

## The Different Types of U.S. Work Visas

### A LIST OF THE MOST COMMON TYPES OF EMPLOYMENT VISAS THAT ALLOW FOREIGNERS TO WORK IN THE UNITED STATES

The United States has the world's largest economy and this sustained boom is [driven in large part by immigrants](#). Foreigners who wish to come to the U.S. to work have a number of different visa options. This guide will explore the most common types of U.S. work visas and eligibility criteria for each.

#### Temporary Non-Immigrant Visa

These employment visas are for people looking to work in the United States for a fixed period of time. Most often, a potential employer files a petition for this type of work with U.S. Citizenship and Immigration Services (USCIS) and prior to coming to the U.S., the employee would still need to apply for a visa. Within this qualification, there are many different categories of workers, which can be found on the USCIS website. Spouses and family of holders of these employment visas need to file for their own visas prior to coming to the U.S. Below are the most common type of non-immigrant work visas:

#### H Visas

[H-1B](#) visas are for people in a specified professional or academic field or with special expertise who have a college degree or higher or the equivalent in work experience. These visas have a residency cap of three years.

Eligibility:

- A job offer from a U.S. employer for a role that requires specialty knowledge
- Proof of a bachelor's degree or equivalent in that field
- Your employer must show that there is a lack of qualified U.S. applicants for the role

[H-2A](#) and [H-2B](#) visas are for seasonal, or peak load, temporary workers in an agriculture (H-2A) or non-agricultural (H-2B) setting. Generally, these do not extend beyond a year.

[H-3](#) are for those seeking training in any endeavor *except* graduate medical school or training; or training to meet the needs of those who require special education. This classification is for citizens who want training within the United States, but will be pursuing their careers outside of the U.S.

#### I Visas

[I visas](#) are for any eligible member of the foreign press including reporters, film crews, editors, and similar occupations, representing a foreign media outlet such as print, radio, film, or other foreign information media, when the outlet has a home office in a foreign country. For most, this is an indefinite visa as long as the holder is engaged in this profession for the same company.

#### L Visas

L Visas are for those who are temporarily transferring within a company at which they already work, either at the executive/management level ([L-1A](#)) or through a specialized expertise ([L-1B](#)). An L-1A visa comes with a three-year duration; L-1B has only one year.

### **O Visas**

[O visas](#) are for those with extraordinary and exceptional abilities or achievements, across industries. O visas are also extended to those who travel with the person of extraordinary ability or a family member.

### **P Visas**

[These visas](#) are for those who excel in performance, athletic, or artistic endeavors and the people who accompany these extraordinary performers. These are usually event-based durations.

### **R Visas**

[R visas](#) are extended to non-immigrant religious workers who are members of a religious denomination that holds official non-profit status in the U.S. coming to work either directly for that denomination or an associated non-profit.

### **TN NAFTA**

[This permits](#) qualified Canadian and Mexican citizens to seek temporary entry into the United States to engage in business activities at a professional level, under the North American Free Trade Agreement.

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## **Permanent (Immigrant) Workers**

Those with the right job skills — and their spouses and children — can apply for the roughly 140,000 employment-based green cards available each year. Permanent residence in the U.S. can be obtained through the right combination of education, expertise, eligibility, and skill set. Most of these visas call for an existing offer of employment from an employer who has the proper U.S. Department of Labor certification, verifying that there are both insufficient workers with this skillset within the United States, and the hiring does not take a job away from a U.S. citizen. Called “labor certification,” this is done through [ETA Form 9089](#) (“Application for Permanent Employment Certification”).

There are five key types of employment-based visas:

### **First Preference EB-1**

[EB-1](#) covers those with “extraordinary ability” such as business professionals, academics and researchers, scientists, the arts, or athletics. This type of visa does not require labor certification. Family of EB-1 visa holders may apply for admission to the U.S. on E-14 or E-15 immigrant status, respectively, if that person has an approved [I-140 \(green card\)](#) form.

### **Second Preference EB-2**

[EB-2](#) visas are available to professionals holding an advanced degree or foreign equivalent; or who can prove at least ten years experience in a field; or those whose employment is in the national interest of the U.S. For all but the third category of eligibility, labor certification must be obtained. Family of [EB-2 visa](#) holders may apply for admission to the U.S. through E21 or E22 forms, if that person has an approved [I-140 \(green card\)](#) form.

### **Third Preference EB-3**

[EB-3](#) visas are available to those holding a bachelor's degree, or foreign equivalent, as well as skilled and unskilled laborers who have a non-temporary offer of employment from a U.S. employer. For each eligibility category within EB-3, labor certification must be obtained. Family of EB-3 visa holders may apply for admission to the U.S. through specific spouse or child forms listed [here](#), if that person has an approved [I-140 \(green card\)](#) form.

### **Fourth Preference EB-4**

[EB-4](#) visas are a specialized category of visa, eligibility to which includes but isn't limited to: certain religious workers, employees of U.S. foreign service posts, retired employees of international organizations, and noncitizen minors who are wards of courts in the United States. Labor certification is waived for this type of visa. Some families may be eligible for admission. [Learn more here.](#)

### **Fifth Preference EB-5**

[EB-5](#) visas cover the Immigrant Investor Program. These are available to people who make either an investment of 1.8 million USD in a new commercial enterprise that employs at least 10 full-time U.S. workers, or 900,000 USD in a new commercial venture in a targeted employment area that employs at least 10 full-time U.S. workers. Labor certification is waived for this type of visa. Under this program investors and their family are eligible to apply for green cards.

