

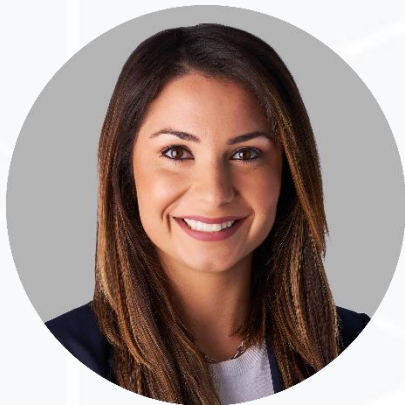


IMMIGRATION 101: WHAT HAPPENS AFTER I GRADUATE?

November 2020

FRAGOMEN

WITH YOU TODAY



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TODAY'S PRESENTATION

- ▶ Overview of Immigration System
- ▶ Review of Important Documents
- ▶ Nonimmigrant Visas
- ▶ Immigrant Visas
- ▶ COVID-19 Impact on US Immigration
- ▶ General Advice Moving Forward

OVERVIEW OF THE IMMIGRATION SYSTEM

OVERVIEW

IMMIGRANTS VS. NONIMMIGRANTS



INVOLVED GOVERNMENT AGENCIES

Department of Homeland Security:

- ▶ United States Citizenship and Immigration Services - USCIS (formerly the Immigration & Naturalization Service – INS or BCIS)
- ▶ Immigration & Customs Enforcement – ICE
- ▶ Customs & Border Protection – CBP

Department of Labor:

- ▶ Office of Foreign Labor Certification
- ▶ PERM Processing Centers
- ▶ State Workforce Agencies (SWAs)

Department of State (DOS):

- ▶ U.S. Embassies and Consulates



LEGAL STRUCTURE & RESOURCES



- ▶ Immigration Law comes from many different places:
 - Immigration and Nationality Act (INA)
 - Regulations – CFR 8 (immigration), 20 (labor), & 22 (Department of State)
 - USCIS memoranda
 - Foreign Affairs Manual (FAM)
- ▶ Two Major Themes We are Seeing:
 - **Inconsistencies**
 - **Always changing**

REVIEW OF COMMON IMMIGRATION DOCUMENTS

STAMP

VISA



I-94



 **U.S. Customs and Border Protection**
Securing America's Borders

Get I-94 Number I-94 FAQ

Admission (I-94) Number Retrieval

Admission (I-94) Record Number: 69000888062

Admit Until Date (MM/DD/YYYY): 10/10/2012

Details provided on Admission(I-94) form:

Family Name:	LI
First (Given) Name:	LYDIA
Birth Date (MM/DD/YYYY):	01/01/1990
Passport Number:	P123123213
Passport Country of Issuance:	Mexico
Date of Entry (MM/DD/YYYY):	04/11/2012
Class of Admission:	B1

Individuals can visit www.cbp.gov/I94 to retrieve a copy of their electronic Form I-94.

I-94

D/S

212267781 12

Immigration and
Naturalization Service

I-94
Departure Record

DEPARTMENT OF HOMELAND SECURITY • U.S. CUSTOMS AND BORDER PROTECTION
ADMITTED
PHO
APR 29 2011
CLASS
FI
D/S

14. Family Name
Reyes, Swarez

15. First (Given) Name
Mary Louisa

16. Birth Date (Day/Mo/Yr)
06.10.85

17. Country of Citizenship
Dominican Rep.

See Other Side

specimen

STAPLE HERE

I-20 (F)

Department of Homeland Security U.S. Immigration and Customs Enforcement		I-20, Certificate of Eligibility for Nonimmigrant Student Status OMB NO. 1653-0038	
SEVIS ID: N0004705512			
STUDENT/PRIMARY NAME Doe John		GIVEN NAME John	CLASS F-1 ACADEMIC AND LANGUAGE
PREFERRED NAME John Doe-Smith		PASSPORT NAME	
COUNTRY OF BIRTH UNITED KINGDOM		COUNTRY OF CITIZENSHIP UNITED KINGDOM	
DATE OF BIRTH 01 JANUARY 1988		ADMISSION NUMBER	
FORM I-204 REASON INITIAL ATTENDANCE		LEGACY NAME John Doe-Smith	
SCHOOL INFORMATION			
SCHOOL NAME SEVY School for Advanced SEVIS Studies		SCHOOL ADDRESS 3002 Henry Lane, Ft. Washington, MD 20744	
SCHOOL OFFICIAL TO CONTACT UPON ARRIVAL Suzanne Robertson P000		SCHOOL CODE AND APPROVAL DATE N002144444000 03 APRIL 2015	
PROGRAM OF STUDY			
EDUCATION LEVEL DOCTORATE	MAJOR 1 Economics, General 45.8001	MAJOR 2 None 00.0000	
APPROXIMATE PROGRAM LENGTH 24 Months	PROGRAM ENGLISH PROFICIENCY Proficient	ENGLISH PROFICIENCY NOTES Student is proficient.	
PROGRAM START DATE 01 SEPTEMBER 2015	PROGRAM END DATE 31 MAY 2021		
FINANCIALS			
ESTIMATED AVERAGE COSTS FOR 9 MONTHS		STUDENT'S FUNDING FOR 9 MONTHS	
Tuition and Fees	\$ 23,000	Parents' Funds	\$ 3,000
Living Expenses	\$ 6,000	Scholarship and Teaching Assistantship	\$ 23,000
Expenses of Dependents (1)	\$ 3,000	Funds From Another Source	\$
Other	\$	On-Campus Employment	\$
TOTAL	\$ 32,000	TOTAL	\$ 32,000
REMARKS			
Orientation begins 8/25/2015. Please report to F251 upon arrival.			
SCHOOL ATTESTATION			
I certify under penalty of perjury that all information provided above was obtained truthfully and is true and correct. I received this form in the United States after review and evaluation in the United States by me or other officials of the school of the student's application, transcripts, or other records of courses taken and proof of financial responsibility, which were received at the school prior to the execution of this form. The school has determined that the above named student's qualifications meet all conditions for admission to the school and the student will be required to pursue a full program of study as defined by 8 CFR 314.300(a). I am a designated school official of the above named school and am authorized to issue this form.			
SIGNATURE OF Suzanne Robertson, P000	DATE ISSUED 21 April 2015	PLACE ISSUED Ft. Washington, MD	
STUDENT ATTESTATION			
I have read and agreed to comply with the terms and conditions of my admission and those of any extension of stay. I certify that all information provided on this form is true specifically to me and is true and correct to the best of my knowledge. I certify that I seek to enter or remain in the United States temporarily, and solely for the purpose of pursuing a full program of study at the school named above. I also authorize the named school to release any information from my records needed by DHS pursuant to 8 CFR 314.3(a) to determine my nonimmigrant status. Parent or guardian, read student, must sign if student is under 18.			
SIGNATURE OF John Doe Smith	DATE		
NAME OF FATHER OR GUARDIAN	SIGNATURE	ADDRESS (city/state or post-office/county)	DATE
ICE Form I-20 A-B (12/01/16) Page 1 of 3			

