

Calling All HR Managers! Recruit & Retain Talent Through Immigration Strategies

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Today's Topics

- Benefits of Using Employment-Based Immigration
- Non-Immigrant Visas
 - F-1: Students with Post-Completion OPT or STEM OPT
 - H-1B: Specialty Occupations
 - TN: NAFTA Professionals
 - O-1: Individuals with Extraordinary Ability or Achievement
- HHS and Conrad Waivers for Medical Graduates
- Permanent Residency Planning

Benefits of Using Employment Based Immigration

Benefits of Using Employment Based Immigration

- Foreign nationals remain a resource for highly skilled talent
 - Immigrants make up more than 19% of the total civilian workforce
- Visa options for those with advanced education are available
- Powerful tool to diversify your workforce
- Great option for hard to fill vacancies
- Unique perspective to international operations
- Demographics – US born population will age and shrink

Non-Immigrant Visas

Types of Non-Immigrant Employment Based Visas

- B-1 Business Visitor and B-2 Tourist Visa
- E-1 Treaty Traders
- E-2 Treaty Investors
- E-3 Treaty Alien in Specialty Occupation from Australia
- F-1 Student Visa and F-2 Dependents
- H-1B Specialized Occupation Workers and H-4 Dependents
- H-2B Temporary/Seasonal Workers
- H-3 Trainees
- J-1 Exchange Visitors and J-2 Dependents
- L-1 Intra-Company Transfers and L-2 Dependents
- O-1 Extraordinary Ability Aliens, O-2 individuals providing “essential assistance,” and O-3 spouse/children
- Q-1 Cultural Exchange Visitors (no dependent class)
- R-1 Religious Workers and R-2 Dependents
- TN Workers USMCA and TD for Dependents

Student Visas: Recruiting International Students

Recruiting International Students

The global economy, international business organizations, and the high percentage of international students in many STEM fields lead employers to increasingly recruit international students.

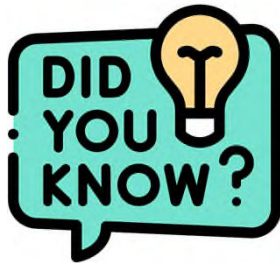


Why Hire International Students?

- Many talented international students already in the US seek to join the US workforce – adding this talent to your workforce can create a clear competitive advantage
- Our country's economic expansion is helped when a company's workforce is retained in the US rather than resorting to offshoring work
- Increase labor pool selection
- Qualifications and specialization
- High percentage of international students in many STEM fields
- Internationalization of business operations
- Increase workforce diversity
- Multilingual advantage in global economy

Interesting Fact: Did You Know...?

International students are already in the US on student visas which legally allow some training or employment in the US at **NO COST** of “sponsorship” for the employer



From a Strategic Recruitment Perspective...

- This presents a strategic opportunity to hire international students who are already here locally, often saving on relocation and recruitment costs
- Consider expanding your labor pool and giving your company the opportunity and advantage of a diverse, multilingual and internationalized workforce

Student Visa Types

- F-1 Student (most common)
- J-1 Student Exchange Visitor (less common)
- These visa types are NOT primarily “employment visas” and they do not require employer “sponsorship”
- Do not need to “test” the workforce or show that there are “no minimally qualified US workers”
- May hire students under these categories without costly advertising or Labor Certification requirements

International Students: F-1 Visa

- Most international students are F-1 students
- F-1 category allows students to work for employers with various forms of authorization such as:
 1. Curricular Practical Training (CPT)
 2. Optional Practical Training (OPT)
 3. OPT STEM Extension for Science, Technology, Engineering, and Math majors

F-1 Curricular Practical Training (CPT)

CPT Benefit #1

- Lawful work authorization in the form of CPT may be approved by a school official for undergraduate and graduate students pursuing appropriate internship, co-ops, or training / employment opportunities
- School asks student to present a job offer letter including:
 - Employer
 - Position / Duties
 - Number of hours of work per week
 - Start Date
- This benefit is used before graduation

CPT Benefit #2

- School official issues a Form I-20 endorsed for part-time or full-time CPT with a specific employer (paid or unpaid)
- Satisfies employer's I-9 requirements

CPT Timing & Cost

Timing

- Takes only 5-10 business days for processing

Cost

- No cost to employers
- No additional cost to student either (depending on school academic credit policy)

F-1 Optional Practical Training (OPT)