Boundless offers unlimited support from our team of immigration experts, so you can apply with confidence and focus on what's important, your life in the U.S. [Learn more.](#)

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## **Student and Exchange Visitors**

These visas cover three types of students: academic students, vocational students, and those enrolled in educational or cultural exchange programs. These are not immigrant visas.

### **F Visas**

[F-1 visas](#) are for academic students enrolled at accredited academic institutions. As long as a course of study is maintained, students may work. Students cannot work off-campus during the first academic year, but may accept on-campus employment subject to conditions and restrictions. After the first academic year, F-1 students can engage in [three types of off-campus employment](#):

- Curricular Practical Training (CPT)
- [Optional Practical Training](#) (OPT) (pre-completion or post-completion)

- Science, Technology, Engineering, and Mathematics (STEM) OPT

Learn more about F-1 visas [here](#). F-2 visas are available for the family of the student, including spouse and children. F-3 visas are available for Canadian or Mexican students who commute.

### **M Visas**

[M visas](#) are available for students at vocational or other recognized nonacademic institutions, other than language training programs (those require an F visa). M-2 visas are available for the family of the student, including spouse and children. M-3 visas are available for Canadian or Mexican students who commute.

### **J Visas**

[J visas](#) are available for those involved in work- and study-based programs, like au pairs, camp counsellors, trainees, interns and more. Programs must promote cultural exchange and applicants must meet eligibility criteria, including English language proficiency. J-2 visas are used for dependents of the J-1 visa holder.

Not sure which visa is right for you? Take our free assessment to get a customized plan. [Learn more.](#)

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### **Temporary Visit for Business**

These visas are for very short-termed business purposes. If a person were, for example, negotiating a contract, attending a convention, or settling an estate, they would travel under this type of visa.

#### **B-1 Visas**

[B-1 visas](#) are for those conducting limited, short-term business in the United States. These demand a specific period of time, and are usually given for a one- to six-month period, with possible extension of an additional six months. It is rare if these visas extend beyond one year. Family of B-1 visa holders are not eligible to travel under these visas; they must obtain their own B-1 visas to travel.

#### **GB Temporary Visitor to Guam**

[GB Temporary Visitor to Guam](#) visas cover the U.S. territories of Guam and the Northern Mariana Islands. Visa holders may be traveling for business or pleasure, but they need to be traveling with a return ticket. The stay cannot exceed 45 days.

#### **WB Temporary Business Visitor under Visa Waiver Program**

[The WB Temporary Business Visitor under Visa Waiver Program](#) allows nationals of 39 countries, specified by the State Department, to travel to the U.S. for [business or tourism without a visa](#) for a period of 90 days or less.

## How to Change Status From F-1 to H-1B

### LEARN THE ELIGIBILITY REQUIREMENTS AND APPLICATION PROCESS FOR CHANGING FROM AN F-1 STUDENT VISA TO AN H-1B WORK VISA

If you're currently in the U.S. on an [F-1 student visa](#), you may be thinking about next steps and how to continue your U.S. immigration journey after graduation.

Many F-1 students choose to stay in the U.S. and begin their careers, due to the wide range of employment opportunities available. One way to start your career in the U.S. is to change your status from F-1 to an H-1B work visa. The [H-1B visa](#) is a non-immigrant visa that allows U.S. employers to temporarily employ foreign workers in specialty occupations. In this guide, we'll cover how to apply for a change of status, the cost and timeline of the H-1B visa, and more.

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#### Changing from F-1 to H-1B Process

Changing status from an F-1 student visa to an H-1B work visa involves a multi-step process. Although each applicant's situation may look a bit different depending on their specific circumstances, here's a general outline of the process:

##### 1. Find H-1B Sponsorship:

In order to change your status to an H-1B visa, you must receive a job offer from a U.S. employer. The employer must be willing to sponsor you for the H-1B visa, which involves costs and legal obligations on their part. The job should qualify as a specialty occupation, generally requiring a bachelor's degree or higher.

##### 2. Labor Condition Application (LCA):

Your prospective employer will be required to file a [Labor Condition Application \(LCA\)](#) with the U.S. Department of Labor. The LCA specifies the job details, including job title, salary, location, and other conditions. The employer must agree to pay you the prevailing wage for your occupation and location.

##### 3. File Form I-129 (Petition for Nonimmigrant Worker):

Once the LCA is certified by the Department of Labor, your employer can file [Form I-129 \(Petition for a Nonimmigrant Worker\)](#) with U.S. Citizenship and Immigration Services (USCIS). This form includes information about your job, your qualifications, and the terms of your employment.

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#### Cost

Changing status from an F-1 visa to an H-1B visa comes with several [government filing fees](#). The good news is that the majority of these expenses will be covered by the employer who is sponsoring you. Form I-129 has a filing fee of \$780, which must be paid by all employers filing an H-1B petition.