DS-2019 (J)

U.S. Department of State				DATE APPROVAL NO. 1482-1119	
CERTIFICATE OF ELIGIBILITY FOR EXCHANGE VISITOR(J-1) STATUS				EXPIRES: 02-28-2003	
				ESTIMATED RESIDENCE TIME: 47 mos	
				Visa Page 2	
1. Family Name: Surname 12-12-1976		First Name: Part 1 (b) GREGGARY		Middle Name: G	
Date of Birth (mm/dd/yyyy)		City of Birth: Part 1 (b)		Country of Birth: GERMANY	
Legal Permanent Resident Country Code: GM		Legal Permanent Residence Country: 114		Position Code: 114	
U.S. Address: 1114 Main Street Alexandria, VA 22312		Exchange Visitor Program Number: P-3-10244		Gender: FEMALE	
2. Program Sponsor: Pig Farming Institute		Exchange Visitor Program Number: P-3-10244		M0500010676	
3. Program Sponsor: PROFESSOR, SHORT-TERM SCHOLAR, TEACHER				J-1	
Purpose of this form: Replace a DS-2019 form (Damaged)					
3. From Dates Period: From (mm/dd/yyyy) 12-01-2002 To (mm/dd/yyyy) 12-31-2003		4. Exchange Visitor Category: TEACHER Subject Field Code: 32.0168 Subject Field Code Description: Literacy and Communication Skills			
5. During the period covered by this form, the total estimated financial support (U.S. \$) to be provided to the exchange visitor by: Ourself: Program Sponsor: Under \$ 8777.00 U.S. DEPARTMENT OF EDUCATION: \$ 2,109.00 INTERNATIONAL MONETARY FUND: \$ 1,502.00 Total: \$ 4,688.00					
6. U.S. DEPARTMENT OF STATE: INS USE OR CERTIFICATION BY RESPONSIBLE OFFICER ONLY. A NOTIFICATION COPY OF THIS FORM MUST BE PROVIDED TO THE U.S. DEPARTMENT OF STATE (NEAREST DATE).		7. Emily Green		Responsible Officer	
		Name of Official Preparing Form		Title	
		3500 Peach Ave Atlanta, GA 30301		234-343-3533	
		Address of Responsible Officer or Alternate Responsible Officer		Telephone Number	
		Signature of Responsible Officer or Alternate Responsible Officer		12-09-2002	
				Date (mm/dd/yyyy)	
8. Signature of Responsible Officer for Retaining Sponsor (FOR TRANSFER OF PROGRAM) Signature of Responsible Officer or Alternate Responsible Officer: _____ Date (mm/dd/yyyy) of Signature: _____ Effective date (mm/dd/yyyy): _____ Transfer of this exchange visitor from program number _____ approved by _____ to the program specified in item 1 is necessary or highly desirable and is in compliance with the objectives of the Mutual Educational and Cultural Exchange Act of 1962, as amended.					
PRELIMINARY ENDORSEMENT OF CONSULAR OR INSPECTION OFFICER REGARDING SECTION 11(b) OF THE IMMIGRATION AND NATIONALITY ACT AND 8 U.S.C. AS AMENDED. (see new Part 1 Page 2) The Exchange Visitor in the above program: <input type="checkbox"/> Not subject to the two-year residence requirement. <input checked="" type="checkbox"/> Subject to two-year residence requirement based on: A. <input type="checkbox"/> Government training under B. <input type="checkbox"/> The Exchange Visitor Skills List and/or C. <input type="checkbox"/> PL 96-48, as amended. Name _____ Title _____ Signature of Consular or Inspection Officer _____ Date (mm/dd/yyyy) _____			TRAVEL VALIDATION BY RESPONSIBLE OFFICER (Maximum validation period is up to six months for Short-term Scholars and four months for Long-Term Scholars and Summer Teachers) *EXCEPT: Maximum validation period is up to six months for Short-term Scholars and four months for Long-Term Scholars and Summer Teachers. (1) Exchange Visitor is in good standing at the present time. Date (mm/dd/yyyy) _____ Signature of Responsible Officer or Alternate Responsible Officer _____ (2) Exchange Visitor is in good standing at the present time. Date (mm/dd/yyyy) _____ Signature of Responsible Officer or Alternate Responsible Officer _____		
THE U.S. DEPARTMENT OF STATE RESERVES THE RIGHT TO MAKE FINAL DETERMINATION REGARDING 212(b)					
EXCHANGE VISITOR CERTIFICATION: I have read and agree with the statement on item 2 on page 1 of this document.					
Signature of Applicant _____		Place _____		Date (mm/dd/yyyy) _____	