OPT Benefits

- 12 months of full-time practical training (off-campus employment)
- Employment Authorization Document (EAD) issued by US Citizen and Immigration Services (USCIS)
- This benefit is typically used after graduation
- Satisfies employer's I-9 requirements

OPT Timing & Cost

Timing	Cost
<ul style="list-style-type: none">▪ Student applies directly to USCIS (after receiving a recommendation from a school official)▪ Average process time is approximately 2-3 months to receive EAD (also known as “OPT Card”) from USCIS	<ul style="list-style-type: none">▪ Student bears cost of \$470 for online filing fee to USCIS (it is student’s application)<ul style="list-style-type: none">▪ NOTE: This OPT authorization is <i>not</i> employer specific▪ Student degree to be in related field to position▪ Student may work in related field for <i>any</i> employer in US

F-1 OPT STEM

OPT STEM Benefits

- For certain science, technology, engineering, and math majors
- 24 month post-completion OPT STEM extension available (for a total of 3 years combined)
- EAD card issued by USCIS (satisfies employer's form I-9 requirements)
- Eligibility:
 - Current employer must be registered with E-verify
 - Must have graduated with STEM major

OPT STEM Timing & Cost

Timing	Cost
<ul style="list-style-type: none"> ■ It is the student's responsibility to apply to USCIS (after obtaining recommendation from school official) ■ Work authorization is extended 180 days while STEM extension is pending ■ EAD card issued by USCIS in about 3 months 	<ul style="list-style-type: none"> ■ No cost to employer ■ \$470 online fee by the student (it's the student's petition)

OPT STEM Responsibilities

Employer Responsibilities

- I-983 Training form and sign attestations
- Timely evaluations per training plan
- Pay commensurate to US workers
- Amend I-983 for material change

Student Responsibilities

- Update school on data validation
- Report material change to school/portal
- Submit timely evaluations school/portal

Screening Candidates

Things To Look Out For When Screening Candidates

- Degree in related field to position?
- If need sponsorship, *when?* (how much time remaining on OPT)
- Is the students major eligible for STEM extension?
- Does employer participate in E-verify?
- If J-1 visa holder – comparable training benefit “J-1 Academic Training” available, suffices I-9
- Some (not all) J-1 visa holders might need waiver to be eligible for future sponsorship

Application Questions in Recruitment:

- **Don't** –ask national origin, citizenship or immigration status
- **Do** – ask work authorized questions
 1. Are you legally authorized to work in the US?
 2. Will you now or in the future require sponsorship for employment visa status (e.g., H-1B visa status)?
- **Practical tip:**
 - When using online applications for recruiting, do not make Social Security number a required field

Summary : F-1 Student OPT/STEM

- Eligibility based on completion of degree program in the United States
- **OPT** work authorization available for 1 year in related field for on the job training related to degree
 - Periods of pre-completion OPT will be deducted from 1 year
- **STEM** OPT provides an additional 2 years of work authorization if in STEM field and employer is E-Verified
 - Apply while in initial period of regular post-completion OPT
- Student must apply for EAD with USCIS
- No mandatory employer fees

Work After OPT?

Q: What if I want a student on OPT to continue working?

A: Plan to sponsor the student for other employment visa categories (i.e., H-1B, TN, O-1, etc.)

Note: *there is a seamless transition from OPT to H-1B (i.e., “cap-gap”)*

H1-B Visa

H-1B: Specialty Occupations

- Hold a baccalaureate or higher degree required by the specialty occupation from an accredited U.S. college or university
 - Hold a foreign degree determined to be the academic equivalent of such U.S. degree; or
 - Have education, specialized training or progressively responsible experience that is the equivalent of a U.S. baccalaureate degree.
 - The Three-For-One Rule
- Hold an unrestricted state license or certification to practice the specialty occupation, when offered employment in a licensed profession

H-1B Visas (Cont.)