The additional fees paid by your employer can vary. The specific fees your employer will need to cover are contingent upon factors like the company's size and how many foreign workers they currently employ.

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## Timeline

Processing times for changing from an F-1 visa to an H-1B visa can vary depending on factors such as your employer, the service center reviewing your case, and the current case backlog at USCIS. You can check the current processing times for a change of status to an H-1B visa at specific USCIS service centers [here](#).

Premium processing can also impact your processing time. Premium processing is an expedited processing option that many H-1B visa applicants opt for. Although it requires an additional fee, premium processing petitions are typically reviewed within 15 calendar days. You can check USCIS' page on [premium processing](#) to check your eligibility and talk to your employer about whether it is the right option for your application.

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## Understanding Cap-Gap Extensions

In certain situations, your F-1 status might expire before your H-1B petition is approved. If this occurs, you have the option to apply for a cap-gap extension. A cap-gap extension in U.S. immigration refers to a provision that allows certain F-1 students who are in the process of transitioning to H-1B status to extend their F-1 status and work authorization. This extension bridges the gap between the expiration of their F-1 status and the anticipated start date of their H-1B employment.

Here's how the cap-gap extension works:

- **H-1B Petition Filed:** If an F-1 student is selected in the H-1B visa lottery and their H-1B petition is filed before their F-1 status expires, they become eligible for a cap-gap extension.
- **Extension of F-1 Status:** The cap-gap extension automatically extends the student's F-1 status and, if applicable, their [Optional Practical Training \(OPT\) work authorization](#). This allows the student to legally remain in the U.S. while their H-1B petition is pending.
- **Transition to H-1B Status:** If the H-1B petition is approved, the student's status changes from F-1 to H-1B, and they can begin working for the H-1B sponsoring employer.

It's important to note that not all F-1 students are eligible for the cap-gap extension. To qualify, the H-1B petition must have been filed as a change of status (rather than consular processing), and the student must be in a period of authorized OPT or the 60-day grace period following the OPT expiration when the H-1B petition is filed.

The cap-gap extension is designed to provide a seamless transition for F-1 students who are transitioning to H-1B status without any gaps in their legal status or work authorization. It allows them to maintain lawful presence in the U.S. while waiting for their H-1B employment to begin.

## The H-1B Visa, Explained

### FROM LCA TO I-129: NAVIGATING THE H1B VISA APPLICATION PROCESS STEP-BY-STEP

The H-1B visa program plays a critical role in the U.S. economy, allowing American companies to hire highly skilled foreign workers in [specialized occupations](#). Whether you're an employer looking to bring in top talent or a foreign national seeking to work in the United States, understanding the H-1B visa process is essential. This comprehensive guide will walk you through every aspect of the H-1B visa, from eligibility requirements to application procedures and beyond.

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### What Is the H-1B Visa?

The H-1B visa is a non-immigrant visa that allows U.S. employers to temporarily employ foreign workers in specialty occupations. These occupations typically require a bachelor's degree or equivalent in a specific field.

### Key Points about the H-1B Visa:

1. **Specialty Occupation:** The position must require theoretical and practical application of specialized knowledge, typically requiring at least a bachelor's degree.
2. **Employer Sponsorship:** A U.S. employer must sponsor the foreign worker and file the necessary petitions with U.S. Citizenship and Immigration Services (USCIS).
3. **Annual Cap:** There's an annual limit on new H-1B visas, with a lottery system if demand exceeds the cap.
4. **Lottery System:** Due to high demand, if the number of petitions exceeds the cap, a lottery system randomly selects which petitions will be processed.
5. **Duration:** H-1B status is initially granted for three years but can be extended.
6. **Dual Intent:** Holders can intend to immigrate permanently while on an H-1B visa.

### Benefits for Employers:

- Access to a global pool of highly skilled talent
- Fill skill gaps in the U.S. workforce
- Remain competitive in a global market

### Benefits for Employees:

- Opportunity to work in the U.S. in their field of expertise
- Gain valuable international work experience

- Potential pathway to permanent residency (a [green card](#))

*Is the H-1B visa your stepping stone to a green card? [Learn more](#) about Boundless' family-based immigration services and secure your future in the U.S.*

### Is the H-1B a green card?

The H-1B is **not a green card**, but it can serve as a stepping stone to a green card, as it is “dual intent,” meaning you can apply for permanent residency (a green card) while on an H-1B visa. However, you must go through a separate process to obtain a green card. For more info, Boundless has put together a guide on [how to switch from an H-1B to a green card](#).

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### New Policy for U.S. Graduates and DACA Recipients

In June and July 2024, the Biden administration announced significant changes to streamline the work visa process, particularly benefiting U.S. college graduates and DACA recipients. Here are the key updates:

1. **Faster Processing:** The government has implemented measures to expedite employment visa applications for college graduates, including DACA recipients, with highly skilled job offers.
2. **Waiver Clarifications:** Consular officers received updated guidance on recommending waivers of ineligibility, potentially speeding up the process for certain applicants.
3. **Expanded Eligibility:** While basic H-1B requirements remain unchanged, there's a shift towards prioritizing applications from U.S. college graduates including DACA recipients. The government is also considering expanding the definition beyond traditional STEM fields, potentially opening up more pathways for individuals in non-STEM fields.
4. **DACA Recipients:** May have a clearer path to H-1B visas and potentially permanent residency through employment-based sponsorship.
5. **Expedited Timelines:** As of July 2024, interview wait times for H-1B visas are minimal at most overseas posts.

