

Eligibility

The University of Pennsylvania uses the E-3 Australian Treaty Worker in Specialty Occupation category for tenure-track faculty members, and research associates, as well as certain staff positions such as programmer/analysts and research specialists. Current immigration law makes the E-3 category available to **Australian nationals** in a “specialty occupation,” that is, a position “which requires theoretical and practical application of a body of highly specialized knowledge and attainment of a baccalaureate or higher degree or its equivalent [in the specialty occupation] as a minimum requirement.” The E-3 employee must have met the minimum qualifications for the position at the time of applying for an E-3 visa. The Australia-US Free Trade Agreement (AUSFTA) allows a maximum of 10,500 E-3s per fiscal year.

Length of Stay

The E-3 category provides for entry on a non-permanent basis into the US for **up to 24 months at a time**. The E-3 visa applicant must satisfy the consular officer that s/he intends to depart the US upon termination of E-3 status. The validity may be renewed, provided that the E-3 nonimmigrant is able to demonstrate that s/he does not intend to remain or work permanently in the US.

Period of Employment

The E-3 worker's employment start date will be the LCA start date or the I-94 card start date, whichever is later. The E-3 worker's last date of employment will be the LCA end date or the I-94 card end date, whichever is earlier. Should the dates on the E-3 employee's I-94 card differ from the LCA dates, immediately contact an OIP-ISSS advisor.

E-3 Processing

All E-3 applications, including extensions and amendments, require three steps:

Step 1: ISSS must first obtain an “E-3 required wage” by comparing the prevailing wage determination from the Department of Labor (DOL) to the actual wage data provided by the hiring department. An E-3 employer is required to pay the higher of the two wages. If Penn's wage offer is found to be inadequate, the E-3 employee's wage must be increased, or the E-3 process for the position must be abandoned.

Step 2: After receiving a satisfactory prevailing wage determination, ISSS files a Labor Condition Application (LCA) with DOL affirming that Penn will meet the prevailing wage and other legal requirements of the E-3. *The hiring department will be asked by the ISSS advisor to post a notice of LCA filing for 10 consecutive business days at a conspicuous place. The posting will not delay the E-3 processing.*

Step 3: After receiving LCA certification, ISSS will notify the hiring department to pick up the certified LCA. The prospective E-3 employee will make a visa appointment at a US Consulate/Embassy to obtain an E-3 visa (and E-3D visas for his/her dependents, if applicable). *NOTE: while it may be possible to change/extend status to E-3 within the US, the process is costly, much more time-consuming, and cumbersome than making a visa application abroad, and is not recommended.*

ISSS Processing Times

To allow for sufficient government processing time, hiring departments should submit E-3 request materials to ISSS for a prospective E-3 employee **3-4 months in advance but no later than 45 days prior** to the anticipated start of E-3 employment. If a complete E-3 request packet is not submitted to ISSS in a timely fashion, ISSS cannot guarantee that the application will be processed and/or filed in a timely manner or at the requested time. Please note that ISSS processing times may vary depending on volume.

Dependent Status

The spouse and unmarried children under 21 years of age of E-3 employees may apply E-3D status. The spouse and children need not be Australian citizens. The spouse of an E-3 nonimmigrant may apply for an EAD (Employment Authorization Document) to work in the US. An unmarried child may not continue to hold E-3 status upon reaching his or her 21st birthday.

Employment Restrictions

The E-3 is specific to the employer and job/position for an individual E-3 employee. E-3 employment authorized for Penn does not allow employment with another department at Penn, at another location, or for a different employer. Consult ISSS prior to any changes in the individual's employment, such as change in title, academic degree required for position, number of hours worked, department, location, or position duties. In some cases, the E-3 and any dependent family members may have to travel outside the US. Please note that failure to consult ISSS may put Penn and the individual employee at risk for sanctions and penalties by DHS or DOL. ***E-3 employees are not allowed to accept honoraria from outside sources.***

Travel in E-3 Status

E-3 employees should always consult with ISSS before traveling outside the US.

