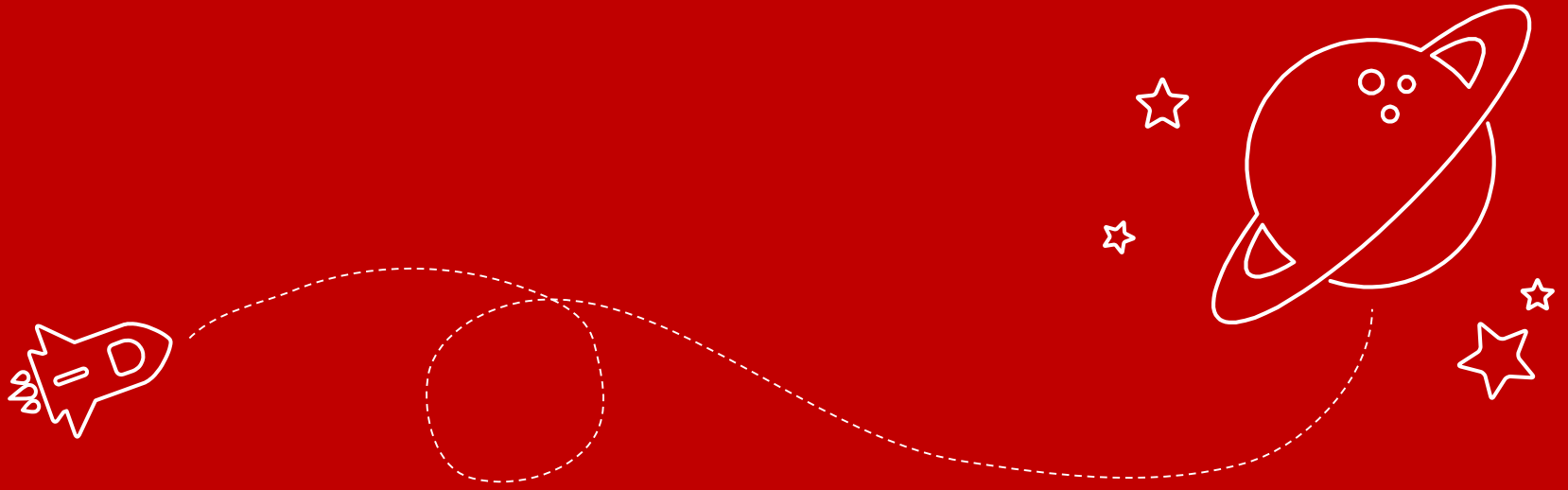# Working in the U.S. After Graduation

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NONIMMIGRANT VISAS

H-1B, TN, E-3, H-1B1, E-2

H-1B

OVERVIEW

- *Most common type of nonimmigrant work visa*

- *Generally subject to cap and random lottery (master's cap and cap exempt can increase opportunities)*

- *Must be in a specialty occupation that requires a bachelor's degree*

- *Employer sponsors, employee generally responsible for providing certain documents to the employer's immigration attorney (resume, transcripts, diploma, pay stubs)*

- *Employer obligated to pay wage set by Department of Labor*

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H-1B

EMPLOYEE PROTECTIONS

Employer **MUST** pay all immigration costs

Employee may pay premium processing only

If employer terminates employment, employer must pay cost of return ticket

Employer cannot make employee reimburse fees or costs if employee quits

Some employers may file a part time H-1B then try to assign full time workload

Must receive the prevailing wage and same benefits as other employees

H-1B employees are protected under federal and state labor laws

H-1B

PROCESS

1) *Find a job*

2) *Employer's immigration attorney will pre-register the position for USCIS' lottery in March*

3) *If selected, the visa petition will be prepared and filed with USCIS within 90 days of April 1st*

4) *Adjudication times are unpredictable, recommend not to travel if filing change of status*

5) *Request for evidence (RFE) or approval and status changed to H-1B*

6) *Valid in 3-year increments*

H-1B

⚑ RFE

REQUEST FOR EVIDENCE – BEST PRACTICE

USCIS has been directed to increase RFEs over the past few years and it's very common to receive one.

- *Ensure your degree matches your job*

- *Smart elective choices*

- *Type of employer and availability of work*

- *Consider saving your work product along the way*

- *Strict deadline so it is important to be responsive*

H-1B

⚑ RFE

Sample Beneficiary Education Chart
Degree & Major: Bachelor of Science in Computer Science
Job: Junior Software Developer

Class	Description of Class	Applicable Skills
CS 2318 – Assembly Language	A course covering assembly language programming, including instruction sets, addressing modes, instruction formats, looping, logic, data representation, subroutines and recursion; and the interface between hardware and software	Beneficiary learned valuable skills related to C++ which is used frequently in this position to develop software applications
CS 3358 – Data Structures and Algorithms	This is a course that covers classic data structures and the analysis of algorithms.	Imparted background information in algorithm analysis which is essential to carry out the job duty of analyzing data inputs
PE 1120 - Golf	An exploration of the fundamentals of the rules of golf to include stances, grips, strokes, putts, chipping, pitching, club selection and course etiquette.	Golf is essential in order to advance the corporate ladder at Beneficiary's place of employment

H-1B

✓ **Approved**

WHAT TO DO AFTER APPROVAL

- *Rejoice! (and keep your approval notice in a safe place)*

- *Cap gap and portability*

- *If change of status you will be on H-1B based on approval notice*

- *If consular processing, you will need to go back to the U.S. consulate in your home country*