APPROVAL NOTICE

I-797 & I-94 CARD

Department of Homeland Security
U.S. Citizenship and Immigration Services

I-797A, Notice of Action

THE UNITED STATES OF AMERICA

RECEIPT NUMBER MAC-08-0	CLASSIFICATION I-797A
RECEIVED November 2007	PETITION FOR A NONIMMIGRANT WORKER H-1B
NOVEMBER 2008	UNIVERSITY OF MINNESOTA
JANUARY 2008	MINNESOTA
	Name of H-1B Employee
UNIVERSITY OF MINNESOTA C/O MARK SCHNIDER 1888 190 HUMPHREY CTR 301 19TH AVE SO MINNEAPOLIS MN 55455	Notice Type: Approval Notice Class: H-1B Valid from 01/ /2008 to 06/ /2008

The above petition and extension of stay have been approved. The status of the named foreign worker in this classification is valid as indicated above. The foreign worker can work for the petitioner, but only as detailed in this petition and for the period indicated. **Important:** In order to remain in your position, some state employment authorization rules from the filing of this petition apply. The relevant authorization documentation is not required. Please contact the USCIS with any questions about the documentation.

The petitioner should keep the upper portion of this form in their possession. The petition should be given to the worker. He or she should keep the right part with him or her from 1-94. **Important Record:** This should be turned in with the I-94 when departing the U.S. The left part is for his or her records. A person granted an extension of stay who leaves the U.S. must normally obtain a new visa before returning. The right part can be used in applying for the new visa. If a visa is not required, he or she should present it, along with any other required documentation, when applying for Form I-224. **Application for Admission or Approval Application:** If the worker is in this office to request that we write a nonimmigrant part of entry, or pre-flight inspection office of the approval.

The approval of this visa petition does not in itself guarantee immigration status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for a job or admission to the United States, or for an extension, change, or adjustment of status.

THIS FORM IS NOT A VISA NOR IS IT USED IN PLACE OF A VISA.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

U.S. CITIZENSHIP & IMMIGRATION SVC
CALIFORNIA SERVICE CENTER
P. O. BOX 30111
LAKENIA, CALIFORNIA 92607-0111
Customer Service Telephone: (855) 375-5283
Form I-797A (Rev. 09/07/93)N

PLEASE TEAR OFF FORM (IN PRINTED BELOW) AND STAY TO ORIGINAL IN IF AVAILABLE

Detach This Half for Personal Records	Receipt Number MAC-08-0
Receipt # MAC-08-0	Immigration and
I-94# 9 10	Naturalization Service
NAME	I-94
CLASS H-1B	Departure Record
VALID FROM 01/ /2008 UNTIL 06/ /2008	Petitioner: UNIVERSITY OF
PETITIONER: UNIVERSITY OF MINNESOTA	
190 HUMPHREY CTR 301 19TH AVE SO	
MINNEAPOLIS MN 55455	

Form I-797A (Rev. 10/31/05) N

NONIMMIGRANT VISAS

NON IMMIGRANTS



- ▶ Coming to the U.S. temporarily
- ▶ Retain residence abroad
- ▶ Dual intent - only for H's and L's
- ▶ “Alphabet Soup” - A-V

ALPHABET SOUP OF VISAS

A: Govn Officials

B: Visitors

C: Aliens in Transit

D: Crewmen

E: Treaty Traders & Investors

E-3: Australian Temporary Workers

F: Academic or Language Students

G: Int'l Organization Representatives

H: Temporary Workers

I: Media Representatives

J: Exchange Visitors

K: Fiance/Spouse of US Citizens

L: Intracompany Transferees

M: Vocational Students

N: Parents/Children of Special Immigrants

O: Extraordinary Ability

P: Artists, Athletes, Entertainers

Q: Cultural Exchange

R: Religious Workers

S: Witnesses & Informants

T: Victims of Human Trafficking

TN: Canadian & Mexican Temporary Workers

U: Victims of Certain Crimes

V: Spouses & Minor Children of LPRs

W, X, Y, Z: Coming Soon?