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### H-1B Visa Requirements

To qualify for an H-1B visa, both the job position and the foreign worker must meet specific criteria:

#### For the Employer:

1. **Specialty Occupation:** The job offered must qualify as a “specialty occupation” requiring:
  - A deep understanding of complex concepts (theory) and the ability to implement that knowledge to solve real-world problems (practice).



- At least a bachelor's degree (or something similar) in a subject directly connected to the role.
- 2. **Labor Condition Application (LCA):** The employer must file an LCA with the U.S. Department of Labor, certifying the following:
  - The H-1B worker will be paid the prevailing wage or the actual wage paid to other employees with similar experience and qualifications, whichever is higher.
  - The H-1B worker's employment will not adversely affect the working conditions of U.S. workers similarly employed.
  - There is no strike, lockout, or layoff in the occupational classification at the place of employment at the time of filing.
- 3. **Sponsorship and Petition Filing:** The employer must sponsor the foreign worker and file [Form I-129, Petition for a Nonimmigrant Worker](#), with USCIS.
  - The employer must also complete the H-1B electronic registration process if subject to the [annual cap](#).
- 4. **Employer-Employee Relationship:** There must be a valid employer-employee relationship, with the employer having the right to control the employee's work.

#### **For the Employee:**

1. **Educational Qualifications:** Possess a bachelor's degree or higher (or its equivalent) in a specific field directly related to the offered position.
  - If the degree is from a foreign institution, it may need to be evaluated to determine its equivalency to a U.S. degree.
2. **Job Offer:** Have a legitimate job offer from a U.S. employer for a specialty occupation.
3. **Work Experience:** Depending on the specific occupation and degree, you may be required to demonstrate relevant work experience in the field.
4. **Licensing:** If the occupation requires a license to practice in the state of intended employment, the employee must generally possess that license before the H-1B petition can be approved.

#### **Additional Considerations:**

- **Cap-Subject vs. Cap-Exempt:** Some H-1B petitions are exempt from the annual cap (e.g., those for employees of institutions of higher education, non-profit research organizations, or governmental research organizations).
- **H-1B Lottery:** If the number of H-1B registrations exceeds the annual cap, a lottery is conducted to randomly select registrations permitted to proceed to filing.
- **Maintain Valid Status:** The employee must maintain their H-1B status by adhering to the visa terms and conditions and informing USCIS of any material changes in employment.

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## H-1B Specialty Occupations

To qualify as a specialty occupation, the position must demand a blend of theoretical knowledge and practical skills. It typically necessitates at least a bachelor's degree or its equivalent in a relevant field. Let's break down the requirements:

### POSITION CRITERIA (MUST MEET ONE):

- **Education:** A bachelor's or higher degree is usually the minimum requirement
- **Industry Standards:** Degree requirements common in the industry for similar positions
- **Complexity:** The job is so complex or the duties are so specialized or unique that it requires an individual with a degree
- **Employer's Practice:** The employer typically requires a degree for the position

### BENEFICIARY QUALIFICATIONS (MUST MEET ONE):

- **Education:** Possess a U.S. bachelor's or higher degree in the required specialty.
  - **Expertise:** Have education, training, and/or experience equivalent to a U.S. bachelor's or higher, with recognized expertise.
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## Understanding the H-1B Visa Cap

Before entering the United States under the H-1B classification and beginning work, you must register with U.S. Citizenship and Immigration Services (USCIS) and be selected to apply. Due to high demand, if the number of registrations exceeds the cap, a lottery system randomly selects who can proceed to filing.

To learn more about the H-1B visa cap and how to register for the lottery, check out Boundless' detailed [H-1B cap lottery guide](#).

**Maximize your chances in the H-1B lottery with Boundless' strategic support.**

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### RELATED ARTICLE:

[USCIS Announces Second H-1B Cap Lottery for FY2025](#)

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## How Long Does an H-1B Visa Take?

The H-1B application processing time can be unpredictable, influenced by factors like the annual cap, service center workload, and whether premium processing is used. Here's a breakdown of the timing by phase of the process:

### H-1B Lottery Process

The USCIS lottery system randomly selects which petitions will be processed if the number of H-1B petitions exceeds the annual cap. This lottery process adds an element of chance to the H-1B visa application, making it crucial to understand the timeline and key dates involved.

### H-1B CAP TIMELINE

- **Registration Period:** The H-1B Cap Lottery typically opens in early March and lasts for a few weeks. USCIS announces the exact dates each year.
- **Lottery Selection:** If needed, the lottery occurs shortly after the registration period closes.
- **Petition Filing Window:** Selected applicants have 90 days to file their complete H-1B petitions.

### LCA (Labor Condition Application):

- **Processing Time:** Generally takes a few weeks (can be faster with electronic filing).
- **Note:** The LCA must be certified before the H-1B petition can be filed.

