entry along the Canadian border have NAFTA officers, and some of the smaller ports do also. For information on ports of entry see: http://www.cbp.gov/xp/cgov/toolbox/contacts/ports/. It is a good idea to phone ahead to be sure what hours a NAFTA officer is on duty at the particular port of entry that the TN applicant plans to use, as not all USCIS officers are trained in TN applications. It would also be a good idea to check if there are any specific instructions for that particular port of entry, and how much time should be allowed for the application to be reviewed, especially if the applicant
needs to catch a flight after the review. The applicant should be prepared to present the following documents:

1. proof of Canadian citizenship in the form of a birth certificate or passport

2. offer letter from the employing Department, on letterhead with an original signature, which includes:
   - identifying information about the beneficiary, including full name, birth date and citizenship
   - position title (if the title is not exactly the same as one of the titles listed in Schedule 2, reference the specific title in the list – see below)
   - job responsibilities
   - required educational and/or experience qualifications
   - beneficiary’s educational and/or experience qualifications for the position
   - dates of employment, up to three years
   - salary and any other terms of employment.

The letter must make clear that the position being offered is on the NAFTA Schedule 2. If the specific job title does not appear on the Schedule, it will be necessary to describe in detail how the job is similar to one of the listed occupations. The Research Assistant title on Schedule 2 is applicable to all university research positions, even though at UW-Madison it refers only to student positions.

3. evidence of the applicant’s credentials for the specific position, including a C.V., copy of the diploma, transcript, letter from previous employers, etc. The transcript is essential when the field of study does not appear on the diploma, and all documents that are not in English, including those in Latin, must be translated. Degrees which were not obtained at a US, Canadian or Mexican university must be accompanied by a credentials evaluation. If a bachelor’s degree is required, experience cannot be substituted.

4. proof of a US license if one is required to practice the particular occupation. Note that Canadian (and Mexican) medical doctors, even those trained in the US, may not practice medicine in TN status; they may only be engaged in research and/or teaching.

5. Check the USCIS website for the most current filing fee

Mexicans
1. Proof of Mexican citizenship in the form of the passport and NOT a birth certificate.
2. Offer letter from the employing Department, on letterhead with an original signature, which includes:
   - identifying information about the beneficiary, including full name, birth date and citizenship
   - position title (if the title is not exactly the same as one of the titles listed in Schedule 2, reference the specific title in the list – see below)
• job responsibilities
• required educational and/or experience qualifications
• beneficiary’s educational and/or experience qualifications for the position
• dates of employment, up to three years
• salary and any other terms of employment.

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The major difference between the Canadian and Mexican TNs is that Mexicans must go to a US Embassy or Consulate abroad and apply for and obtain the TN visa stamp in their passport before they will be able to enter the US.

Changing status to TN while within the US
Both Canadians and Mexicans may apply for a change of status to TN on form I-129 while in the US. The employer is the petitioner on the form I-129, so the employing Department would need to complete the form and submit it to IFSS, along with the same supporting documents as are required when the TN applies at the port of entry, and the $325 filing fee. Family members would file on form I-539 (see additional information below).

Once the individual has changed his/her status to TN or entered the United States in TN status, please send a copy of the I-94 card to the International Faculty and Staff Services office so they can update the system with the individual’s correct immigration status. Additionally, if the individual has recently entered the US or changed status to TN, he or she should update their Glacier record to reflect the new or extended status.
**Premium Processing**

Normal processing of TN petitions takes approximately 4-6 months. TN petitions can be expedited by paying a premium processing fee of $1,225. This fee is in addition to the normal application fee of $325 and must be paid by a separate check made payable to “U.S. Department of Homeland Security.” USCIS guarantees that they will adjudicate the petition within 15 calendar days of receiving the premium processing request. If they fail to do so, the fee will be fully refunded. Adjudication means that they will either approve the petition, send a request for additional evidence, or deny it.

There is an additional form, the I-907, for premium processing which must be submitted to USCIS. IFSS will coordinate completion of the form with the department and file it in accordance with USCIS instructions. The $1,225 fee must be paid by the hiring department, not by the individual. The I-907 can be filed either with the original petition or with a photocopy of the receipt for the I-129.