H-1B

- ▶ “Specialty Occupation” -- Entry level requirement = minimum Bachelor Degree or equivalent in a specific field of study
- ▶ Six-year maximum stay (with exceptions); each H-1B can be valid for up to 3 years maximum
- ▶ 65,000 annual ceiling, of which 6,800 are set aside for citizens of Chile and Singapore
- ▶ 20,000 additional visas allocated to holders of advanced degrees from U.S. universities
- ▶ Cap Subject vs. Cap Exempt
 - Cap Subject: File on designated dates for a start date of 10/1
 - Cap Exempt: File at any time
 - 1) Colleges & Universities
 - 2) Organizations affiliated with colleges & universities (example: UM Hospital)
 - 3) Non-profit research entities and government research

H-1B REGISTRATION/LOTTERY

- ▶ March 1 – 20: Employer registers employee in H-1B lottery
- ▶ April 1 (Approximately): Lottery results released
- ▶ 90 days following lottery results (i.e. April/May/June): Employers whose cases were selected can file an H-1B petition with USCIS
- ▶ Odds of winning lottery depend on how many people apply:
 - 2020: 275,000 Applications (126,000 with Advanced Degrees)
 - 2019: 201,000 Applications
 - 2018: 190,000 Applications
 - 2017: 230,000 Applications
- ▶ Lottery Advantage: Holding a US Advanced (Master's/Ph.D.) degree by the time the case is filed (not by the time the lottery is held)
 - If you are going to earn US advanced degree in May, you can enter lottery as an advance degree holder, BUT if you win, you cannot file the H-1B petition until you have been awarded the degree.
- ▶ Recent Proposed DHS Rule to change the H-1B lottery process by changing the lottery from random selection to “highest wage first.” (30 day comment period before it goes into effect)

H-1B CHANGE OF EMPLOYER

- ▶ You can change employers if the new employer files a new H-1B (remember: 6 year H-1B total)
- ▶ Different Change of Employer Scenarios:
 - Cap-Subject to Cap-Subject
 - Cap-Subject to Cap Exempt
 - Cap Exempt to Cap Exempt
 - Cap Exempt to Cap Subject: This is the tough one!!
- ▶ Concurrent Employment: You could be sponsored by a cap-exempt employer and then obtain a second or dual H-1B with a cap-subject employer as long as you maintain the cap-exempt employment. This is a potential way to get around the H-1B lottery

H-1B

FAQ'S

Can you file an H-1B for yourself?

- ▶ NO – Only an employer can file an H-1B on your behalf.
- ▶ There must be an employer-employee relationship in order to qualify

Who can you work for?

- ▶ Only the employer who sponsored you (H-1B tied to employer)
- ▶ Concurrent (Dual) H-1B possible if both employers sponsor you

Can the H-1B be part-time?

- ▶ Yes, H-1B can be part-time or full-time

What happens if you get a promotion while on the H-1B?

- ▶ Employer is required to file amendment with USCIS before promotion or job change can occur
- ▶ Beware of increasing site visits!

What happens if you lose your job?

- ▶ Grace period of up to 60 days
- ▶ Reasonable costs of return transportation for dismissed employee

What if you previously held a J-1 and have not fulfilled the 2 year home residence requirement?

- ▶ You must return home for 2 years or obtain a J-1 waiver before being eligible for an H-1B
- ▶ Webinar on J-1 Waivers are periodically held so stay tuned to any Fragomen Announcements



H-1B

FAQ'S

Can I study while on H-1B?

- ▶ Yes, part-time study is permitted

What do I need to travel internationally?

- ▶ Must apply for visa (if don't already have one) at US Consulate/Embassy
- ▶ File DS-160 and bring I-797 approval notice and other supporting documents required by the Consulate

What happens to my spouse/children?

- ▶ Spouse and children (H-4) not eligible to work (except for some narrow exceptions), but can study

Who can pay H-1B fees? EMPLOYER ONLY

What are the government fees?

- ▶ Filing Fee: \$460
- ▶ Anti-Fraud Fee: \$500
- ▶ Training Fee: \$750 (\$1500 if over 25 full-time employees)
- ▶ Premium Processing: \$2500 (if applicable)

What are standard attorney/legal fees?

- ▶ Varies depending on attorney, employer, position, location



WAGE REQUIREMENTS FOR H-1B



- ▶ Wage offered must be the higher of Prevailing Wage or Actual Wage paid to similarly situated employees
- ▶ What is actual wage? Actual wage is the salary paid by the employer to workers with similar skills and qualifications.
- ▶ What is prevailing wage? The prevailing wage rate is defined as the average wage paid to similarly employed workers in a specific occupation in the area of intended employment.
 - ▶ Recent change to the Occupational Employment Statistics (OES) Wage data, which significantly increased the wage levels above the average wage paid to similarly employed workers in specific occupations in the area of intended employment.
 - ▶ Employers are able to secure alternative wage surveys to obtain a reasonable prevailing wage for H-1B workers

CAP GAP AUTOMATIC EXTENSION

- ▶ **Automatic Extension of your OPT work authorization to September 30th:** This happens if your approved OPT end date (on your EAD card) is in April/May/June/July/August/September and you “win” the H-1B lottery and your employer files the H-1B petition as a change of status BEFORE your OPT expires
- ▶ **Extension of your F-1 “duration of status.”** OPT has already expired or no OPT at all and you win the H-1B lottery and your employer files the H-1B as a change of status BEFORE your F-1 status (including grace period) expires. You would be allowed to stay in the US if you otherwise maintain your F-1 status, but you are not authorized to work until the H-1b petition is approved and goes into effect, which would be no earlier than October 1st, 2020.
- ▶ **Eligibility:**
 - H-1B petition has been timely filed (within the acceptance period), meaning prior to the expiration of your current status
 - Requests an employment start date of October 1st
 - Requests a change of status
- ▶ **Beware of international travel during the cap gap!**

H-1B

OBSTACLES

1. Find a job
2. Find an employer willing to sponsor you
3. Find an employer willing to pay the H-1B fees AND pay you at or above the prevailing wage
4. File H-1B by the strict June deadline
5. Win the lottery
6. Get the H-1B approved by USCIS



WHAT IF YOU CAN'T GET AN H-1B?