### I-129 (Petition for a Nonimmigrant Worker):

- **Regular Processing:** This can take several months, with current estimates ranging from 2-7 months, depending on the service center.
- **Premium Processing:** Available for an additional fee, guarantees a 15-calendar-day processing time. The current premium processing time averages 10 days.

### Overall Timeline Estimate (Cap-Subject):

- **Best-Case Scenario (with premium processing):** ~3-4 months (registration, LCA, premium I-129 processing)
- **Typical Scenario (regular processing):** 6-9 months or longer (registration, LCA, regular I-129 processing)

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## How Much Does the H-1B Visa Cost?

The cost to register for the H-1B lottery is **\$215**.

If the applicant is selected for an H-1B visa, the employer will then have to pay **\$780** to file Form I-129 (Petition for Nonimmigrant Worker), or \$460 (in the case of small employers and nonprofits).

Beyond Form I-129, the costs can vary depending on the company's size, the cost to expedite the application, whether or not the H-1B applicant is changing employers and attorney fees.

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## How to Apply for an H-1B Visa

The H-1B visa application process involves several steps, which must be completed in a specific order. Here's a detailed breakdown of the process:

- **Job Offer and Employer Preparation**
  - The employer has a specialty occupation need. The employer identifies a candidate that requires H-1B sponsorship.
- **H-1B Registration (Lottery):** Before diving into the full H-1B petition process, there's a crucial preliminary step for cap-subject petitions: online registration. This electronic system, implemented by USCIS, streamlines the initial selection process.
  - Employer creates a myUSCIS account (if they don't already have one)
  - During the registration period (typically in March), the employer submits an electronic registration for each prospective H-1B worker
  - USCIS conducts a lottery to select registrations
  - Selected registrants are notified and invited to file a full H-1B petition
- **Labor Condition Application (LCA)**
  - If selected in the lottery, the employer prepares and submits a [Labor Condition Application \(LCA\)](#) to the Department of Labor (DOL).
  - Prevailing Wage Determination (PWD) from the Department of Labor (DOL). The PWD establishes the minimum wage the employer must pay the H-1B worker, ensuring fair compensation and protecting U.S. workers.
  - DOL typically certifies the LCA within seven working days.
- **H-1B Petition Preparation and Filing**
  - Employer prepares [Form I-129 \(Petition for a Nonimmigrant Worker\)](#) and supporting documents.
  - Employer includes the certified LCA with the petition, fees, and additional documentation.
    - These documents may include evidence of your education, any training certificates or professional membership documents if relevant, your

resume, a confirmation letter of employment, a letter of support, and any necessary fees.

- The complete petition package is filed with USCIS

- **USCIS Processing**

- USCIS reviews the petition
- They may issue a [Request for Evidence \(RFE\)](#) if additional information is needed
- USCIS approves or denies the petition

The interview step is typically not required for applicants already in the U.S. changing status to H-1B (e.g., from F-1 student status). USCIS processes the change of status without a consular interview.

- **Visa Application and Interview (if applicable)**

- If the employee is *outside the United States*, then they apply for an H-1B via [consular processing](#). This step is primarily for applicants outside the U.S. or those in the U.S. who need to travel internationally
- The applicant submits [Form DS-160](#) (Online Nonimmigrant Visa Application)
- Pays the visa application fee
- Schedules and attends a visa interview at a U.S. embassy or consulate
- During the interview, a consular officer will review the application and may ask questions about the applicant's background, job offer, and intentions in the U.S.
- The officer will decide whether to approve or deny the visa application

- **Entry to the U.S**

- If the visa is approved, the applicant can enter the U.S. up to 10 days before the start of H-1B employment.
- At the port of entry, a Customs and Border Protection (CBP) officer will decide on admission to the U.S.

- **Begin Employment**

- The international employee can start working for the sponsoring employer on or after the start date specified in the petition.

### **What to Bring to the H-1B Interview**

- Your passport. This should be valid for at least six months beyond your intended date of entry to the United States
- A printout of the confirmation page from your Form DS-160.
- A copy of your approved [I-129 petition](#) and your [I-797 approval](#).

- Receipts showing you have paid your application fees.
  - A passport-sized photo of you that follows [U.S. State Department requirements](#).
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## What's Next?

For many H-1B visa holders, the journey doesn't end with the H-1B. The ultimate goal often is obtaining a green card (permanent residency). Here's an outline of adjusting status from an H-1B to a green card.

### 1. **Application Process:**

- PERM Labor Certification
- I-140 Immigrant Petition for Alien Worker
- I-485 Adjustment of Status or Consular Processing

### 2. **Delays:** This process can be significantly delayed, especially for applicants from countries with high demand, such as India and China. These delays are primarily due to per-country limits on employment-based green cards.

### 3. **Dependents and "Aging Out":**

- Children of H-1B visa holders may still face the risk of "aging out" of their dependent status.
- If a child turns 21 before the parent's green card is approved, they may no longer qualify as a dependent for immigration purposes.
- These young adults may need to switch to a different visa status (such as [F-1 student visa](#)) or leave the country.

### 4. **Child Status Protection Act (CSPA):** This act provides some protection against aging out, but it doesn't cover all scenarios and can be complex to navigate.