- Requires a labor condition attestation (different from and easier to obtain than a labor certification)
- Requires employer to pay the “prevailing wage,” the higher of wage rate paid to others with similar qualifications performing similar duties; or the rate for the job in the geographic area
- Are granted for three years, with extensions for a total stay of six years, (a longer period of stay beyond 6 years is possible if permanent resident status process started)
- 65,000 H-1B visas may be issued each fiscal year
- An additional 20,000 visas are available for workers having a Master’s or higher degree from a U.S. institution
- The federal fiscal year runs from October 1 through September 30

H-1B: Cap-Subject v. Cap-Exempt

CAP-SUBJECT	CAP-EXEMPT
<ul style="list-style-type: none"> ▪ Most foreign nationals eligible for the H-1B visa ▪ Must enter an annual lottery held in March and be selected ▪ Capped at 65,000 per fiscal year, with an additional 20,000 for foreign nationals with a US master’s or other advanced degree 	<ul style="list-style-type: none"> ▪ Foreign nationals employed by institutions of higher education, nonprofit research organizations, or governmental research organizations ▪ No annual limit; no lottery; can apply at any time

H-1B Planning for FY2026 Lottery

- **Registration period:** March 2025 and lasts about 2 weeks. Official dates not yet announced
- **Government cost per registration:** expected to be \$215
- Selected registrations generally notified by March 31
- **Petition filing period if selected:** April 1 to June 30
- **Earliest petition start date:** October 1, 2025
- Subsequent selections may occur later in the year if H-1B cap not reached from first lottery

H-1B Working in US at Other Company

- H-1B visa Transfers
 - Convenient
 - Available (almost) any time
 - Fast (can work upon filing instead of approval notice)
 - Very cost effective
- Other visa options

Continued Value of the H-1B Visa

- Often only option to retain or hire skilled foreign nationals, including recent U.S. college graduates
- Retention of valuable F-1 or J-1 student visa whose work authorization has limited duration under those visa classifications
- Retention of valuable employees who are in a dependent status (H-4, J-2, L-2, E-2) and wish to be independent from their spouse's immigration status
- Dual intent visa, so allows for adjustment of status to green card

H-1B: Things to Look Out for When Screening Candidates

- Offered position requires at least a bachelor's degree for entry into the position
- Candidate has at minimum bachelor's degree in a field related to the position at the time of application filing
- Candidate has required licensing for the position at the time of application filing
- Salary meets minimum requirement
- If already in H-1B status, how much H-1B time does the candidate have left?

H-1B Fees

- \$215 registration fee expected (if subject to the cap)
- \$780 filing fee (or \$460 if small employer or nonprofit)
- \$600 asylum program fee (or \$300 if small employer; \$0 if nonprofit)
- \$500 fraud prevention fee
- \$1,500 or \$750 ACWIA fee (depending on number of workers)
- \$5,500 attorney fees approx.

TN Visa

TN: US Mexico Canada Agreement workers

- Are available to Canadian and Mexican nationals
- List of qualifying occupations includes engineers, nurses, accountants, computer systems analysts, lawyers, scientific technicians/technologists, social workers, dentist, medical laboratory technologists, biologists, and pharmacists
- May be issued to Canadians without preapproval by the United States Citizenship and Immigration Services (USCIS); Canadians apply directly at the border
- Are granted for a period of stay of 3 years, with no limit on extensions, but no “intent to immigrate”

TN: Things to Look Out for When Screening Candidates

- Canadian or Mexican citizen
- Position falls within a qualifying occupations
- Candidate has required qualifications as listed in treaty to enter into the position



TN Fees

- Canadians at the Border
 - \$56 TN processing and I-94 record card fee
- Mexicans at a Consulate
 - \$185 application processing fee
- Petition Filed with USCIS
 - \$1,015 filing fee (or \$510 if small employer or nonprofit)
 - \$600 asylum program fee (or \$300 if small employer; \$0 if nonprofit)
- \$3,500 - \$4,500 attorney fees approx.

O-1 Visa

O-1: Individuals with Extraordinary Ability or Achievement

- Requires extraordinary ability in the sciences, arts, education, business, or athletics
- Requires peer group, labor union, or management organization to confirm “extraordinary ability”
- Proof of ability under certain criteria, i.e. national awards, published materials in professional journals, patents, high compensation compared to others in the field
- Cannot self-petition – need employer sponsor
- O-2 dependents are not work authorized
- No limit on extensions, but no “intent to immigrate”

O-1: Things to Look Out for When Screening Candidates

- Non-immigrant category
- Initially up to 3 years, with 1 year increment extensions, indefinitely
- Intended for temporary employment
- Suitability for any position type
- Verify whether any waiver needed (from a prior J visa type) if longer term planning desired

0-1 Filing Fees

- \$1,055 filing fee (or \$530 if small employer or nonprofit)
- \$600 asylum program fee (or \$300 if small employer; \$0 if nonprofit)
- Plus attorney fees – vary based on case complexity and credentials
- Provide candidate resume to assess credentials

