Legal Requirements and Restrictions Relating to Student Visas and Religious Worker Visas

F-1 Student Visa

An F-1 Student Visa allows a clergy member to enter the United States as a full-time student at an accredited college, university or seminary. The clergy member must be enrolled as a full-time student. The only work a clergy member can do while on an F-1 Visa is to work part-time on the campus where they are studying. Accordingly, a clergy member can be issued faculties by the Archdiocese, which allow them to exercise ministry on a part-time basis on the campus of the college or university where they are enrolled. The clergy member is also eligible to concelebrate Mass within the Archdiocese without compensation, as long as another priest is present as the presider. The F-1 Visa does not allow a clergy member to provide fill-in or substitute ministry off campus, with or without compensation. An F-1 Visa requires the clergy member to have sufficient funds available for self-support during the entire proposed course of study. An F-1 Visa also requires that the clergy member be enrolled in a program or course of study that culminates in a degree, diploma or certificate, and the college or university must be authorized by the U.S. Government to accept international students.

R-1 Religious Worker Visa

An international clergy member may enter the United States on an R-1 Religious Worker Visa. An international clergy member in the United States on an R-1 Visa must have his primary purpose be the performance of priestly ministry and he must work a minimum of 20 hours per week in ministry. A clergy member has the best chance of obtaining an R-1 Visa if he is assigned to a parish (but not yet working at the parish) prior to making application for the R-1 Visa. A clergy member on an R-1 Visa can only study at a college or university on a part-time basis and the studies may only be incidental to the clergy member working primarily in religious ministry. To obtain an R-1 Visa an international clergy member must have a sponsor, which generally is a diocese or archdiocese. The sponsor is legally responsible for making sure that the clergy member complies with the R-1 Visa requirements, that he is working a minimum of 20 hours per week in ministry and that his studies, if any, are no more than incidental to his primary obligations to provide ministry.

The Religious Worker Visa Program is intended for religious workers whose lives are dedicated to religious practices and functions, as distinguished from secular members of the religion. To qualify, the foreign national must have been a member of a religious denomination, having a bonafide non-profit religious organization in the United States for at least two years immediately before the filing of the petition for an R-1 Visa.

A nonimmigrant religious worker on an R-1 Visa is limited to 5-years of service in the U.S. and then must remain outside the U.S. for a continuous 1-year period to requalify for the nonimmigrant religious worker status. Alternatively, prior to expiration of the 5-year period, an application for permanent residency may be filed. The normal processing time of the first petition (Form I-360) is 5.5 to 7.5 months. Once approved, it is necessary to file an Application to Adjust Status (Form I-485) prior to expiration of the initial 5-year period.

Transition from F-1 Visa to R-1 Visa

It is also possible for a clergy member to change his F-1 Visa Status to an R-1 Religious Worker status. He can remain a student at a university or college during this process but until the R-1 Visa is granted, his employment is strictly limited as indicated in the first paragraph of this memo. The best chance of successfully transitioning from an F-1 Visa to an R-1 Visa is for the clergy member to be assigned to a parish, effective upon issuance of the R-1 Visa. The filing fee to change from an F-1 Visa to an R-1 Visa is $460.00. The attorney’s fees are approximately $1,500 - $2,000, to expedite the process there is an additional premium processing fee of $1,400. The premium processing timeframe is about 15 days. The normal processing period is 5-6 months.

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