- ▶ Work using your OPT (F-1) or Academic Training (J-1) for as long as possible
- ▶ Consider going back to school to obtain an advanced degree

OR

- ▶ Intracompany transferees (L-1)
- ▶ Treaty Traders (E-1) and Investors (E-2)
- ▶ People of Extraordinary Ability (O-1)
- ▶ Exchange Visitors (J-1)
- ▶ Athletes/Artists/Entertainers (P-1)
- ▶ Country Specific Work Visas (H-1B1, E-3, TN)



L-1 (A & B)

- ▶ Allows for Dual Intent
- ▶ Intracompany Relationship:
 - Parent, subsidiary, affiliate, branch or joint venture
- ▶ Prior Employment Abroad:
 - 1 year within 3 years preceding transfer to U.S.
- ▶ Qualifying Capacity:
 - Executive, Managerial (L-1A)
 - “Specialized” Knowledge (L-1B)
- ▶ Duration:
 - L-1A = 7 years
 - L-1B = 5 years



E-1 & E-2

- ▶ E-1 (Treaty Traders): Carry on substantial trade in goods, services and technology, principally between the United States and the foreign country of which s/he is a citizen or national.
- ▶ E-2 (Treaty Investors): Direct the operations of an enterprise in which s/he has invested, or is actively investing, a substantial amount of capital in the United States.
- ▶ E-1/E-2 Visa Issuance: 2-5 years at a time, depending on country of citizenship; no limit on renewals.
- ▶ 2 Types of E-1/E-2 Visa Holders: Investors and Employees
 - The employee is coming to the U.S. to fill an executive or supervisory position; or has special qualifications essential to the firm's operations in the US. Ordinary skilled or unskilled workers do not qualify.
 - Investors and employees must be of the same nationality.

E-2 TREATY INVESTOR

- ▶ To qualify for the E-2 (Treaty Trader) visa:
 - Company in the U.S. that has at least 50% ownership of the treaty country;
 - Substantial investment in the company;
 - The enterprise has to be more than marginal;
 - Real and operating commercial enterprise;
 - Foreign national is coming to develop and direct the enterprise or to work as an executive; and supervisor or essentially skilled employee.

- ▶ Major Countries Missing: India, China, Russia, Brazil do not qualify for the E-1 or the E-2
 - However, if you are a dual citizen of Brazil and Italy (for example) you can qualify based on your Italian citizenship.

E-1 & E-2 TREATY COUNTRIES

Country	Classification
Albania	E-2
Argentina	E-1 & E-2
Armenia	E-2
Australia	E-1 & E-2
Austria	E-1 & E-2
Azerbaijan	E-2
Bahrain	E-2
Bangladesh	E-2
Belgium	E-1 & E-2
Bolivia	E-1 & E-2
Bosnia and Herzegovina	E-1 & E-2
Brunei	E-1
Bulgaria	E-2
Cameroon	E-2
Canada	E-1 & E-2
Chile	E-1 & E-2
China (Taiwan)	E-1 & E-2
Colombia	E-1 & E-2
Congo (Brazzaville)	E-2
Congo (Kinshasa)	E-2

Country	Classification
Costa Rica	E-1 & E-2
Croatia	E-1 & E-2
Czech Republic	E-2
Denmark	E-1 & E-2
Ecuador	E-2
Egypt	E-2
Estonia	E-1 & E-2
Ethiopia	E-1 & E-2
Finland	E-1 & E-2
France	E-1 & E-2
Georgia	E-2
Germany	E-1 & E-2
Greece	E-1
Grenada	E-2
Honduras	E-1 & E-2
Iran	E-1 & E-2
Ireland	E-1 & E-2
Israel	E-1 & E-2
Italy	E-1 & E-2

Country	Classification
Jamaica	E-2
Japan	E-1 & E-2
Jordan	E-1 & E-2
Kazakhstan	E-2
Korea (South)	E-1 & E-2
Kosovo	E-1 & E-2
Kyrgyzstan	E-2
Latvia	E-1 & E-2
Liberia	E-1 & E-2
Lithuania	E-2
Luxembourg	E-1 & E-2
Macedonia	E-1 & E-2
Mexico	E-1 & E-2
Moldova	E-2
Mongolia	E-2
Montenegro	E-1 & E-2
Morocco	E-2
Netherlands	E-1 & E-2
New Zealand	E-1 & E-2
Norway	E-1 & E-2

Country	Classification
Oman	E-1 & E-2
Pakistan	E-1 & E-2
Panama	E-2
Paraguay	E-1 & E-2
Philippines	E-1 & E-2
Poland	E-1 & E-2
Romania	E-2
Senegal	E-2
Serbia	E-1 & E-2
Singapore	E-1 & E-2
Singapore	E-2
Slovak Republic	E-2
Slovenia	E-1 & E-2
Spain	E-1 & E-2
Sri Lanka	E-2
Suriname	E-1 & E-2
Sweden	E-1 & E-2
Switzerland	E-1 & E-2
Thailand	E-1 & E-2
Togo	E-1 & E-2

Country	Classification
Trinidad & Tobago	E-2
Tunisia	E-2
Turkey	E-1
Turkey	E-2
Ukraine	E-2
United Kingdom	E-1 & E-2
Yugoslavia	E-1

O-1 VISA FOR PEOPLE OF EXTRAORDINARY ABILITY

- ▶ The O-1 nonimmigrant visa is for the individual who possesses extraordinary ability in the sciences, arts, education, business, or athletics
- ▶ To qualify for an O-1 visa, the beneficiary must demonstrate extraordinary ability by sustained national or international acclaim and must be coming temporarily to the United States to continue work in the area of extraordinary ability.
- ▶ Employer specific; but can hold dual O-1s
- ▶ Anyone still subject to INA 212e (J-1 2 year home residence requirement) can obtain an O-1 visa
- ▶ 3 years for first O-1 (1 year renewals), renewable indefinitely
- ▶ Inconsistent Adjudications: Weak cases approved; strong cases denied
 - May be worth looking into for individuals with Ph.D.s or individuals with strong business backgrounds, high salaries, etc.