HHS and Conrad Waivers for Medical Graduates

Hiring International Medical Graduates

- J-1 visa allows international medical graduates (IMGs) to participate in Graduate Medical Education (GME) programs in the US if:
 - Completion of USMLE Step 1 and Step 2
 - Valid ECFMG certificate
 - Offer letter or contract from program
 - Statement of Need from home country
- After completion of program, J-1 visa holders must return to home country for 2-years or obtain a waiver to change status to many other types of visas (i.e., H-1B) / adjust status to a green card
 - Exceptions: O-1 visa obtained at consulate; Canadians at the border

J-1 Waivers for IMGs

- **Interested Government Agency (most common):** to work for 3 years in a position involving full-time patient care to a medically underserved population
 - Conrad 30 Waiver – one of the states is the IGA
 - HHS Waiver – US HHS is the IGA
 - Regional waiver programs: Appalachian Regional Commission (ARC) Waiver Program and Delta Regional Authority (DRA) Waiver Program
- **Exceptional Hardship:** US citizen or LPR spouse will suffer exceptional hardship if J-1 visa holder were to leave
- **Persecution:** demonstrate persecution based on race, religion, or political opinions

IGA Waiver General Timeline

Waiver	Timeline
IGA (state or HHS)	2 to 3 months
DOS	2 to 3 months
USCIS	about 2 weeks to receive I-797 waiver approval notice

Conrad 30 Waiver

- Limited to 30 waivers per state per year
- Applications due in the fall (exact deadline varies by state)
- Open to primary care physicians and specialists
- Location must be within a federally designated HPSA or MUA/MUP
 - States have discretion to assign up to 10 waivers to physicians whose employment is not within a HPSA or MUA/P, if the physician will provide care to patients who reside in shortage area (FLEX 10)
- Requirements and fees vary by state

Conrad 30 Waiver – Michigan

- Application period runs from September 1 to November 1
- Not first come, first serve
 - Priority given to full time primary care physicians who are not eligible for the HHS waiver (more than 12 months outside of residency)
 - Remaining waivers then go to specialists – have to explain why specialty is needed and medically essential in the state
 - Priority to safety net providers, including federally qualified health centers and critical access hospitals
- Employment contract of 3 year duration required. Cannot have non-compete clause
- No MDHHS fee; just DOS fee of \$120

HHS Waiver

- No limit; no deadline
- Limited to primary care physicians (family medicine, general internal medicine, general pediatrics, obstetrics & gynecology) or general psychiatry
- Location = HPSA score of 07 or higher
- Must file within 12 months of IMG completing residency program – not available after fellowship training
- Employment contract of 3 year duration required. Cannot have non-compete clause and must state that employment can only be terminated for cause during 3-year period
- No MDHHS fee; just DOS fee of \$120

J-1 IGA Waiver Rules After Approval

- Adding or transferring work location - must meet original conditions (i.e., if application for a HPSA location, must remain in a HPSA location)
- Moonlighting – generally allowed, but must maintain 40-hour a week obligation to location in the applications
 - Might have to file amended H-1B petition.
 - Must notify MDHHS (Conrad 30 – Michigan)
- Dual specialized physicians have to work in the area they were approved in, i.e. if a specialist is accepted as a primary care physician, has to remain in primary care for 3 years (Conrad 30 – Michigan]
- Transferring employers = must obtain approval

Permanent Residency Planning

Permanent Residency Planning

- Early planning for filing a “prevailing wage determination” which is a low cost first step (but taking up to a year)
- Competitive selection for Labor Certification in some categories
 - Overview of categories
 - 1st, 2nd and 3rd Preference categories - visa wait times vary accordingly
- Permanent residency immigrant petition planning runs concurrent to non-immigrant work visa solution
- Involve counsel for strategy consultation early on for planning appropriate category

Permanent Resident Status – 3 Steps



Step 1: Labor Certification

- Process starts with prevailing wage request to U.S. Department of Labor (ETA9141)
 - Job duties, experience, and educational requirements analyzed to determine prevailing wage
- Next, employer must conduct “good faith” recruiting efforts in local labor market using appropriate sources, screen and interview applicants and demonstrate lack of qualified-available U.S. Workers.
- Lastly, filing of the PERM application (ETA9089)

