

Post-Graduation Work Visa Options and Green Cards

H-1B Work Visa

1. Employer
2. University level degree or equivalent required for the position
3. Salary is at least the prevailing wage for the position
4. Up to 3 years and extended up to another 3 years, unless green card process is not yet complete
5. Timeframe to process through 2 labor offices and 1 CIS office
6. Premium Processing fee and Portability—FAST!
7. Quota issues? 65,000, but another 20,000 if possess a Master's or Ph.D. from a United States academic institution.
8. Layoff, quitting
9. CIS filing fee for non-exempt employer with 25 or more employees is \$2,325.00 (basic filing fee of \$325.00, \$1,500.00 training fee, \$500.00 anti-fraud police fee.)
CIS filing fee for non-exempt employer with 1-24 employees is \$1,575.00 (basic filing fee of \$325.00, \$750.00 training fee, \$500.00 anti-fraud police fee.) If premium processing is requested, add an additional \$1,225.00.

H1b1 for Singapore and Chile

1. Same eligibility requirements as for H-1B.
2. 1,400 H1b1 visas for Chileans and 5,400 for Singaporeans available each fiscal year.
3. Unlike the H-1B for other countries, must establish coming temporarily and after completion of work assignment will depart the U.S. Thus Section 214b of the law applies, which is the section of the law that also makes it difficult for people applying for F & J visas. To avoid this potential problem may

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- request an H-1 from the quota of 58,200, if available.
4. Exempt from \$500.00 anti-fraud police fee, but other filing fees apply.
 5. Premium Processing is Not available.

E-3 Visa for Australian Citizens

1. May apply at a U.S. Consulate for the E-3 without first applying with CIS or can apply for change of visa status by filing with the CIS office in St. Albans, Vermont.
2. 10,800 E-3 visas available each fiscal year.
3. Same eligibility requirements as H-1B including approved Labor Condition Application (LCA).
4. Unlike the H-1B for other countries, must establish coming temporarily and after completion of the work assignment will depart the U.S. Thus Section 214b of the law applies, which is the section of the law that also makes it difficult for people applying for F & J visas. To avoid this potential problem may request an H-1 from the quota of 58,200, if available.
5. Spouse of E-3 may be granted employment authorization.
6. E-3 may be granted in two-year increments indefinitely but beware of 214b rules.
7. Exempt from both the \$500.00 anti-fraud fee and Department of Labor training fee.
8. Premium Processing is Not available.

WHO IS ELIGIBLE FOR LAWFUL PERMANENT RESIDENCE

Employment Based Immigrants: A Summary

1. **Priority Workers** - No labor certification required for the three groups of priority workers. (At least 40,000 visas annually). (An explanation of eligibility requirements begins on Page 4).

- a. Extraordinary Ability in the Arts, Science, Education, Business, or Athletics

Requires (i) sustained national or international acclaim, (ii) achievements recognized through extensive documentation, (iii) intent to work in that area of ability. In effect, reserved for the finest in any given field. (An explanation of eligibility

requirements begins on Page 4).

b. Outstanding Professors and Researchers

Requires (i) international recognition as outstanding in a specific field, (ii) at least 3 years experience in teaching or research in that field, and (iii) offer of a tenured or tenure track teaching position, or permanent research position. (An explanation of eligibility requirements begins on Page 5).

c. Multinational Executives and Managers

Requires employment with employer for at least one year outside of the U.S. in the three years preceding application, and intent to continue to work for the same employer, subsidiary, or affiliate.

2. *Professionals Possessing an Advanced Degree (or equivalent) or Individuals of Exceptional Ability in the Sciences, Arts, or Business. This category includes the National Interest Waiver. (At least 40,000 visas annually)*

Individuals applying in this category must first obtain a labor certification. A labor certification is a determination by the United States Department of Labor that no American worker could be found for the job after a recently completed recruitment. This requirement is waived for those who can prove that their work is in the National Interest.