Change of Employer

If an individual is already in the US in E-3 status but is sponsored by another employer and wishes to start employment at Penn, the Penn hiring department must submit an E-3 request packet to ISSS. ***The individual must not begin working for Penn until Penn's E-3 is approved and the E-3 individual and dependent family members have left the US and reentered in valid E-3 and E-3D statuses respectively (not eligible for portability).***

Hiring departments must review and submit *both* department and employee forms and supporting documentation listed below as one **complete** package to ISSS. Please save a copy of materials and forms, including checks, submitted to ISSS for your records.

Copies should be single-sided and on 8 ½ x 11" paper. Please do not use staples.

Checklist

- Completed Department Request Form for E-3 Employment
- Completed E-3 Labor Condition Application Questionnaire and Declaration
- Completed E-3 Position Description
- E-3 Employee Data Form (must be completed and signed by the beneficiary)
- Current curriculum vitae of individual
- Photocopy of individual's diploma (of degree required for position)—please reduce copy to fit on 8 ½ x 11" paper
- An official or attested translation if the diploma is not in English
- A credential evaluation if the degree is not from a US or Australian institution – strongly recommended
- Any licenses, certificates, or other special documentation required for the position
- Additional documentation for Health Care Workers:
 - o If the position is for a physician with clinical responsibilities who is a Foreign Medical Graduate, provide copies of Steps 1, 2 and 3 of the individual's USMLE scores, ECFMG English language certification, and valid Pennsylvania medical license.
 - o
 - o If the position is for a registered nurse, provide a copy of the individual's valid Pennsylvania RN license
 - o If the position is for certain Health Care workers, including but not limited to registered nurses, medical technologists/technicians, language pathologists, and physical therapists, a copy of the certificate from the International Commission on Healthcare Professions division of CGFNS (*Visascreen*), certifying that 212(a)(5)(C) INA/8 CFR 212.15(f) requirements have been met.
- Photocopy of passport page(s) showing photo, biographical data, issuance date, and expiration date

International Student and Scholar Services

This form is to be completed by the Penn department. Please type or print neatly. Complete all questions as precisely as possible, since the information is used to obtain approval from the US Department of Labor.

A. Request Information**Employment type** (please check all that apply):

- Initial E-3 employment
 Extension with no changes in employment
 Change of employer/Transfer of employer sponsorship (from non-Penn to Penn)
 Concurrent E-3 (prospective Penn E-3 employee who will be on the payroll of another employer at the same time)
 Change in Penn position and/or Penn department

Processing type (please check one): USCIS Regular Processing USCIS Premium Processing**Name of (prospective) E-3 employee** (as it appears on his/her passport):_____/_____/_____
(Family/Last) (Given/First) (Middle)**Dates of requested E-3 Employment** [Please note: Up to two years per request (e.g., March 1, 2009 – February 29, 2011)]:**From:** Month: _____ Day: ____ Year: _____ **To:** Month: _____ Day: ____ Year: _____**B. Department Information****Department contact person for this E-3 request:** _____**Phone:** _____ **Fax:** _____ **Email:** _____**Hiring department:** _____**Address:** _____ **Mail Code:** _____**(For UPHS entities only)** Enter the IRS Employer Identification Number (EIN) of payroll on which this employee will be placed:

_____ (and enter the official name of the UPHS entity: _____)

List all work sites for this position:

- University of Pennsylvania *main campus only*, Philadelphia, PA
 Other (specify street number and name, city, state, and zip code):

Penn faculty/staff member to whom employee will report: _____**Phone:** _____ **Email:** _____**C. Position Information****Official Penn Position Title:** _____**Is this position full-time?**

- Yes: Annual Penn Salary (do not include benefit amounts or non-guaranteed incentives or bonuses): \$ _____ /yr
 No, the position is part-time. Complete information below:

Hours per week: _____ /wk **Note: If there will be any period when the individual will not get paid, such as Penn holiday closure, enter a range of hours starting with zero (e.g., 0 – 25/week)**Hourly Penn rate (required): \$ _____ /hr **and** Annual part-time Penn salary, if applicable: \$ _____ /yr**Name of Department Head:** _____**Signature:** _____ **Date:** _____

