



Work Visa Options After Graduation

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Introduction to U.S. Immigration Law

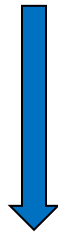
- Permanent Resident Green Cards:
 - Live forever in the United States
 - Ease of employment
 - Ease of travel
 - Only limited ways to obtain / lengthy processing
- Temporary Nonimmigrant Visas:
 - Many categories (A – V)
 - Few allow employment
 - Categories most relevant for post-graduation work:
 - F-1 – OPT
 - H-1B

Typical Post-Graduation Employment Path

- F-1 - Optional Practical Training (12 or 36 months)



- H-1B – Most common work visa (6 years of work eligibility)



- Green card (family- or employment-based)



F-1 Optional Practical Training

- **Generally, 12 months of OPT post-graduation**
 - Allows work in any job related to degree
 - No more than 90 days of unemployment permitted
- **STEM OPT extension, 24 months with E-Verify employer and training plan**
- **Build relationships with employers and maximize attempts at H-1B lottery**
- **Consult with international student office before traveling while on OPT**



H-1B Visa

- **Most Common Work Visa**

- Employer must “sponsor” (offer a job that requires a degree)
- Beneficiary must have degree related to the job
- Employer must pay “prevailing wage”
- No need to advertise for U.S. workers
- New: H-1B employer can be a start-up you own if other substantive H-1B requirements met



H-1B Issues

■ **Duration**

- 3 years initially (two 18-mo. periods for employee/owners)
- 3-year extension
- 6-year maximum

■ **Scope of H-1B Authorization**

- Can only work for this employer, doing what was described on the petition, in the location described on the petition

■ **Change Employer**

- New employer must file new petition
- But can begin working as soon as new petition is filed without waiting for approval



H-1B Issues

- **Cost - Who Pays?**

- Legal Fee

- USCIS Filing Fees

- H-1B registration fee - \$215

- Base fee - \$460-\$780*

- "Asylum Program Fee" - \$0, \$300, or \$600*

- Fraud Prevention Fee - \$500

- "Training Fee" - \$1,500 (\$750 for employers with 25 employees or less)

- Optional Premium Processing Fee (15 working days)
- \$2,965

- **\$100,000 Proclamation fee generally won't apply**

*depends on whether employer is nonprofit or has 25 or fewer full-time employees



H-1B Quotas

- **USCIS FISCAL YEAR:** October 1 – September 30
- **Quotas:**
 - 85,000 new H-1Bs available each fiscal year
 - Applicants with U.S. advanced degrees – 20,000
 - All other degrees – 65,000
 - New law improves lottery chances for U.S. advanced-degree grads
- **Salary-weighted lottery**



New Salary-Weighted Lottery

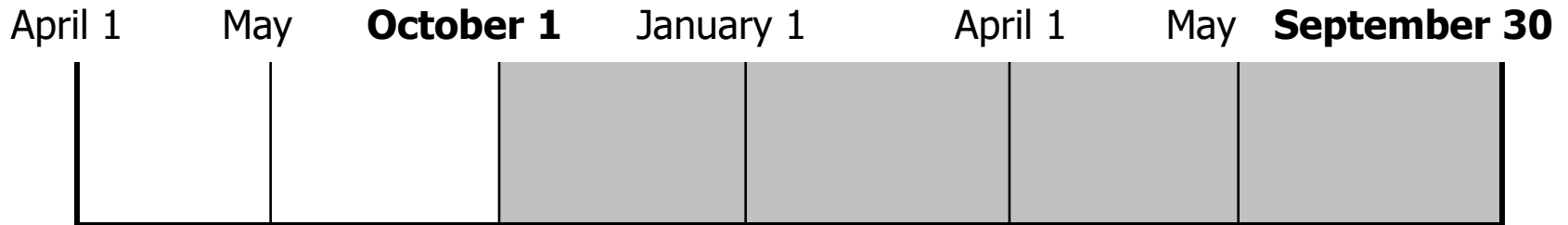
- New lottery process will weight registrations based on prevailing wage level.
- Higher wage = more chances:
 - Level 1 wage: one entry
 - Level 4 wage: four entries

Search Criteria	
SOC Code	13-2011.00
Data Series	7/2025 - 6/2026
Collection	All Industries
State	NEW YORK
Area Type	County/ Township
Area Selected	NEW YORK COUNTY - New York-Newark-Jersey City, NY-NJ

Search Results		
Geo Level		1
SOC Code		13-2011
SOC Title		Accountants and Auditors
Wage Level	Hourly	Yearly
I	\$35.13	\$73,070.00
II	\$46.83	\$97,406.00
III	\$58.52	\$121,722.00
IV	\$70.22	\$146,058.00
MEAN (H-2B)	\$58.64	\$121,971.00



Beat the H-1B Cap



- October 1 – new quota released
- March 4-19 – electronic pre-registration/lottery
- April 1 – 90-day filing window begins for cap lottery “winners”
- May/Dec – graduation & OPT



Example #1

- Student graduates in May 2026.
- Employer submits registration in March 2026 and student was selected in lottery. Employer files for H-1B, effective October 1, 2026.
- Student works on OPT until September 30, 2026, then H-1B effective October 1, 2026.