- *Can do the consular interview after expiration of OPT to increase nonimmigrant time in U.S.*

- *Maximum validity of 6 years, next step is PERM process*

H-1B

☹ **Not Selected**

STRATEGIES IF NOT SELECTED OR NOT APPROVED

- *Enroll in a graduate program (**BEWARE** of day-one CPT schools)*

- *Apply for STEM OPT if possible*

- *Inquire about working in a foreign office of your company if there is one*

- *If disapproved, carefully evaluate the reason with an immigration attorney*

- *Assess any family-based options to remain in the U.S.*

- *Apply for next year's lottery*

H-1B

☹ **Not Selected**

.....MORE STRATEGIES

(Suspended since 2017 – may come back)

Some restrictions apply (to Chinese, Indians, Canadians, Australians, Nigerians, Brazilians….)

Other NIV Options

OTHER NONIMMIGRANT WORK VISAS

- ***<u>TN</u>*** *Limited to certain professions, only available for Mexicans and Canadians*

- ***<u>E-3</u>*** *Same requirements as H-1B but cap almost never met, only available for Australians*

- ***<u>H-1B1</u>*** *Same as H-1B but reserved cap, only available for Chileans and Singaporeans*

- ***<u>E-2</u>*** *Treaty investor visa, nationality restrictions and usually requires significant startup capital*

- *Other visa types generally not suitable for recent grads (L, O, P, R)*

IMMIGRANT VISAS

PERM, EB-1, EB-2, EB-3

PERM

PERM TWO-STEP

Leads to permanent residency (green card)

Dept. of Labor

USCIS

PROCESS

1) Ensure employer will sponsor

2) Work with attorney on the position

3) Prevailing Wage Request filed

4) Recruitment conducted

5) Foreign Labor Certification filed

6) Prepare and file I-140

7) Once approved can apply for green card based on the visa bulletin

Other Options

EB-1A

EB-2

IMMIGRANT
VISAS

EB-1C

EB-5
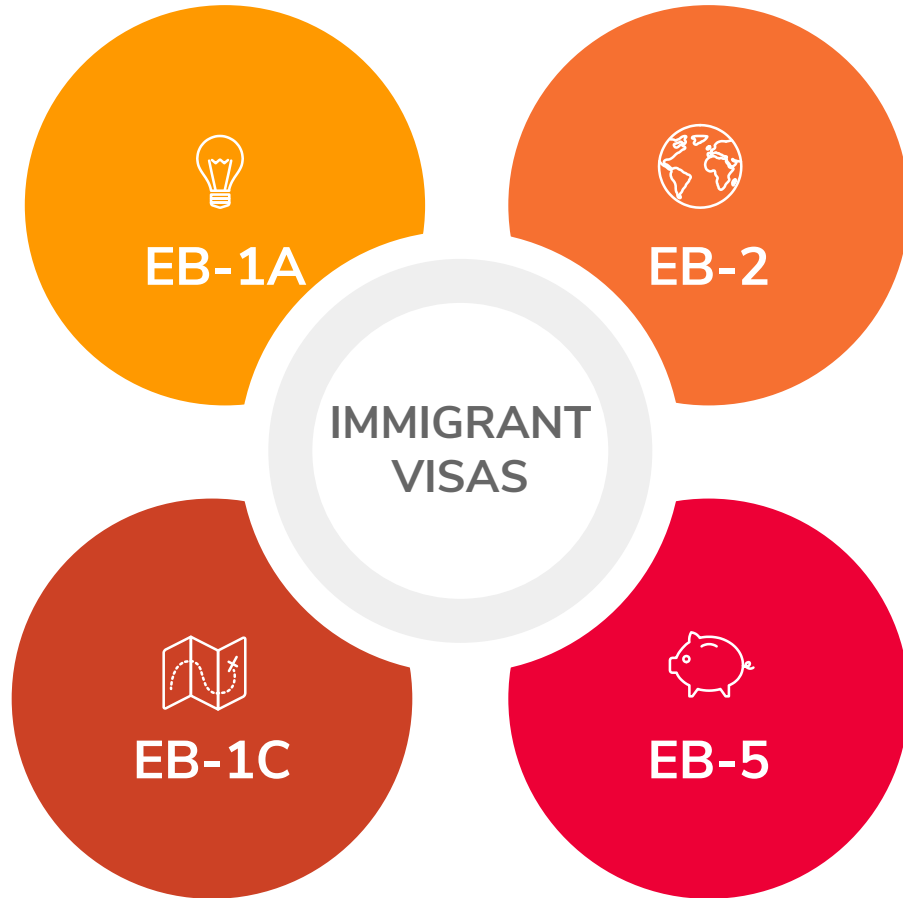
EB-1A

OVERVIEW

- *Must demonstrate extraordinary ability by meeting 3 of 10 evidentiary criteria*

- *Can self-petition, no employer necessary*

- *Generally reserved for advanced-career professionals, but recent PhD graduates or post docs may be eligible*

EB-2

OVERVIEW

- *Must demonstrate exceptional ability by meeting 3 of 7 evidentiary criteria*

- *Can self-petition, no employer necessary if filing EB-2 with National Interest Waiver*

- *Generally requires a master's degree or higher*

- *Some fields better than others, but no definition of national interest*

Common EB-1A and EB-2 Evidence

Graduate degree

Published articles

Citations to articles

Prestigious awards

Media coverage

Recommendation letters

Further Questions?

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