

CAP EXEMPT STATUS

Related or Affiliated Institutions

A non-profit entity may be considered “affiliated” with a university if it satisfies any *one* of the following conditions:

- (1) Shared ownership or control by the same board or federation;
- (2) Operated by an institution of higher education;
- (3) Attached to an institution of higher education as a member, branch, cooperative, or subsidiary; or
- (4) The nonprofit has entered into a formal written affiliation agreement with a university that establishes an active working relationship for the purposes of research or education, and a fundamental activity of the nonprofit is to directly contribute to the research or education mission of the institution of higher education

In most cases, evidence of the nonprofit’s affiliation with the university will be established by the following evidence:

- Signed By-Laws and Articles of Incorporation
- IRS 501(c)3 Designation Letter
- University’s 20 USC Sec1001(a) designation as an accredited institution of higher education
- List of Board of Directors, and noted affiliation with University, if any
- Affiliation Agreement between Nonprofit and University
- Contracts and/or Service Agreements between Nonprofit and University
- Letters or evidence of grants or other financial rewards by the Nonprofit from the University
- List of Nonprofit participants who have provided services or seminars at the University
- Professional Development Programs / Fellowship Programs between the entities
- Press releases, articles, other 3rd party documents referencing both institutions and relationship
- Letter from University confirming the relationship and how a fundamental activity of the Nonprofit directly contributes to its research or educational mission
- Cross Pollination of Nonprofit employees on University campus and University employees at Nonprofit. Provide detailed information on who from Nonprofit goes to the University (name, title, purpose, activities) and who from the University goes to the Nonprofit (name, title, purpose, activities). When and how often does this occur?
- Employee is designated a title from the university, such as Adjunct Professor and title is documented (pay is not required)
- Employee’s class schedule/syllabi, rotation schedule between the University and Nonprofit
- Nonprofit guidelines for employee(s) working at the university
- University having designated space at Nonprofit and/or Nonprofit having space at the University

Nonprofit Research Institution

The Nonprofit may also include governmental research organizations at the state and local levels. The nonprofit research organization is one that is primarily engaged in basic research and/or applied research.

In most cases, evidence of the nonprofit's research activities will be established by the following evidence:

- Signed By-Laws and Articles of Incorporation
- IRS 501(c)3 Designation Letter
- Articles of Incorporation and Mission Statement indicating the Nonprofit's primary purpose is "research" or "applied research." Such documents can be revised to include "research" or "applied research."
- Copies of research projects
- Federal, State or Local government grants for research projects
- Published and cited research papers produced by the Nonprofit
- Public information about research projects including website postings, newsletters, press releases, etc.
- Public proclamations indicating Nonprofit is performing research
- List of ideas that are researched each year, results
- Proclamation by local municipality
- Description of programs or activities, and list of:
 - Educational Institution students or professors performing duties at Nonprofit
 - Nonprofit employees performing duties at Educational Institution

Employed At

Private, for-profit Employers may claim the H1B Cap Exemption status if it is demonstrated the beneficiary will perform at least a majority (51%) of their job duties "at" a qualifying institution. The beneficiary is employed by and paid by the company. It must be shown that the H-1B employee will perform job duties physically at the university that "directly and predominately further the normal, primary, or essential purpose, mission, objectives or function of the qualifying institutions."

Evidence needed to support the "At" requirement, should include:

- University's 20 USC Sec1001(a) designation as an accredited institution of higher education
- Employee is designated a title from the university, such as Adjunct Professor and title is documented (pay is not required)
- Employee's class schedule/syllabi, rotation schedule between the university and Employer
- Nonprofit guidelines for employees working at the university
- Letter from Nonprofit and the university indicating the duties performed by the H-1B employee at each location
- University having designated space at Nonprofit