

# **iJOBS Panel: Advice from grad students and postdocs on how to apply for visa and green card**

**02/14/19**

# Disclaimer

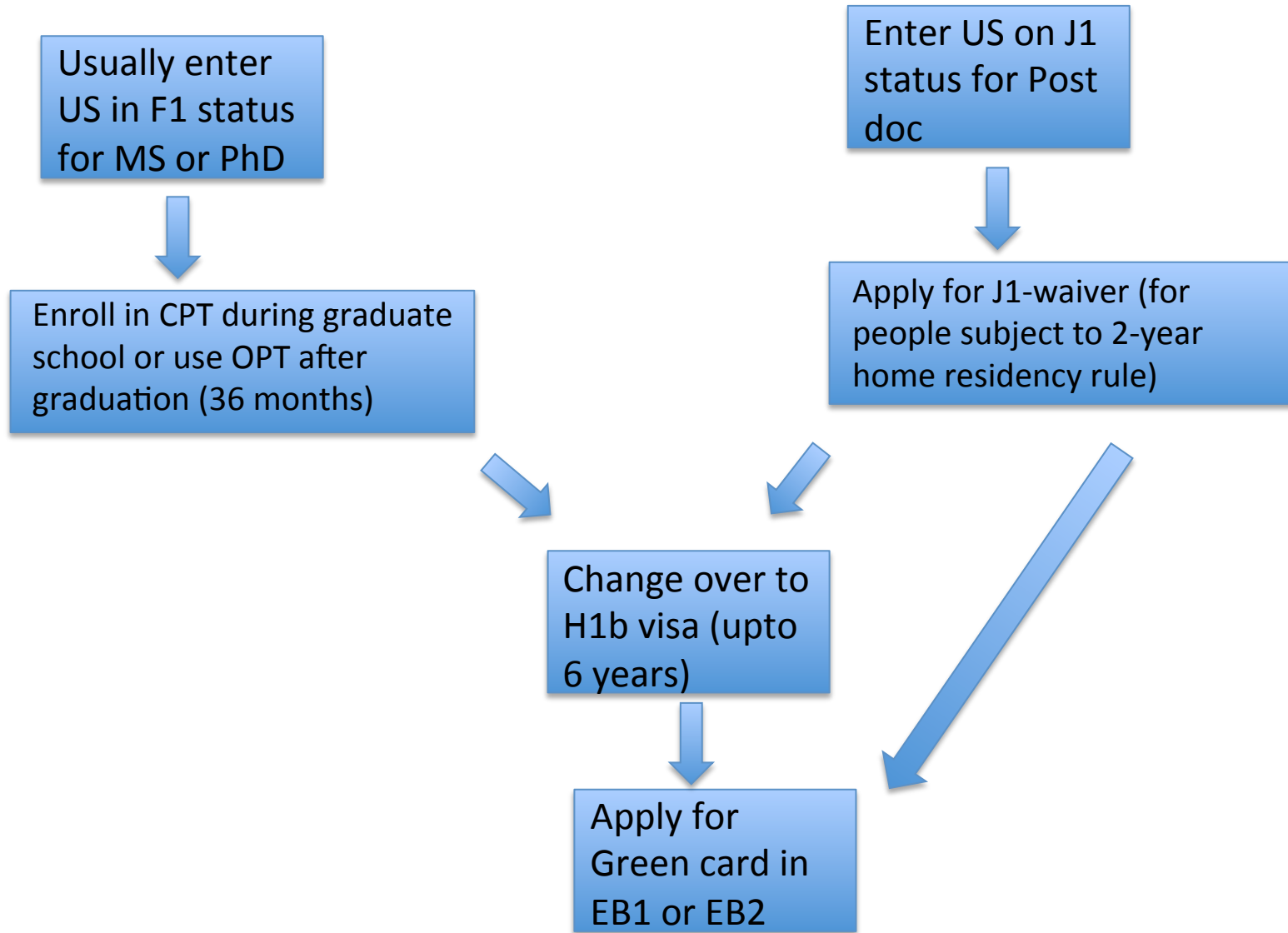
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# Overview

- ❑ Non-Immigrant Visa categories
- ❑ Curricular Practical Training (CPT) and Optional Practical Training (OPT)
- ❑ Immigrant visa
  - ❑ Employment-based green card (EB-1A or EB2-NIW)