International Student and Scholar Services

Information about Similarly Employed Workers in the Department

List the official position titles, salaries and hours worked per week of all other workers in the department/school with the same (or similar) official Penn (or UPHS) position title and classification. Attach a separate sheet if necessary. **(Do not include information about the E-3 employee.)**

Position Title	Annual Salary	Hours worked per week	If this salary is higher than the E-3 employee, provide detailed rationale that addresses the criteria listed below. <i>If more space needed, use the space provided below.</i>

Please justify the E-3 employee's salary in comparison to all other currently employed in the department in the same position classification. The E-3 employee's salary must be equal to or higher than the salary of each similarly employed workers. **If it is not, a detailed rationale of why the prospective E-3's salary is less is required based on one or more of the following criteria: 1) experience (length, depth, or type), 2) qualifications, 3) educational background, 4) position responsibility or function, 5) specialized knowledge or research field), or 6) other legitimate business factors (e.g., professional distinctions, development of a patent, receipt of an international prize, or other meritorious performance rewarded as part of a defined pay system of the employer).** Please note that limited grant or department funding, a lower negotiated salary, guidelines set by NIH or Penn, or market conditions cannot be used to justify paying the E-3 employee a lower salary.

Agreement and Understanding of US Department of Labor (DOL) Regulations

- The E-3 worker will be paid the "E-3 required wage." the "E-3 required wage" for an E-3 employee must be the higher of the two wages: either the "actual wage", the wage paid to similarly employed workers at Penn, or the "prevailing wage" paid to similarly employed workers in the metropolitan area as determined by DOL.
- Employment of the E-3 employee will not adversely affect the working conditions of workers similarly employed in the department; nor is there at present a strike, lockout, or work stoppage in the department affecting such workers.
- *The E-3 worker's employment start date will be the LCA start date or the I-94 card start date, whichever is later. The E-3 worker's last date of employment will be the LCA end date or the I-94 card end date, whichever is earlier. Should the dates on the E-3 employee's I-94 card differ from the LCA dates, immediately contact an OIP-ISSS advisor.*
- The department must consult ISSS immediately if a decision is made to terminate employment prior to the expiration of E-3 approval. ISSS will then notify appropriate US government agencies that the employment has been terminated in order to release the department of salary/payment obligations. If an employee resigns, the department must also notify ISSS immediately.
- Consequences of failure to comply with E-3 Labor Condition Application requirements are severe, such as paying back wages for the duration of E-3 employment. The department must notify ISSS immediately if the employment will be terminated early for any reason.
- E-3 employment is specific to the employer for the individual employee for the particular position, location, and duties. The department must contact ISSS as soon as possible prior to any anticipated changes in the terms and conditions of employment.
- Upon review of the E-3 request packet, ISSS will forward a "Notice of Filing" to the department contact person for immediate posting within the department. If there is a regular work location in another place, additional posting may be required.
- To be in compliance with DOL regulations, all information should be accurate and up to date.

Name of Department Head: _____

Signature: _____ **Date:** _____

The hiring department must submit a position description. **Position information must be consistent with any official position description on file with the Penn HR office.** State the minimum (not preferred or desired) qualifications only, even if the applicant has additional qualifications.

Please type the following information using this form. **Each section must be completed.**

Official position title: _____

Hiring department: _____

Salary offered (as of the E-3 start date):

If full-time, list Annual Penn Salary: \$ _____ /yr

If part-time, list both hourly and annual wages:

Hourly Rate: \$ _____ /hr

Annual Wage: \$ _____ /yr

Position duties:

Minimum education/degree required (not preferred) for the position: _____

Major field of study required for the position (may include "or related field"): _____

Any additional requirements for the position (e.g., formal training or specialized licenses, certifications, or examinations):

Specific minimum (not preferred) number of years of prior work experience required for this position. If experience after obtaining a certain degree or certification is required, specify.

(If 0, please specify): _____

Number of employees that the individual will supervise (i.e., be responsible for annual performance evaluation)

(If 0, please specify): _____

Name of Department Head: _____

Signature: _____ **Date:** _____

The hiring department must submit a position description. **Position information must be consistent with any official position description on file with the Penn HR office.** State the **minimum** (not preferred or desired) qualifications only, even if the applicant has additional qualifications.