Example #2

- Student graduates in May 2026 without H-1B registration or lottery selection.
- Student works on OPT. Employer submits registration in March 2027 and student is selected in lottery. In April 2027, employer files for H-1B, effective October 1, 2027.
- But student's OPT expires in June 2027.
- What now?



H-1B “Cap Gap” Relief

- If your employer files an H-1B petition on your behalf on or after April 1st,
AND
- OPT is still valid at the time of filing,
THEN
- OPT is extended until H-1B can take effect



H-1B Cap-Exempt Organizations

- Universities
- Non-profit organizations affiliated with universities (such as research facilities or hospitals)
- Non-profit research organizations, where basic and/or applied research is a fundamental activity of the organization
- Governmental research organizations (federal, state, or local)



H-1B Alternatives

- Canada, Mexico, Chile, Singapore, Australia
- L-1 Manager / Executive / Specialized Knowledge. Work overseas for one year; now working for affiliate in United States
- E treaty investor/trader (not China, India) working for companies owned by citizens of your country in the United States
- Re-enroll in full-time study (F-1 or J-1)
- Other possible options are very limited (e.g., J-1). Consult qualified immigration specialist



O-1 Extraordinary Ability

- Filed by an employer
- Small percentage at top of field
- Beneficiary is allowed to pay filing/legal fees
- Can be filed up to 1 year before start date
- Requirements:
 - Major international award (e.g., Nobel Prize)
 - or
 - At least 3 of 8 specific criteria



O-1 Extraordinary Ability

O-1 Criteria (need at least 3):

- Nationally or internationally recognized prizes or awards for excellence in field
- Membership in associations requiring outstanding achievement
- Published material about you or your work
- Judge of the work of others (peer review)
- Original contributions of major significance
- Authorship of scholarly articles
- Employed in critical or essential role for distinguished organizations
- High salary compared to others in the field



Green Card

- Limited Ways to Obtain
 - Family Relationships
 - Diversity Visa Lottery
 - Employment/Special Skills
 - EB-1 - Extraordinary / Outstanding / Multi-national
 - EB-2 - Advanced Degree / Exceptional
 - EB-3 - Bachelor's Degree / Skilled worker
 - Must maintain non-immigrant status



Extending H-1B Beyond Six Years

- Normal length of H-1B – 6 years
- Can extend for the following:
 - Recapture time outside the U.S.
 - Employment-based green card process pending at least 1 year – can extend H-1B in 1 year increments
 - Approved I-140, but no quota number to adjust – 3 year extension



EB-1A Extraordinary Ability

- Self-sponsor (no job offer required)
- Small percentage at top of field
- Factors:
 - Major international award, or at least 3 of the following:
 - Lesser national or international awards
 - Membership in association requiring outstanding achievement
 - Published material about you or your work
 - Participation as judge of the work of others (peer review)
 - Original contributions of major significance
 - Authorship of scholarly articles
 - Leading or critical role for distinguished organizations
 - High salary compared to others in the field



EB-1B Outstanding Professor/Researcher

- Employer-sponsored
- “Permanent” position (no definite end date)
- At least 3 years of teaching/research experience
- Factors: at least 2 of the following:
 - Major prizes or awards
 - Membership in associations requiring outstanding achievement
 - Published material about you or your work
 - Judge of the work of others (peer review)
 - Original research contributions
 - Authorship of scholarly articles



EB-2 National Interest Waiver

- Self-sponsor (no job offer required)
- U.S. advanced degree (or equivalent) **or** at least 3 of the following factors:
 - Degree relating to area of exceptional ability
 - 10 years of full-time experience
 - License/certification for particular profession/occupation
 - High salary
 - Membership in professional association
 - Significant contributions/recognized achievements
- In addition, must demonstrate that it would be harmful to the national interest to require an employer to advertise to find U.S. workers



PERM Labor Certification

- EB-2 or EB-3 (depending on requirements for position)
- Employer-sponsored
- “Permanent” position
- The “normal” PERM Labor Certification process requires employer to advertise and show that it cannot find “minimally qualified” U.S. workers
 - Separate process available for teaching positions at institutions of higher education



Choosing an Attorney

- Location – Irrelevant
 - Immigration law is federal, not state specific
 - All filings are made at the same lockboxes and service centers
- Knowledge and Experience – Very Relevant



RESOURCE

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