### 5. **Work Authorization for Dependents:** H-4 visa holders (spouses of H-1B visa holders) are eligible for work authorization, primarily those whose H-1B spouse has an approved I-140 immigrant petition.

### 6. **Maintaining Status:** While pursuing a green card, it's crucial for H-1B visa holders to maintain their current status and comply with all visa requirements.

## H1B to Green Card Process Eb3 Eb-2 Eb1

GAs one of the most popular visas, besides providing many benefits, the [H-1B visa](#) is a dual intent visa that allows the foreign nationals to apply for a [green card](#) or get lawful permanent resident status (adjust status).

Not all temporary or nonimmigrant visas have these options.

Some visa categories allow only renewal for the same status, while others permit changing to another temporary status.

On the other side, some visas do not have an option for renewal or change. Sometimes a foreign national will need to return to their home country upon expiration of the visa status.

This is why the H-1B has as many advantages over most other nonimmigrant U.S. visas.

Foreigners holding [L-1](#) or H-1B visas are usually eligible to get a green card to live and work permanently in the U.S. through the process known as [adjustment of status](#).

To obtain a green card, you need to go through multiple steps and a specific application process. If you go through the employment-based green card process while under H-1B status, you will use many benefits, especially if you obtained an approved [I-140](#).

Here, we will show you how to, by taking step by step you obtain a green card. The process may look a bit complicated, but don't worry. For any concerns or doubts, you can [contact us](#)!

## EB1, EB2, EB3, and I-140 Petition

People who move to the U.S. are mostly employment-focused (EB-1, EB-2, and EB-3) and family-based categories.

### Types of Employment-Based Green Cards

Governed by employment laws, green card applications are not sponsored independently.

As you know, other ways of receiving green cards include a [green card lottery](#).

However, now we will focus on employment based category, green card categories, and processes.

“EB” means “workforce-based,” and each number preceding “E” indicates the preference for a category. There are also EB-4 and EB-5 categories, but this is not in the preference system for employment-based categories. These are the various job categories you may have a green card sponsoring application.

EB-1: Employment based First Preference Immigrant Visa

### EB-1: Employment based First Preference Immigrant Visa

[The EB-1 category](#) comprises three subcategories of priority workers:

**Persons of Extraordinary Ability:** Science, art, education, business, or athletics. To meet the eligibility criteria, the petitioner must prepare extensive documentation proving continuous

national or international acclaim and recognitions in the subject field, but the applicant doesn't need to possess a specific job offer.

**Outstanding Professors and Researchers:** having at least three years of experience in teaching or research and international recognition, and the prospective employer must provide a job offer and sign the immigrant petition, but does not need the PERM (Labor certification)

Multinational Executives and Managers: have been employed for at least one of three preceding years by a U.S. parent, subsidiary, branch, or affiliate of a foreign corporation. The potential employer must provide a job offer and file a petition with the USCIS (a Labor certificate is not required).

### **EB-2: Employment based Second Preference Immigrant Visa**

[The EB-2 category](#) petitioners must have a labor certification approved by the Department of Labor, a job offer, and the prospective U.S. employer who will file a petition on behalf of the applicant.

There are two subcategories within the EB-2 category:

Professionals obtained advanced degrees or a baccalaureate degree and at least five years progressive experience in the profession.

Individuals with exceptional ability in the sciences, arts, or business significantly above that ordinarily encountered within the field.

### **EB-3: Employment based Third Preference Immigrant Visa**

[EB-3 category](#) applicants have to be sponsored by their prospective employer.

There are three subcategories:

Professionals holding a baccalaureate degree

Skilled workers, i.e., capable of performing work requiring at least two years of experience or training

Unskilled workers, i.e., those capable of filling positions requiring less than two years of training or experience.

### **National Interest waiver NIW**

A National Interest Waiver may be filed by foreigners classified as EB-2. The beneficiary of an NIW is exempt from the requirement that their employer first obtains a labor certification (PERM) from the Department of Labor. Also, a job offer is not required, allowing the intending immigrant to self-petition.

**The petitioner has to qualify as:**



- “Advanced degree professional” or
- An “alien of exceptional ability.”

To prove exceptional ability in the sciences, arts, or business, the applicant has to file additional documentation along with the petition with at least three of the following:

- An official academic record showing the foreign national has obtained a degree/diploma/certificate, or similar award from a school/university/college, or other institution of learning relating to the area of exceptional ability;
- Evidence in the form of a letter from current or former employer proving that the petitioner has at least ten years full-time experience in the subject occupation;
- A state license to practice the profession or certification for a particular profession or occupation;
- Proof that the applicant has commanded a salary or other remuneration for services, which demonstrates exceptional ability;
- Evidence of membership in professional associations; or
- Proof of recognition for achievements and significant contributions to the industry or field by governmental entities, peers, or professional or business organizations

Or, the applicant can provide comparable evidence to establish eligibility.

### **National Interest waiver Qualifications**

The individual’s work must benefit the “national interests” of the U.S. Administrative Appeals Unit of the USCIS has suggested one or more of the following factors be considered whether the foreigner’s work meets this standard:

Enhancing the U.S. economy;

Improving working conditions and wages of U.S. workers;

Improving U.S. education and training programs;

Making health care better in the U.S.;

Improving the environment in the U.S.