NOTE: When a timely application for extension of stay is filed for a person in TN status with no changes in the terms and conditions of employment, the TN may continue working for up to 240 days after the expiration date of the original TN while USCIS adjudicates the petition. Therefore, *premium processing is not necessary for a straight extension with no changes.*

**Period of authorization and travel**

TNs are admitted for a maximum period of three years. Additional extensions are possible. Upon entry, or upon approval of a change of status, TNs are given an I-94 by USCIS that is valid for three years (or less, if the employment is for a shorter duration). The I-94 may be used for re-entry for any number of times during that time, provided there is no change in the employment or the employer. Canadians do not need a visa but they do need a passport. Mexicans must have both a passport and a valid visa.

**Change in employment**

It is important to recognize that, like the H-1B, TN status is employer specific and even job specific. If there is any change in the position, or if the TN changes employers (including changing from one department to another within UW-Madison), a new petition will need to be filed on form I-129 and approved by the USCIS. Canadians may cross the border and re-enter with a new employment letter and the other required documents, instead of filing with the USCIS. Mexicans may present a new letter and documentation to a US consular officer to obtain a new TN visa instead of filing a petition to USCIS.

**Extensions of stay**

Canadians may extend their stay by crossing the border and re-entering with a new employment letter and all other documents needed for an initial entry. If they do not wish to travel, they may request that the employer file form I-129 with the same documents needed for entry as a TN and the $325 filing fee (and I-539 for family members if applicable).
Mexicans may extend their stay on form I-129, along with supporting documents, and the $325 filing fee (and I-539 for family members, if applicable), or apply for re-entry at a port of entry with a valid passport and TN visa, and a new letter from the employer.

Extensions of stay are granted in maximum three year increments, although as noted above, there is no specific limitation on the number of years that one may be granted extensions.

Like H-1Bs, TNs may continue to be employed for a period of up to 240 days after the expiration of their TN status, provided an I-129 was filed with USCIS prior to the expiration date of the original TN status.

**Family Members**
The spouse and minor children (under age 21) are admitted to the US in TD status. Dependents do not need to be Canadian or Mexican citizens or landed immigrants in order to be accorded TD status. Those who enter the US with the TN principal only need proof of their relationship to the TN. Those who enter separately must also present proof of their relationship to the TN as well as a copy of the TN’s I-94 and/or USCIS form I-797 Notice of Approval, and a copy of the employer’s offer letter. All dependents who are not Canadian citizens must have a valid TD visa to be admitted.

Extensions of stay may be obtained either by re-crossing the border with documentation of the TN’s new period of stay (and a valid TD visa in the case of those who need a visa) or by filing form I-539 while in the US. The filing fee for the I-539 is $290 for any number of family members. The I-539 can be filed along with an I-129 if the TN is filing for an extension of stay, or separately if the TN has already obtained an extension.

TDs are not permitted to be employed in the US under any circumstances. However, if they obtain an offer of professional employment and have the appropriate qualifications, they may apply for their own TN or H-1B status. TDs may attend school at any level, full or part time.

**SCHEDULE 2 OF NAFTA**

- Accountant—Baccalaureate or Licenciatura Degree; or C.P.A., C.A., C.G.A., or C.M.A.
- Architect—Baccalaureate or Licenciatura Degree; or state/provincial license
- Computer Systems Analyst—Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
- Disaster Relief Insurance Claims Adjuster—Baccalaureate or Licenciatura Degree; and successful training/three years experience
- Economist—Baccalaureate or Licenciatura Degree
- Engineer—Baccalaureate or Licenciatura Degree; or state/provincial license
- Forester—Baccalaureate or Licenciatura Degree; or degree or state/provincial license
- Graphic Designer—Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate and three years’ experience
Hotel Manager— Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate and three years' experience

Industrial Designer— Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate and three years' experience

Interior Designer— Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate and three years' experience

Land Surveyor— Baccalaureate or Licenciatura Degree; or state/provincial/federal license

Landscape Architect— Baccalaureate or Licenciatura Degree

Lawyer— LL.B., J.D., LL.L., B.C.L., or Licenciatura Degree (five years); or membership in a state/provincial bar

Librarian— M.L.S. or B.L.S. (for which another Baccalaureate or Licenciatura Degree was a prerequisite)

Management Consultant— Baccalaureate or Licenciatura Degree; or 5 years' experience in consulting or related field

Mathematician (including Statistician and Actuary)— Baccalaureate or Licenciatura Degree. An Actuary must satisfy the necessary requirements to be recognized as an actuary by a professional actuarial association or society. A professional actuarial association or society means a professional actuarial association or society operating in the territory of at least one of the Parties.