O-1 VISA CRITERIA

MUST MEET 3 OF THE BELOW CRITERIA

- ✓ Receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor
- ✓ Membership in associations in the field for which classification is sought which require outstanding achievements, as judged by recognized national or international experts in the field
- ✓ Published material in professional or major trade publications, newspapers or other major media about the beneficiary and the beneficiary's work in the field for which classification is sought
- ✓ Original scientific, scholarly, or business-related contributions of major significance in the field
- ✓ Authorship of scholarly articles in professional journals or other major media in the field for which classification is sought
- ✓ A high salary or other remuneration for services as evidenced by contracts or other reliable evidence
- ✓ Participation on a panel, or individually, as a judge of the work of others in the same or in a field of specialization allied to that field for which classification is sought
- ✓ Employment in a critical or essential capacity for organizations and establishments that have a distinguished reputation

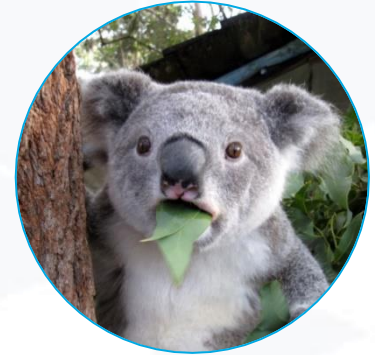
H-1B1 FOR CHILE/SINGAPORE NATIONALS

- ▶ For citizens of Chile and Singapore only
- ▶ Similar to the H-1B in that the primary requirement is an offer of employment in a specialty occupation
- ▶ Prevailing wage and LCA required; but can apply directly at the Embassy (similar to E-3)
- ▶ NO dual intent
- ▶ 1,400 available for Chile
- ▶ 5,400 available for Singapore
- ▶ 1 year validity; renewable indefinitely



E-3 VISA FOR AUSTRALIAN NATIONALS

- ▶ Visa category for citizens of Australia to take up professional positions in the U.S. – 10,500 per year available
- ▶ Job offered must be for a “specialty occupation” as defined for H-1B visa category
- ▶ Requires certified LCA and prevailing wage determination
- ▶ Visas can be applied for at consulates without prior USCIS approval
- ▶ Filings can be submitted to USCIS, but premium processing is not available
- ▶ 2-year validity; renewable indefinitely
- ▶ Dependent spouses may apply for employment authorization
- ▶ 240 day rule DOES apply; but NO portability; NO premium processing



TN CATEGORY FOR CANADIAN & MEXICAN PROFESSIONALS



- ▶ Must be nationals of either Canada or Mexico
- ▶ Coming to U.S. to work in profession listed on NAFTA schedule and must be sponsored by employer
 - ▶ Recently changed to USMCA
- ▶ Generally require a Bachelors degree in a specific field

- ▶ Canadians apply at border (non-national dependents must obtain visa at U.S. Consulate)
- ▶ Mexicans apply at Consulate
- ▶ Three year increments, renewable indefinitely
- ▶ Extensions and changes of status may be filed at USCIS Service Center
- ▶ Despite what you hear in the news, the TN category still exists!



TN JOBS

General

- Accountant
- Architect
- Computer Systems Analyst
- Disaster Relief Insurance Claims Adjuster
- Economist
- Engineer
- Forester
- Graphic Designer
- Hotel Manager
- Industrial Designer
- Interior Designer
- Land Surveyor
- Landscape Architect
- Lawyer
- Librarian
- Management Consultant
- Mathematician
- Range Manager/
Range Conservationist
- Research Assistant
- Scientific Technician/Technologist
- Social Worker

- Sylviculturist
- Technical Publications Writer
- Urban Planner
- Vocational Counsellor

Medical/Allied Professional

- Dentist
- Dietitian
- Medical Laboratory Technologist
- Medical Technologist
- Nutritionist
- Occupational Therapist
- Pharmacist
- Physician
- Physiotherapist/Physical Therapist
- Psychologist
- Recreational Therapist
- Registered Nurse
- Veterinarian

Scientist

- Agriculturist
- Animal Breeder
- Animal Scientist

- Apiculturist
- Astronomer
- Biochemist
- Biologist
- Chemist
- Dairy Scientist
- Entomologist
- Epidemiologist
- Geneticist
- Geologist
- Geochemist
- Geophysicist
- Horticulturist
- Meteorologist
- Pharmacologist
- Physicist Plant Breeder
- Poultry Scientist
- Soil Scientist
- Zoologist

Teacher

- College
- Seminary
- University

GREENCARD OVERVIEW

IMMIGRANTS



- ▶ “Green card holders” = “Permanent residents” = “Immigrants”
- ▶ Coming to U.S. permanently
- ▶ Numerically limited
 - Visa bulletin
 - Priority date
- ▶ Can become U.S. citizens after 3 - 5 years