Providing more affordable housing in the U.S.; or

Obtaining a request from an interested U.S. Government Agency.

### **EB-2 vs EB-3 Immigrant Visa**

If you wait too long to ask your employer to sponsor you for the green card, or postpone the process, you may face additional and unwanted delays in many cases.

On the other side, employers sometimes may hesitate with this request because often, foreign worker leaves the place of work after receiving approval for their green card.

### **H-1B to Green Card Process**

Foreign workers may request an extension of their H-1B status in one-year increments if their Labor Certification or I-140 were filed a year (365 days) before the beginning of their exemption from the standard 6-year limit, taking into account any recaptured time spent abroad.

There is an exception to this rule: if you have an approved I-140 and your priority date is not current yet (or if your LCA has been pending for a year), you will have unlimited extensions until you complete your green card application process.

Still, you must maintain lawful immigration status while in the green card process or change from H-1B to Green Card (EB-2/EB-3). To do so, you will have to submit an [I-485 petition](#) after the USCIS approves your employer's I-140.

In some situations, you may use concurrent filing by submitting both the I-485 and [I-140](#) petition. Moreover, you may also apply for the Employment Authorization Document (EAD).

### **Step by Step: From H-1B to Green Card Holder**

To get the lawful permanent residence status, you need to undertake five green card process steps:

Step 1: Find a Qualified U.S. Employer

Step 2: Employer to Submit PERM Labor Certification

Step 3: File Form I-140

Step 4: Wait for Priority Date to Become Current

Step 5: File Form I-485 Adjustment of status

### **Step 1: Find a Qualified U.S. Employer**

To get the lawful permanent residence status, you need to undertake five green card process steps:

- **Step 1:** Find a Qualified U.S. Employer
- **Step 2:** Employer to Submit PERM Labor Certification
- **Step 3:** File Form I-140
- **Step 4:** Wait for Priority Date to Become Current
- **Step 5:** File Form I-485 Adjustment of status

### **Step 2: Employer to Submit PERM Labor Certification**

To obtain a PERM labor certification, your employer needs to:

- **Step 1:** Find a Qualified U.S. Employer
- **Step 2:** Employer to Submit PERM Labor Certification
- **Step 3:** File Form I-140
- **Step 4:** Wait for Priority Date to Become Current
- **Step 5:** File Form I-485 Adjustment of status

### **Step 3: File Form I-140**

When you get the approval of the PERM, your employer must file an I-140 Immigration Petition for Alien Worker.

With this Form I-140, your employer has to prove the ability to pay the salary for your job position and submit it along with the approved PERM labor certification.

Once your petition is approved, the USCIS will send you an Approval Notice indicating that you can move forward to the next stage of your green card application process.

Remember, an approved I-140 doesn't mean that your status has been adjusted automatically. To do so, you need to wait until the I-485 petition is approved.

### **Step 4: Wait for Priority Date to Become Current**

As soon as the USCIS receives your petition, that date is your priority date. You will need to wait until your priority date becomes current before moving on to the final step.

### **Step 5: File Form I-485 Adjustment of status**

Once you have a current priority date, you can apply for an adjustment of status by submitting the I-485 form with the USCIS. If it is approved, then you will receive your green card. In this phase, you can also apply for the Employment Authorization Document (EAD) and Advance Parole.

### **H-1B to Citizenship**

No direct path you can take to citizenship if you hold any nonimmigrant visa, including an H-1B visa. To become a U.S. citizen, you must first become a lawful permanent resident. When you obtain a green card, you must make sure that you qualify for citizenship.

#### **You are eligible for U.S. citizenship if:**

- You have been a green card holder for five years
- You have been married to a U.S. citizen for three years
- You have served in the U.S. military.

#### **If you meet one of the mentioned criteria, you then need to:**

- File an [N-400 application](#) for naturalization
- go through a citizenship interview

- Undergo a test to examine your grasp of the English language and your understanding of basic American civics and history.

If you pass these steps, you will be able to take the U.S. Oath of Allegiance and get U.S. citizenship.

## **Employment Based Preference Categories to Green Cards**

### **Step by Step: EB1, EB2 and EB3 To Employment Based Green Card**

If you belong to the employment-based category EB1, EB2 and EB3, follow next steps that will lead you to obtain your green card status.

There are three fundamental steps of getting an employment-based green card (EB2 and EB3) in the U.S.:

- **Step 1:** Obtaining PERM Labor certification, including prevailing wage determination, recruitment, and ETA Form 9089.
- **Step 2:** Filing I-140 immigration petition
- **Step 3:** Filing I-485 Application to adjust status

### **EB-1 Green Card Process**

#### **Requirements:**

- A one-time achievement or
- At least three of the following documents:
- Smaller national or internationally recognized prizes and awards for excellence in the field of work received; or
- Proof of membership in associations in the field that requires outstanding achievements judged by national or international professionals, published material about the foreign national in professional or major trade publications or other major media; or
- Evidence of participation as a judge or a reviewer of others' work in the field or an allied occupation, or
- Evidence of original scientific, artistic, athletic, scholarly, or business-related contributions of major significance in the subject field; or
- The proof of authorship of scholarly articles in the field (published in professional or major trade publications or other major media); or
- The proof of the foreign national's work displayed at artistic exhibitions or showcases; or
- Evidence that the applicant has performed in a leading or critical role for organizations that have a prominent reputation; or
- Evidence that the foreigner has commanded a high salary or other high remuneration for services; or

- Proof of commercial successes in arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

Also, comparable evidence may be submitted if the above criteria do not apply to the applicant's occupation.