Please type the following information using this form. **Each section must be completed.**

Official position title: Assistant Professor

Hiring department: Department of Mathematics

Salary offered (as of the E-3 start date):

If full-time, list Annual Penn Salary: \$ 56,620 /yr

If part-time, list both hourly and annual wages:

Hourly Rate: \$ N/A /hr

Annual Wage: \$ N/A /yr

Position duties:

Conduct research in applied mathematics, specifically in the area of nonlinear hyperbolic conservation laws and their application. Teach courses in mathematics at both the undergraduate and graduate levels. Serve on department committees. Perform other duties as assigned.

Minimum education/degree required (not preferred) for the position: PhD or ABD

Major field of study required for the position (may include "or related field"): Mathematics, applied mathematics, or related field

Any additional requirements for the position (e.g., formal training or specialized licenses, certifications, or examinations):

N/A

Specific minimum (not preferred) number of years of prior work experience required for this position. If experience after obtaining a certain degree or certification is required, specify.

(If 0, please specify): 0

Number of employees that the individual will supervise (i.e., be responsible for annual performance evaluation)

(If 0, please specify): 0

Name of Department Head: _____

Signature: _____ **Date:** _____

E-3 Employee Data Form

International Student and Scholar Services

This form is to be completed by the E-3 employee. The completed form should be returned to the hiring department for submission with the E-3 request packet. Please type or print neatly. Check appropriate boxes and complete all blanks or write "n/a" if not applicable. **Please provide all dates in Month, Day, Year format (example: April 1, 2008).**

Name: _____ / _____ / _____
(Family/Last) (Given/First) (Middle)

** The name must be exactly as it appears on the passport.*

Date of Birth: Month: _____ Day: _____ Year: _____ **Gender:** Male Female **Marital Status:** Single Married

City of Birth: _____ **Province of Birth:** _____

Country of Birth: _____

Passport Issued By (Country): _____ **Passport Number:** _____

Passport Issuance Date: Month: _____ Day: _____ Year: _____ **Expiration:** Month: _____ Day: _____ Year: _____

Current Address in US, if applicable (street number and name, city, state and zip code):

Complete Foreign Address:

US Social Security Number (if known): _____ **Email:** _____

Work Phone: _____ **Home Phone:** _____

Highest Degree Earned (e.g., BS, MD, PhD): _____ **in the field/major:** _____

What is your current nonimmigrant status? _____ **Expiration Date:** Month: _____ Day: _____ Year: _____

If you are currently in E-3 status for an employer other than Penn, will you continue working for that employer while concurrently working at Penn? Check "NO" if you are leaving that employer for Penn.

NO YES N/A

Have you ever been denied E-3 visa?

NO YES (explain): _____

Has an E-3 petition ever been filed on your behalf?

NO YES If yes, attach copies of the applicable I-797 E-3 Receipt and/or Approval Notice(s)

Has an I-140 Immigrant Petition, I-485 Adjustment of Status, or any other US immigration benefit been filed on your behalf?

NO YES If yes, attach copies of the applicable I-797 Receipt and/or Approval Notice(s)

List the city and country of the US Embassy or Consulate where you plan to apply for an E-3 visa (one in Australia is strongly recommended):

City: _____ **Country:** _____

- Prospective E-3 employees must have met all minimum requirements for the position, including experience, degree, and any required licenses or certifications, at the time of applying for an E-3 visa.
- **The E-3 worker's employment start date will be the LCA start date or the I-94 card start date, whichever is later. The E-3 worker's last date of employment will be the LCA end date or the I-94 card end date, whichever is earlier.**
- Failure to maintain your valid nonimmigrant status may result in denial of the continuation of your nonimmigrant status in the US. The individual may resume employment only upon attainment of E-3 status in the US.
- Submit copies of the relevant items listed under the *E-3 Checklist* to your department.
- *I certify that the above is accurate and that I have read and understand the E-3 employment information.*

E-3 Employee's Signature: _____ **Date:** _____