GREEN CARD BASICS

- ▶ Although its strongly recommended, you do not have to be on an H-1B to file for a green card
- ▶ Being in the US for a certain number of years will not help/hurt your green card application; you can obtain a green card even if you never before stepped foot in the US
- ▶ You can have multiple green card applications pending at the same time if you'd like
- ▶ You can be sponsored by an employer that you don't currently work for, as long as you intend to work for them upon getting the GC
- ▶ Green cards via Family, Employment, Investment or the Diversity Lottery are all based on your country of birth, not citizenship
- ▶ You can always include your spouse and unmarried children under 21 in your green card application

HOW TO GET A GREENCARD

1. Family
2. Work
3. Diversity Lottery
4. Asylum
5. Cuban-Adjustment Act



DIVERSITY LOTTERY

- ▶ 50,000 green cards given out each year (about 15 million applicants); must apply during the month of October / early November at this website: <https://www.dvlottery.state.gov/>
- ▶ Odds of winning the Powerball jackpot?
 - 1 in 195,249,054
- ▶ Who is NOT eligible? Persons BORN in: Bangladesh, Brazil, Canada, China (mainland born), Colombia, Dominican Republic, El Salvador, Haiti, India, Jamaica, Mexico, Nigeria, Pakistan, Peru, Philippines, South Korea, United Kingdom (except Northern Ireland) and its dependent territories, and Vietnam.
- ▶ Persons born in Hong Kong SAR, Macau SAR, and Taiwan are eligible.
- ▶ Apply: <https://dvlottery.state.gov/>
- ▶ Apply in October of each year



DIVERSITY LOTTERY

- ▶ Countries with the most DV Lottery Winners (Approved/Issued visas/green cards in parenthesis)
 - Albania 4,484 (2,630)
 - Democratic Republic Of The Congo 4,497 (2,874)
 - Egypt 4,495 (3,466)
 - Ethiopia 4,496 (2,106)
 - Iran 4,500 (318)
 - Nepal 4,097 (3,307)
 - Russia 4,500 (2,175)
 - Turkey 4,390 (1,821)
 - Ukraine 4,478 (2,653)
 - Uzbekistan 4,494 (2,058)

FAMILY-BASED PERMANENT RESIDENCE

- ▶ **Quick Process:** Immediate relatives (spouses, minor children who are unmarried & parents of U.S. citizens)
- ▶ **Slow Process:** Other close family members of citizens or permanent residents can sponsor you, including:
 - Unmarried sons & daughters of citizens (over age 21)
 - Spouses & children of LPRs (2A) & unmarried sons/daughters of LPRs (2B)
 - Married sons & daughters of citizens
 - Brothers & sisters of citizens



November 2020

FAMILY BULLETIN

Family-Sponsored	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
F1	15SEP14	15SEP14	15SEP14	08JAN98	15DEC11
F2A	C	C	C	C	C
F2B	08JUL15	08JUL15	08JUL15	08APR99	01AUG11
F3	15JUN08	15JUN08	15JUN08	01AUG96	15FEB02
F4	22SEP06	22SEP06	08MAR05	22JUN98	01JAN02

EMPLOYMENT-BASED CATEGORIES

EB-1: Priority Workers

EB-2: Advance-degree professionals & aliens of exceptional ability

EB-3: Professional, skilled & unskilled workers* (*labor certification required)

EB-4: Special Immigrants

EB-5: Employment Creation (Investors)



EB-1 VS. EB-2 VS. EB-3

- ▶ **EB-3:** Jobs that require a Bachelor's degree
 - Employer sponsorship ALWAYS required
- ▶ **EB-2:** Jobs that require an advanced degree (or Bach + 5)
 - Employer sponsorship required EXCEPT for National Interest Waiver
- ▶ **EB-1:** Priority workers (no labor certification)
 - Persons of extraordinary ability (similar to the O-1 nonimmigrant category)
 - Employer sponsorship NOT required
 - Outstanding professors & researchers
 - Employer sponsorship required
 - Multinational executives/managers
 - Employer sponsorship required



November 2020

EMPLOYMENT BULLETIN

Employment-based	All Chargeability Areas Except Those Listed	CHINA-mainland born	EL SALVADOR GUATEMALA HONDURAS	INDIA	MEXICO	PHILIPPINES	VIETNAM
1st	C	01DEC18	C	08DEC18	C	C	C
2nd	C	22APR16	C	22SEP09	C	C	C
3rd	C	01OCT17	C	01MAR10	C	C	C
Other Workers	C	01JAN09	C	01MAR10	C	C	C
4th	C	C	01NOV17	C	15OCT18	C	C
Certain Religious Workers	C	C	01NOV17	C	15OCT18	C	C
5th Non-Regional Center (C5 and T5)	C	15AUG15	C	C	C	C	15AUG17
5th Regional Center (I5 and R5)	C	15AUG15	C	C	C	C	15AUG17

EB-1 OUTSTANDING PROFESSOR/RESEARCHER

- ▶ You must demonstrate international recognition for your outstanding achievements in a particular academic field.
- ▶ You must have at least 3 years experience in teaching or research in that academic area.
- ▶ You must be entering the United States in order to pursue tenure or tenure track teaching or comparable permanent research position at a university or other institution of higher education;
- ▶ Post-Doc positions do not qualify!
- ▶ Must meet 2 of 6 criteria:
 - Evidence of receipt of major prizes or awards for outstanding achievement
 - Evidence of membership in associations that require their members to demonstrate outstanding achievement
 - Evidence of published material in professional publications written by others about the alien's work in the academic field
 - Evidence of participation, either on a panel or individually, as a judge of the work of others in the same or allied academic field
 - Evidence of original scientific or scholarly research contributions in the field
 - Evidence of authorship of scholarly books or articles (in scholarly journals with international circulation) in the field