National Interest

To qualify for the National Interest Waiver, the applicant must demonstrate (1) that he or she is working in a field of substantial national importance, (2) the promised benefits of his or her work are national in scope and (3) the applicant, by virtue of his or her personal accomplishments in the field can better serve the National Interest than a U.S. worker with the same qualifications.

It is irrelevant that there are no U.S. workers to perform the job, or that the applicant possesses unique or hard to find skills. Rather, the applicant must demonstrate he or she will serve the National Interest to a substantially greater degree than a U.S. worker with similar qualifications. The strongest applications will include

letters of support from U.S. government agencies or other authoritative sources.

The applicant must demonstrate a past history of achievement with some degree of influence on his or her field as a whole. For example, did the applicant develop an electronic component needed to develop an artificial vision system? Has the applicant's work influenced the work of others? Have others relied on his or her findings? Are the research achievements unusually significant?

3. *Professionals Possessing a Bachelors Degree, Skilled Workers, and Other Workers:* (at least 40,000 with a cap of 5,000 visas for "unskilled workers")

A labor certification is required for all three groups within this category. "Skilled Worker" jobs require at least two years of training or experience to perform. "Other Workers" perform jobs that require less than two years experience or training.

4. *Special Immigrants* (10,000 visas annually)

This category includes ministers and religious workers.

5. *Investors* (10,000 visas annually)

Must invest at least \$500,000 in a business and create full-time employment for at least 10 U.S. workers.

EMPLOYMENT BASED IMMIGRATION PRIORITY WORKERS

The first employment based preference category (number 1 on page 1) is for "priority workers." There are three groups of priority workers and none are subject to a labor certification requirement.

The groups are: (1) individuals with extraordinary ability; (2) outstanding professors and researchers; and (3) multinational executives and managers.

EXTRAORDINARY ABILITY IN THE SCIENCES, ARTS, EDUCATION, BUSINESS OR ATHLETICS

Extraordinary ability means a level of expertise indicating that the individual is one of a small percentage who has risen to the very top of his or her field.

The following documentation must be submitted to CIS:

- * Evidence the individual has received a major, internationally-recognized award, OR
- * At least three of the following:
 - a. Recognized prizes or awards for excellence in the field of endeavor. Grants or fellowships awarded to support future work are not considered to satisfy this criteria;
 - b. Membership in associations in the field, which require outstanding achievement of their members as judged by recognized national or international experts. Applicants must submit evidence of the organization's membership criteria;
 - c. Published material in professional or major trade publications or major media about the individual and his or her work in the field. Applicants must submit evidence of the publication's importance (such as circulation). Moreover, the material must primarily be about the applicant and not simply mention the applicant incidentally;
 - d. Participation on a panel, or individually, as a judge of the work of others in the same or an allied field. This criteria is not applicable to those for whom judging the work of others is inherently a part of their job duties;
 - e. Original scientific, scholarly, artistic, athletic, or business related research contributions of major significance in the field. The applicant must demonstrate that his or her work has been recognized nationally and internationally by independent experts as having influenced the field as a whole;
 - f. Authorship of scholarly articles in the field in professional journals or other major media. Applicants must establish that his or her articles are viewed as more influential and important than those of others in the field;
 - g. Display of the individual's work at artistic exhibitions or showcases. Applicant must establish the importance of the venue;

- h. Evidence the individual has had lead, starring, or critical roles for organizations or establishments that have a distinguished reputation;
- i. Evidence the individual has commanded a high salary or other high remuneration for services in relation to others in the field;
- j. Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disc, or video sales; or

If the above standards do not apply, the individual may submit comparable evidence to establish eligibility.

OUTSTANDING PROFESSORS OR RESEARCHERS

If the employer is a university or institution of higher education, the individual must be coming to assume a tenured or tenure track teaching position OR a permanent research position in the area of expertise.

If the employer is a department, division, or institute of a private employer, the individual must be employed in a permanent research position. The department, division or institute must employ at least three full-time researchers and have achieved documented accomplishments in an academic field.