- **A** Diplomats
- **B** Visitors (business/pleasure)
- **C** Transit
- **D** Crewman
- **E** Treaty trader/investors
- **F** Academic students
- **G** International Organization
- **H** Temporary workers
- **I** Journalists/Media
- **J** Exchange visitors
- **K** Fiancés/fiancées of US citizens
- **L** Intra-company transferees
- **M** Vocational students
- **N** Parents or children of special immigrants
- **O** Persons of extraordinary ability
- **P** Athletes or entertainers
- **Q** International cultural exchange visitors
- **R** Religious workers
- **S** Federal witnesses
- **T** Trafficking of persons victims
- **TN** NAFTA professionals (Mexico and Canada)
- **U** Certain crime victims
- **V** Certain spouses/children waiting for green cards

# The process: Non-immigrant visa to Green Card



# F-1 Curricular Practical Training (CPT)

- ❑ Integral part of established curriculum
  - Need letter from school
  - School endorsed I-20 (issued via SEVIS System)
  - Can be internship, practicum, coop, work/study, or similar program
  
- ❑ Attended ICE approved school for full academic year in any nonimmigrant status; certain grad students may begin immediately
  
- ❑ Available part-time or full-time
  
- ❑ One year or more of full-time CPT makes you ineligible for OPT at that educational level

# F-1 Optional Practical Training (OPT)

- ❑ “Optional Practical Training:” pre- or post-graduation
  - Total = 12 months; part-time during school year, full-time during vacations and after graduation
  - Need employment authorization document (EAD);
  - Not tied to particular employer
  - Employment related to degree program
- ❑ One year of full-time OPT for each academic level (Associate’s, Bachelor’s, Master’s, Professional, PhD). OPT can’t be “saved” for future degree programs; very hard to cancel after card received
- ❑ Can have up to 90 days of unemployment
- ❑ Can use OPT for Assistant Professor positions

# STEM OPT Extension

- ❑ Student's who majored in certain STEM (**S**cience, **T**echnology, **E**ngineering, **M**ath) fields may be eligible for a 24 month extension of work authorization
- ❑ BUT, must have a job offer from a company that is enrolled in E-Verify
- ❑ Allowed to have up to 150 days of unemployment
- ❑ Must file I-765 with USCIS BEFORE current OPT expires (and preferably 120 days before expiration)
- ❑ Students CAN work with an expired OPT card when a timely filed STEM extension application is pending with USCIS



# Optional Practical Training: Who qualifies for OPT

- ❑ A student must have earned a bachelor's, master's, or doctoral degree in a major listed in the STEM Designated Degree Program List, which can be viewed at <http://www.ice.gov/sevis/stemlist.htm>
- ❑ A student working on OPT based on a non-STEM degree may receive the 24 month STEM OPT extension based on a prior STEM degree if s/he has not already received a STEM OPT extension based on that prior STEM degree.
- ❑ A student who has already used 36 months of OPT under the STEM program, and earns another qualifying STEM degree at a higher educational level, is eligible for an additional 24 month STEM OPT extension.
- ❑ The student's OPT employer must participate in the E-Verify program; and The student's employer must report material changes to the student's employment to the office of international students at the student's school within 5 business days in order to update the electronic SEVIS record.

# H-1B Category: USCIS Provisions

- ❑ H-1B visas are for **temporary (nonimmigrant) workers** engaged in a **specialty occupation** that requires
  - (1) theoretical and practical application of highly **specialized knowledge** and
  - (2) attainment of a **bachelor's or higher degree, or equivalent experience**, in the specific **specialty** for entry into the occupation.
- ❑ “Specialty Occupation” -- Entry level requirement = minimum Bachelor Degree or equivalent
- ❑ Cap: 65,000 + 20,000 additional visas allocated to holders of advanced degrees from U.S. universities. Have to apply in April and can start only working on October 1<sup>st</sup> (Unless under cap-gap OPT)
- ❑ Cap Subject vs. Cap Exempt
  - All Universities are cap exempt. H1B can be applied anytime during the year

# H-1B (continued)

- ❑ H-1B can be full-time or part-time
  
- ❑ H-1B workers are “tied” to their employer
  - Cannot accept payment from any other source
  