EB-1

EXTRAORDINARY ABILITY

- ▶ Does not require a job offer or a permanent position (Post-Docs can qualify); can self-petition
- ▶ Extraordinary Ability = “Level of expertise indicating that the individual is one of those few who have risen to the top of the field of endeavor”
- ▶ Higher standard than “exceptional ability” or “outstanding”
- ▶ Must meet 3 of 10 criteria:
 - Evidence of receipt of lesser nationally or internationally recognized prizes or awards for excellence
 - Evidence of your membership in associations in the field which demand outstanding achievement of their members
 - Evidence of published material about you in professional or major trade publications or other major media
 - Evidence that you have been asked to judge the work of others, either individually or on a panel
 - Evidence of your original scientific, scholarly, artistic, athletic, or business-related contributions of major significance to the field
 - Evidence of your authorship of scholarly articles in professional or major trade publications or other major media
 - Evidence that your work has been displayed at artistic exhibitions or showcases
 - Evidence of your performance of a leading or critical role in distinguished organizations
 - Evidence that you command a high salary or other significantly high remuneration in relation to others in the field
 - Evidence of your commercial successes in the performing arts

EB-2/EB-3 EMPLOYMENT-BASED PERMANENT RESIDENCE

- ▶ **Step 1: Labor Certification (not required for National Interest Waiver or any EB-1 filing)**
 - Filed by employer on behalf of foreign national
 - Processed under PERM system by DOL
 - Employer must prove that they were unable to find any minimally qualified US applicants who are ready, willing and able to fill the position
 - Employer establishes minimum requirements but DOL to review to make sure its consistent with internal labor statistics
 - Prevailing Wage Required (must be issued by National Prevailing Wage Center)
 - By law, all fees (attorney fee and advertising) for Step 1 must be paid by employer

EB-2/EB-3 EMPLOYMENT-BASED PERMANENT RESIDENCE

▶ Step 2: Immigrant Petition for Alien Worker (Form I-140)

- Filed by employer and processed by USCIS
- Employer confirms sponsorship and offer of full-time permanent position and demonstrates its ability to pay the employee the prevailing wage
- Employer proves that foreign worker meets all requirements for the position
- Can be paid by employer or employee (\$700 government fee per family)

▶ Step 3: Adjustment of Status (Form I-485) or Consular Processing

- Filed by the foreign national & family members
- Foreign national and family document personal/medical/criminal/immigration history and provide personal information
- Must prove that you will not be a public charge, which includes providing evidence of earnings, tax filings, health insurance, assets, liabilities, debts, credit score, credit report, etc.
- Can only be filed when Priority Date is current
- Can be paid by employer or employee (\$1225 government fee per applicant)



EB-2 NATIONAL INTEREST WAIVER

- ▶ Aliens seeking a national interest waiver are requesting that the Labor Certification be waived because it is in the interest of the United States.
- ▶ Though the jobs that qualify for a national interest waiver are not defined by statute, national interest waivers are usually granted to those who have exceptional ability and whose employment in the United States would greatly benefit the national interest.
- ▶ Those seeking a national interest waiver may self-petition (they do not need an employer to sponsor them) and may file their labor certification directly with USCIS along with their Form I-140, Petition for Alien Worker.
- ▶ 3 Criteria:
 1. The foreign national's proposed endeavor has both substantial merit and national importance.
 2. The foreign national is well positioned to advance the proposed endeavor.
 3. On balance, it would be beneficial to the United States to waive the job offer and labor certification requirements of the EB-2 category.
- ▶ Good category for STEM Ph.D's

COVID-19 AND ITS IMPACT ON US IMMIGRATION

COVID-19 AND IT'S IMPACT ON US IMMIGRATION

- ▶ Travel Bans/Restrictions
- ▶ Nonimmigrant Visa Bans (H-1B, L-1, and J-1S)
- ▶ Immigrant Visa Bans (Spouse of LPR, Employment Based, etc.)
- ▶ What to do if your status is about to expire?
- ▶ Limits on In Person services at USCIS
- ▶ Only emergency visa processing at US Consulates abroad

- ▶ ****YOU MUST CONTINUE TO ABIDE BY ALL IMMIGRATION LAWS (WITH A FEW MINOR EXCEPTIONS) DURING THIS TIME****



GENERAL IMMIGRATION ADVICE MOVING FORWARD

GENERAL ADVICE

IMMIGRATION JOURNEY

- ▶ **Keep copies of everything (save in the cloud)**
 - I-20s, EADs, old passports, airplane flight confirmation emails, etc.
 - Employment verification letters from every employer, including yourself if self-employed (try to obtain soon after you finish employment)
- ▶ **If you are not sure, ask 1) your F/J advisor or 2) an immigration attorney. Please note:**
 - Alexa: Not an attorney
 - Siri: Not an attorney
 - Google/Bing: Not attorneys
 - Your best friend: Probably not an attorney
- ▶ **As an F/J student, there is nothing worse you can do than unauthorized employment**
- ▶ **The actions you take today may not have an impact tomorrow, next week, next month, next year but it could come back to harm you somewhere down the road in your immigration journey**

JOB APPLICATIONS

DREADED IMMIGRATION QUESTIONS

1. **Are you legally authorized to work in the United States?** _____ Yes _____ No
2. **Will you now or in the future require sponsorship for employment visa status (e.g., E-3, H-1B, O-1, TN, etc. visa status)?** _____ Yes _____ No.

THANK YOU

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