The term "permanent" in reference to a research position means either tenured or tenure track, OR the employment is for a term of indefinite or unlimited duration and in which the employee will ordinarily have an expectation of continued employment (unless there is good cause for termination).

A U.S. employer applying for an outstanding professor or researcher must file the petition with:

Evidence that the professor or researcher has at least three years of experience in teaching and/or research in the academic field. Experience in teaching or research while working on an advanced degree will only be acceptable if the person has achieved the degree and the research conducted toward the degree has been recognized as outstanding, or if the teaching duties were such that he or she had full responsibility for the class taught.

Evidence that the professor or researcher is recognized internationally as outstanding in his or her academic field.

This evidence shall consist of at least two of the following:

- a. Receipt of major prizes or awards for outstanding achievements in the academic field;
- b. Membership in associations in the academic field, which require outstanding achievements of their members;
- c. Participation on a panel, or individually, as the judge of the work of others in the same or an allied academic field. Ph.D thesis direction demonstrates an individual's outstanding ability as a judge of the work of others;
- d. Published material in professional publications written by others about the individual's work in the academic field. A footnoted reference to the individual's work without evaluation, an unevaluated listing in a subject matter index, or a negative or neutral review of his or her work would be of little value. However, peer reviewed articles in scholarly journals, letters from other scholars on how the professor or researcher has contributed to the field and entries in a citation index citing the work as authoritative in the field are solid pieces of evidence;
- e. Authorship of scholarly books or articles, in scholarly journals with international circulation, in the academic field. Peer recommendation letters should include references to specific papers, their impact and that they appeared in prestigious journals of international circulation. Letters should note the impact of the article in subjective terms, if possible. For example, "From my travel to international meetings and professional interactions in our field, I note that Dr. XXX's article is widely discussed and have been the basis of numerous research proposals."
- f. Original scientific or scholarly research contributions to the academic field. Patents or patent applications are not very important unless they demonstrate an international reputation in the field.

EXCEPTIONAL ABILITY IN THE SCIENCES, ARTS OR BUSINESS

Employment based second preference is for individuals with advanced degrees or who are deemed to have demonstrated exceptional ability in the sciences, arts, or business.

A complete description of advanced degree professional second preference begins at page 2, number 2.

Exceptional ability individuals possess a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. They have attained a status in their field, which colleagues recognize. This category may, for example, be used by individuals who possess a bachelor's degree, or no degree.

An individual meeting the criteria for exceptional ability does not need a labor certification or job offer if exemption from these normal requirements would be in the National Interest. Exceptional ability is not to be confused with the priority worker extraordinary ability category.

To show that the person is of exceptional ability in the sciences, arts, or business at least three of the following must be submitted:

- a. An official academic record showing that the person has a degree, diploma, certificate, or similar award from a college, university, school or other institution of learning relating to the area of exceptional ability;
- b. Evidence that the person has at least ten years of full-time experience in the occupation for which employment is sought;
- c. A license to practice the profession or certification for a particular profession or occupation;
- d. Evidence that the person has received a salary, or other remuneration for services, which demonstrates exceptional ability;
- e. Evidence of membership in professional associations;
- f. Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or business organizations;
- g. If the above standards do not apply, the person may submit comparable evidence to establish eligibility.

FAMILY SPONSORED IMMIGRANTS

Immediate relatives of U.S. citizens - spouses, parents, unmarried children under 21 years of age and some widows and widowers. Unlimited number are eligible to immigrate each year (no quota).

Categories of family sponsored preferences (yearly quota)

1. Unmarried sons and daughters age 21 or older of U.S. citizens
- 2A. Spouses and unmarried children under the age of 21 of permanent residents
- 2B. Unmarried sons and daughters age 21 or older of permanent residents
3. Married sons and daughters of U.S. citizens
4. Brothers and sisters of any age of U.S. citizens who are at least 21 years of age

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