- ❑ Can hold dual/concurrent H-1Bs with multiple employers

# H-1B (continued)

- ❑ H-1B visas are valid for 3 years and can be extended for an additional 3 year period for a total of 6 years in H-1 status
  - Previous stays in L-1 or H-1 status (but not L-2 or H-4 dependent status) count towards maximum period of stay
  - Time spent outside of the US does not count towards 6 year limit
  
- ❑ H-1B visas can be extended past the 6-year maximum in certain situations:
  - 1 year Extension: If PERM has been filed at least 365 days prior to the date the H-1B expires
  - 3 year Extension: If an I-140 has been approved, and the individual cannot adjust status because priority date is not current (usually someone from China or India)

# Applying for the Green card

# Employment-Based Categories

## ☐ EB-1: Priority workers

- EB-1A: Extraordinary Ability (Self Sponsored. Job not required)
- EB-1B: Outstanding Researchers/Professors (Employer Sponsored. Job required)

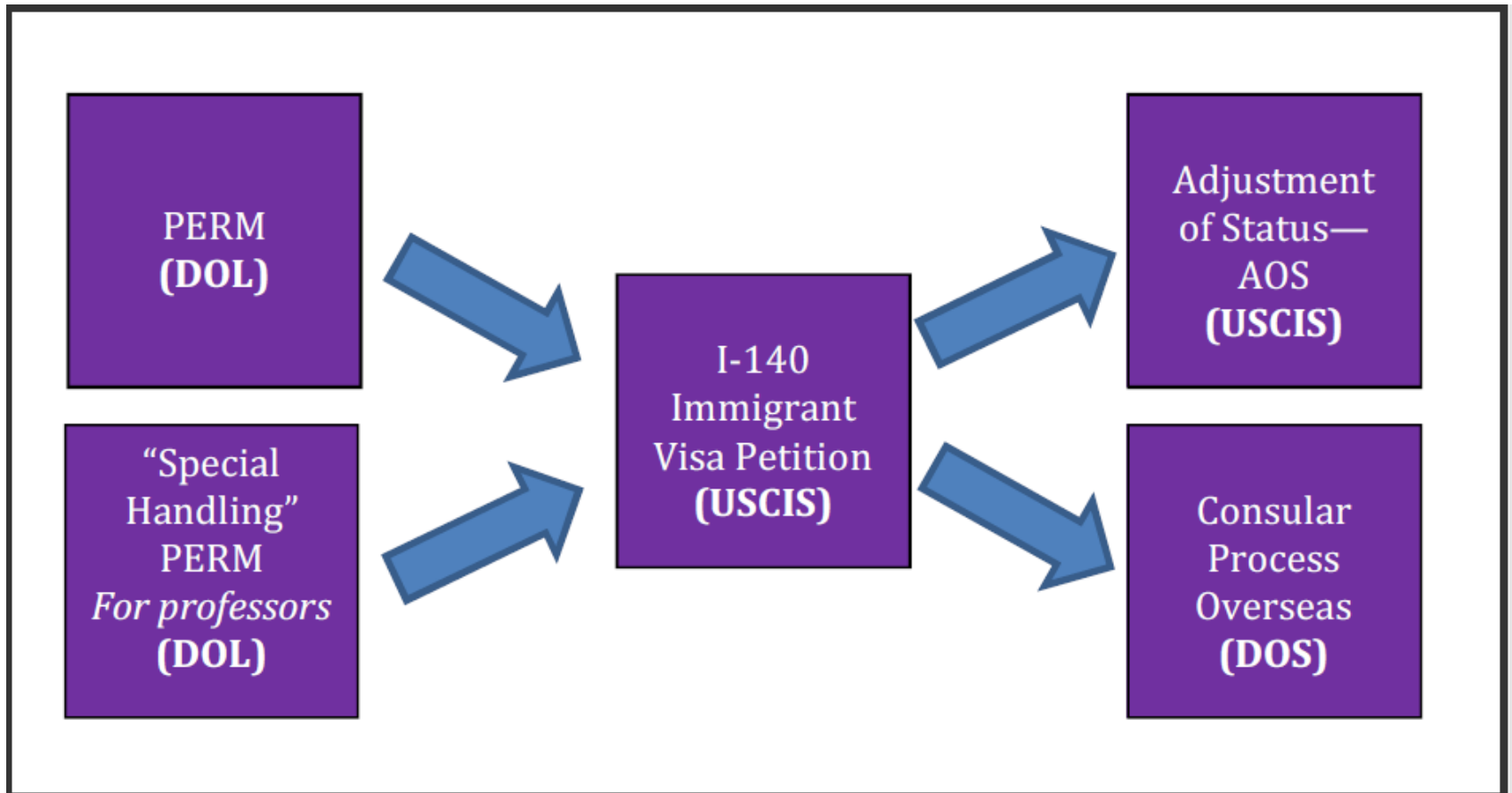
## ☐ EB-2:

