

Adjustment of Status from TN

A TN nonimmigrant must maintain *bona fide* nonimmigrant intent throughout the TN nonimmigrant's stay in the United States. This means the TN nonimmigrant must intend to depart the US as required by law at the conclusion of the TN employment. Although a pending labor certification or Form I-140 naming TN alien as beneficiary is not a bar to admission, filing an application for adjustment of status may make it difficult, if not impossible, for the TN nonimmigrant to prove a *bona fide* nonimmigrant intent. Filing for adjustment of status, therefore, may adversely affect the alien's ability to seek a new admission as a TN nonimmigrant.

Understanding The Professions Of Appendix 1603.D.1

Most NAFTA professions are self-explanatory. However, certain historical problem areas merit special attention:

- **Management Consultants:** these professional services are expected to be of a temporary, periodic, or fixed consulting nature rather than performed as full-time employment. The duties may be consist of consulting and/or analysis focusing on ways to improve the "sponsoring" entity's structure, efficiency, profits, etc. **Although a management consultant may be a manager, few managers qualify as management consultants.**
- **Computer Systems Analysts:** this profession should not be confused with computer programming or computer scientists. These professionals use their knowledge and skills to solve computer problems, enable computer technology to meet the individual needs of the "sponsoring" entity, and help that entity achieve maximum benefit from its investment in equipment, personnel, and business processes. **Although, in practice, management consultants frequently require computer systems expertise and computer systems analysts frequently deal with computerized management systems, the descriptions of positions to be filled by either of these NAFTA professionals must substantiate the need for this level of professional skill as well as specify the skill needed.**
- **Engineers:** Engineers may not fill computer-related jobs under TN classification unless they have credentials as computer or software engineers from institutions that recognize computer or software engineering as bona fide engineering specialties offering full engineering credentials, such as professional engineering licenses. Furthermore, the US positions to be filled must require this level of credentials.
- **Scientific Technicians/Technologists:** A business person in the category of "**Scientific Technician/Technologist**" must possess: (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics, and (b) the ability to solve practical problems in any of those disciplines, or the ability to apply principles of any of those disciplines to basic or applied research. Since a scientific technician/technologist does not generally have a baccalaureate degree, other principles are used to evaluate the admissibility of scientific technician/technologist applicants.
- **Medical Technologists:** These professionals generally have at least bachelor's degrees in medical technology or life sciences, or a combination of formal training and work experience. They perform complex biological, chemical, hematological, immunological, microscopic and bacteriological tests for the purpose of diagnosing, preventing, or treatment of disease. This profession does not include x-ray, radiological, sonogram, nuclear medical, or dental technicians.