Medical/Allied Professional
- Dentist— D.D.S., D.M.D., Doctor en Odontologia, or Doctor en Cirugia Dental; or state/provincial license
- Dietician— Baccalaureate or Licenciatura Degree; or state/provincial license
- Medical (Laboratory) Technologist— Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate and three years' experience
- Nutritionist— Baccalaureate or Licenciatura Degree
- Occupational Therapist— Baccalaureate or Licenciatura Degree; or state/provincial license
- Pharmacist— Baccalaureate or Licenciatura Degree; or state/provincial license
- Physician (teaching or research only)- M.D. or Doctor en Medicina; or state/provincial license
- Physio/Physical Therapist— Baccalaureate or Licenciatura Degree; or state/provincial license
- Psychologist— State/provincial license or Licenciatura Degree
- Recreational Therapist— Baccalaureate or Licenciatura Degree
- Registered Nurse— state or provincial license or Licenciatura Degree
- Veterinarian— D.V.M., D.M.V., or Doctor en Veterinaria; or state/provincial license

Range Manager/Range Conservationist— Baccalaureate or Licenciatura Degree

Research Assistant (Working in a post-secondary educational institution)— Baccalaureate or Licenciatura Degree

Scientific Technician/Technologist- Possession of: (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology, physics; and (b) the ability to solve practical
problems in the discipline or apply principles of the discipline to basic or applied research

- **Scientist**
  - Agriculturist (agronomist)— Baccalaureate or Licenciatura Degree
  - Animal Breeder— Baccalaureate or Licenciatura Degree
  - Animal Scientist— Baccalaureate or Licenciatura Degree
  - Apiculturist— Baccalaureate or Licenciatura Degree
  - Astronomer— Baccalaureate or Licenciatura Degree
  - Biochemist— Baccalaureate or Licenciatura Degree
  - Biologist (includes Plant Pathologist)— Baccalaureate or Licenciatura Degree
  - Chemist— Baccalaureate or Licenciatura Degree
  - Dairy Scientist— Baccalaureate or Licenciatura Degree
  - Entomologist— Baccalaureate or Licenciatura Degree
  - Epidemiologist— Baccalaureate or Licenciatura Degree
  - Geneticist— Baccalaureate or Licenciatura Degree
  - Geochemist— Baccalaureate or Licenciatura Degree
  - Geologist— Baccalaureate or Licenciatura Degree
  - Geophysicist (including Oceanographer)— Baccalaureate or Licenciatura Degree
  - Horticulturist— Baccalaureate or Licenciatura Degree
  - Meteorologist— Baccalaureate or Licenciatura Degree
  - Pharmacologist— Baccalaureate or Licenciatura Degree
  - Physicist (including Oceanographer)— Baccalaureate or Licenciatura Degree
  - Plant Breeder— Baccalaureate or Licenciatura Degree
  - Poultry Scientist— Baccalaureate or Licenciatura Degree
  - Soil Scientist— Baccalaureate or Licenciatura Degree
  - Sylviculturist (including Forestry Specialist)- Baccalaureate or Licenciatura Degree
  - Zoologist— Baccalaureate or Licenciatura Degree

- **Social Worker—** Baccalaureate or Licenciatura Degree

- **Teacher**
  - College— Baccalaureate or Licenciatura Degree
  - Seminary— Baccalaureate or Licenciatura Degree
  - University— Baccalaureate or Licenciatura Degree

- **Technical Publications Writer—** Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate and three years’ experience

- **Urban Planner (including Geographers)—** Baccalaureate or Licenciatura Degree

- **Vocational Counselor—** Baccalaureate or Licenciatura Degree

nafta 10/2012