- EB-2: Advance-degree professionals & aliens of exceptional ability\*
- EB2-NIW: Aliens whose work is in national interest of the US. (Labor certification not required. Useful only for nationals of countries other than India and China)

## ☐ EB-3: Professional, skilled & unskilled workers\*

(\* labor certification required)

# Pathway to a Green Card



Not Required for EB1A,  
EB1B or EB2-NIW

# EB-1B Outstanding Researchers/ Professors

- 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 research position at a university or other institution of higher education.
- Need to fulfil at least 2 out of the 10 requirements of the EB-1A



# EB1-A: Extraordinary Ability

- Federal regulations define “extraordinary ability” as a level of expertise indicating the individual is one of a small percentage who have risen to the very top of a particular field in the sciences, arts, education, business, and athletics. The federal law indicates that such a person will have received national and international acclaim. National or international acclaims can be demonstrated by receipt of a major internationally recognized award such as Nobel Prize or the Academy Award. Alternatively, immigration law requires that the petitioner must provide at least three of the following types of evidence:
  - Evidence of original contributions, usually through publication, of major significance in the foreign national's fields of science, scholastic, artistic, or athletic
  - Authorship of scholarly articles in the field, in professional journals, or other major media (national newspapers, magazines, etc.)
  - The foreign person's participation, on a panel or individually, as a judge of the work of others in the same or a related field
  - Receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.
  - Membership in an association that requires outstanding achievement as a condition of membership in the field for which the classification is sought
  - Published material about the foreign person or his or her work in professional, trade journals, or major media publications. (These items must include title, date, author, and must be translated into English)
  - Display of the foreign national's work at significant exhibitions
  - Performance in a significant role for organizations or establishments that have a distinguished reputation
  - Receipt of a higher salary or remuneration than is usual in the field
  - Commercial success in the performing arts as shown by box office receipts or sales records, cassette, compact disk, or video sales, or
  - Other comparable evidence if the above types of evidence do not readily apply to the foreign national's occupations

# Fulfilling EB1A requirements

- ❑ Evidence of original contributions, usually through publication, of major significance in the foreign national's fields of science, scholastic, artistic, or athletic
  - ❑ Citation record (usually google scholar. **Atleast 150-200 recommended**)
  - ❑ Recommendation letters: around 5-6 letters from experts from around the world.
  - ❑ Dependent vs independent recommendation letters
  
- ❑ Authorship of scholarly articles in the field, in professional journals, or other major media (national newspapers, magazines, etc.)
  - ❑ Published papers and issued patents
  
- ❑ The foreign person's participation, on a panel or individually, as a judge of the work of others in the same or a related field
  - ❑ Acting as reviewer for peer-reviewed journals, invited reviewer for poster presentation abstracts etc, Associate editor for journals (**at least 10-15 manuscript reviews recommended**)

# Tips for garnering reviews

- ❑ Create a Publons profile and add your reviews as and when you do them. Most editors are on Publons ([www.publons.com](http://www.publons.com))
- ❑ Write with your CV to Assistant Editors/Associate editors of journals you have published in. You are more likely to get manuscripts to review from them.
- ❑ Target publishing houses like MDPI, Dove Medical Press etc (or even RSC or Wiley) but target journals which have **no to low** impact factor
- ❑ When you get a review request, try and revert back with comments within 3 days
- ❑ More reviews you do, more reviews you will get in lesser time period
- ❑ Save the “Review request” and “Thank you for the review” emails from the journal. You will require this as evidence during I-140 application

# Tips for increasing citations

- ❑ As a graduate student, try to publish as much as possible. Though impact factors do matter somewhat, but greater emphasis is on the quantity
- ❑ If your highest cited paper is not your 1<sup>st</sup> author, one would need a letter of significant contribution from the leading or corresponding author
- ❑ To garner more citations quickly, try and publish a few review papers as early as possible in your graduate study tenure. Review papers usually get more citations

# Process and timeline for EB1 Application

Prepare all evidence  
(1-1.5 years)