If you have any concerns regarding the right documentation that you have to provide, don't hesitate to contact our law firm to discuss eligibility or any employment or family-based immigration matter.

### **EB-2 Green Card Process**

Requirements:

- Having a job offer The U.S. employer is the one to file a petition on behalf of the applicant.
- Obtaining the PERM labor certification from the Department of Labor DOL after obtaining the prevailing wage determination.
- Obtaining a Schedule A designation, or establish that you qualify for one of the shortage occupations in the Labor Market Information Pilot Program.
- As we mentioned above, foreign workers may apply for an exemption from the job offer and labor certification requirements if it would be in the national interest of the United States.

### **EB-3 Green Card Process**

Requirements:

- An approved I-140 petition filed by the sponsoring U.S. employer
- Evidence of having experience in the relatable field (two years of in the relevant fields for skilled workers and suffice with on-the-job training and the ability to perform the task in the relevant feed), and one of the following items:
  - PERM Labor Certification
  - Schedule-A Designation
  - Proof that you qualify for one of the shortage occupations in the Labor Market Information Pilot Program (LMI pilot program).

### **EB-3 to EB-2 Porting**

Porting is a process that allows green card applicants to transfer their petition to a different permanent resident status.

If you have already filed the I-140 petition for an EB-3 and now you are waiting on your priority date, your employer may file a new petition on your behalf under EB-2 status.

However, to replace your first petition, you must acquire the personal qualifications for an EB-2 (master's degree or exceptional ability) and a position that requires new qualifications.

This process is not that straightforward, so you should speak to your immigration attorney to make sure you take the right steps.

## **Processing Times**

### **H-1B to The Green Card Processing Time**

It is not possible to assess the exact processing time of the entire green card process, but we will try to briefly overview what it will depend on.

If you want us to make an assessment of your case and tell you what will apply to your particular situation, be free to contact us.

**Step 1** – 6-18 months for the PERM Labor Certification with an audit.

**Step 2** – depends on how soon your priority date will be current. The time to get the approval of I-140 approved depends on how soon your priority date will be current. In case your priority date is not current for several years, the USCIS will move your application back to be processed closer to your priority date.

**Step 3 and 4**– it depends on which country you come from. Waiting for the approval of Form I-140 can be the most extended waiting period. You can take a look at the [most recent visa bulletin](#). Here, you will find where your priority date falls.

**Step 5** – depends on which service center your I-485 has been sent to. Some USCIS service centers are busier than others. Here you can check the [current wait times](#).

### **EB1 Green Card Processing times**

Petitioners of EB1 do not have to go through the PERM labor certification process, so the processing time for this visa is shorter.

Generally, the processing time will depend on the USCIS service center where your application is processed, which sometimes can take up to six months.

After your I-140 has been approved, you have to submit your Form I-485. The processing of Form I-485 also takes around six months.

### **EB2 Green Card Processing Time**

**Step 1:** 6 months to two years is [PERM processing time](#) to obtain PERM labor certification

**Step 2:** 6 months – on average: USCIS takes about six months to process your form I-140.

**Step 3:** depends on your service center where you filed I-485 application, but usually, it takes about six months.

### **EB3 Green Card Processing Time**

- **Step 1:** six months or up to 18 months is PERM processing time if your employer has to be audited
- **Step 2:** six months to get the approval of the I-140 petition

- **Step 3:** few months of waiting for your date to become current and about six months (depending on your service center) to adjust status.

### **Premium processing**

The USCIS offers regular or premium processing services for Form I-140. Premium processing reduces the processing time to 15 calendar days. Premium processing comes at a fee of \$1,225.

Green Card Process Fees

### **H-1B Green Card Process Fees**

No fee for PERM Labor Certification, if applicable (some costs will be made for the recruitment and advertisement processes)

I-140 basic filing fee: \$700. You need to submit this form and fee whenever a job change occurs. In addition, if you change employers or preference levels, you must also file the form and pay the fee.

I-485 filing fee: \$750-\$1,140. The fee for the Adjustment of Status application varies depending on the petitioner's age. Use the USCIS website to find more information.

Biometrics fee: \$85.

### **EB-3 vs. EB-2 Green Card Process Fees**

The filing fees for EB-2 and EB-3 processes are relatively smaller than the H-1B process.

If you belong to the first preference category or second preference category, your sponsoring employer needs to pay \$700 for filing the I-140 petition.

Once you get the approval of the I-140 petition, you will need to submit an actual green card application, the I-485 Adjustment of Status Application. The fee for this petition varies according to your preferences, so you can use [the USCIS calculator](#) to determine the exact fee.