Step 2: Immigrant Petition

- File I-140 petition with USCIS based on preference category
 - **EB-2:** Advanced degree professionals or “aliens with exceptional ability”
 - Advanced degree = master’s or higher, or bachelor’s + 5 years progressive experience
 - Exceptional ability generally requires:
 - An academic record showing a college degree
 - Letters documenting at least ten years of full-time related experience
 - Evidence of a salary or other remuneration which demonstrates exceptional ability
 - Recognition for achievements and significant contributions to the field
 - **EB-3:** Bachelor degree professionals + skilled workers
 - Bachelor degree = 4 year degree required by field
 - Skilled Workers = 2 years of training beyond high school

Avoiding the PERM Process

- **EB-1A:** Candidates must have received sustained national or international acclaim in sciences, arts, education, business, or athletics ; major prizes or awards for excellence; or comparable evidence (similar to O-1 visa)
- **EB-1B:** International recognition of outstanding achievements as a Professor or Researcher in a particular academic field
- **EB-1C:** Multinational managers or executives already employed at an affiliated entity abroad (similar to L-1A visa)
- **EB-2 NIW:** National Interest Waiver for endeavors that have both substantial merit and national importance

Permanent Resident Status: The Final Steps

Adjustment of Status

- Lawfully admitted to the U.S. in another visa category and lawful status maintained

Consular Processing

- Application made before the United States Consulate in home country or another country if that Consulate accepts non-resident filings

US Permanent Residence Timeline

Step 1: Labor Certification

- Prevailing Wage Determination: 6-8 months
- Recruitment: 2-3 months
- ETA 9089 Certification: 8-12 months

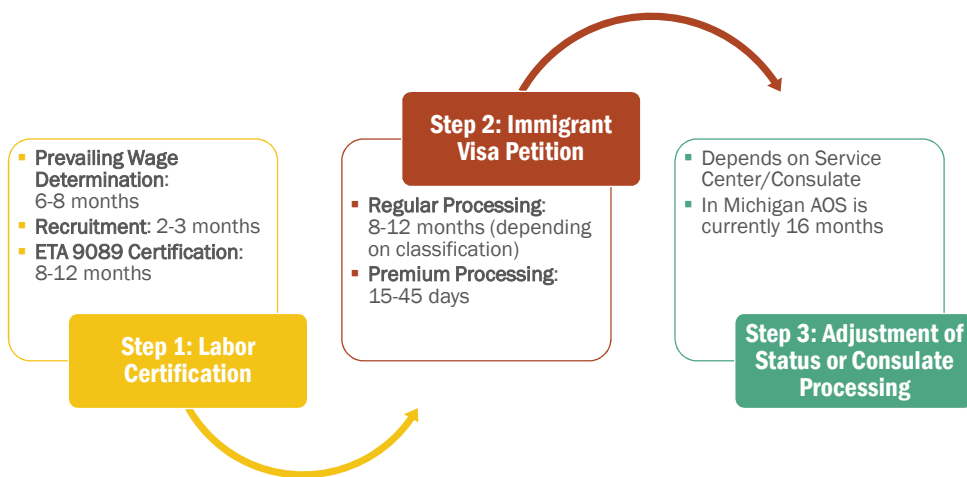
Step 2: Immigrant Visa Petition

- Regular Processing: 8-12 months (depending on classification)
- Premium Processing: 15-45 days

Step 3: Adjustment of Status or Consulate Processing

- Depends on Service Center/Consulate
- In Michigan AOS is currently 16 months

US Permanent Residence Timeline



Dates For Filing of Employment-Based Visa Applications – November 2024

Employment-based	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
1st	C	1-Jan-23	15-Apr-22	C	C
2nd	1-Aug-23	1-Oct-20	1-Jan-13	1-Aug-23	1-Aug-23
3rd	1-Mar-23	15-Nov-20	8-Jun-13	1-Mar-23	1-Mar-23
Other Workers	22-May-21	1-Jan-18	8-Jun-13	22-May-21	22-May-21
4th	1-Feb-21	1-Feb-21	1-Feb-21	1-Feb-21	1-Feb-21
Certain Religious Workers	1-Feb-21	1-Feb-21	1-Feb-21	1-Feb-21	1-Feb-21
5th Unreserved (including C5, T5, I5, R5)	C	1-Oct-16	1-Apr-22	C	C
5th Set Aside: Rural (20%)	C	C	C	C	C
5th Set Aside: High Unemployment (10%)	C	C	C	C	C
5th Set Aside: Infrastructure (2%)	C	C	C	C	C

Questions?



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