File I-140 application  
**Get Priority Date**

**70 % chance of rejection**

15 days to 10 months

Get 140 Approval

10 months to 2 years

If dates current for filing  
and in US (upto 2 yrs)

If outside US, undergo  
consular processing

File I-1485: Adjustment  
of Status application

2-5 months

Get Employment  
Authorization and Travel  
Permit

10-15 months

Get Final Green card  
(only when Final Action Dates  
are current for your country)

Attend In-person EB  
interview at USCIS Field  
office of your state

# Understanding the Monthly Visa Bulletin

## B. DATES FOR FILING OF EMPLOYMENT-BASED VISA APPLICATIONS

The chart below reflects dates for filing visa applications within a timeframe justifying immediate action in the application process. Applicants for immigrant visas who have a priority date earlier than the application date in the chart may assemble and submit required documents to the Department of State's National Visa Center, following receipt of notification from the National Visa Center containing detailed instructions. The application date for an oversubscribed category is the priority date of the first applicant who cannot submit documentation to the National Visa Center for an immigrant visa. If a category is designated "current," all applicants in the relevant category may file, regardless of priority date.

The "C" listing indicates that the category is current, and that applications may be filed regardless of the applicant's priority date. The listing of a date for any category indicates that only applicants with a priority date which is **earlier** than the listed date may file their application.

Employment-based	All Chargeability Areas Except Those Listed	CHINA-mainland born	EL SALVADOR GUATEMALA HONDURAS	INDIA	MEXICO	PHILIPPINES
1st	01JUN18	01OCT17	01JUN18	01OCT17	01JUN18	01JUN18
2nd	C	01NOV15	C	22MAY09	C	C
3rd	C	01JAN16	C	01APR10	C	01OCT17
Other Workers	C	01JUN08	C	01APR10	C	01OCT17
4th	C	C	01MAY16	C	C	C
Certain Religious Workers	C	C	01MAY16	C	C	C
5th Non-Regional Center (C5 and T5)	C	01OCT14	C	C	C	C
5th Regional Center (I5 and R5)	C	01OCT14	C	C	C	C

# Understanding the Visa bulletin (contd)

## A. FINAL ACTION DATES FOR EMPLOYMENT-BASED PREFERENCE CASES

On the chart below, the listing of a date for any class indicates that the class is oversubscribed (see paragraph 1); "C" means current, i.e., numbers are authorized for issuance to all qualified applicants; and "U" means unauthorized, i.e., numbers are not authorized for issuance. (NOTE: Numbers are authorized for issuance only for applicants whose priority date is **earlier** than the final action date listed below.)

Employment-based	All Chargeability Areas Except Those Listed	CHINA-mainland born	EL SALVADOR GUATEMALA HONDURAS	INDIA	MEXICO	PHILIPPINES	VIETNAM
1st	01DEC17	08FEB17	01DEC17	08FEB17	01DEC17	01DEC17	01DEC17
2nd	C	01OCT15	C	06APR09	C	C	C
3rd	C	01JUL15	C	22APR09	C	01AUG17	C
Other Workers	C	01AUG07	C	22APR09	C	01AUG17	C
4th	C	C	01MAR16	C	01SEP17	C	C
Certain Religious Workers	U	U	U	U	U	U	U
5th Non-Regional Center (C5 and T5)	C	01SEP14	C	C	C	C	15JUN16
5th Regional Center (I5 and R5)	U	U	U	U	U	U	U

# Summary and Other Tips

- ❑ Considering backlog in EB1 category, file both EB-1A and EB2-NIW applications simultaneously
- ❑ In the event of EB1A getting denied, at least you lock in your priority date through the Eb2-NIW (assuming it gets approved). So one can use this priority date in the future and apply it any future EB1 application. (**Save your place in the queue**)
- ❑ **Hire a good law firm for at least the I-140 application for EB1A. The cost is worth the time and effort required to file this application**
- ❑ **Ask around and look at multiple good law firms. Finally, the burden of doing the groundwork and diligence falls on you.**
- ❑ **Lawyers are not scientists. Only you can express the importance of your work and the science**
- ❑ **Timing of each step and planning accordingly (even for the worst case scenarios) is very important**
- ❑ **The whole process is costly, so plan accordingly**
- ❑ **Be well informed of all immigration rules. Read through law firms' blogs and other online resources**