WORK OPTIONS FOR FOREIGN STUDENTS

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VISA CATEGORIES FOR STUDENTS

- **F-1** – Foreign students attending academic college or university
- **J-1** – “Exchange visitor” or trainee often used for graduate students, medical residents, etc.

**Dependent Visas** – Students whose parents are in the U.S. on a work visa such as H-1B (H-4), L-1 (L-2), E Visa, etc.
1. **On-campus employment**
2. **Curricular Practical Training (CPT)** – Integral part of established program (work/study)
3. **Optional Practical Training (OPT)** – 12 months of OPT for F-1; use during degree program or after graduation
4. **Economic Hardship** – Extreme, unforeseen economic hardship such as loss of parents, currency crisis, political unrest
5. **Designated International Organizations** – Certain organizations are permitted to hire F-1 students for work experience (United Nations, IMF, World Bank, etc.)
6. **Volunteer** – Almost never an option
POST-GRADUATION EMPLOYMENT

- Employers like qualities of international students - smart, independent, motivated
- Employers do not understand visas
- Students must understand the immigration process, and be able to explain
TYPICAL POST-COMPLETION EMPLOYMENT PATH

- F-1 - Optional Practical Training (12 or 29 months)
  - or
- J-1 – Academic Training (18 or 36 months)
  - then
- H-1B – Most common work visa (6 years of work eligibility)
INTRODUCTION TO U.S. IMMIGRATION LAW

- **Permanent Resident Green Cards:**
  - Live forever in the United States
  - Ease of Employment
  - Ease of Travel
  - Only limited ways to obtain / lengthy processing

- **Temporary Non-Immigrant Visas:**
  - Many categories (A – V)
  - Few allow employment
  - Focus on:
    - F-1 – OPT
    - H-1B
EMPLOYER CONCERNS

- Cost
- Timing
- Obligations and Responsibilities
WORK AFTER GRADUATION

- **Optional Practical Training (F-1)**
  - 12 months of OPT post-graduation (reduced by OPT used pre-graduation)
    - Allows work for any job related to degree
    - Must get work card (Employment Authorization Document)
    - Can apply for card up to 90 days before completion of program, or up to 60 days post-completion
    - Must apply within 30 days of OPT authorization from Foreign Student Advisor
    - Can make card effective up to 60 days post-completion
    - 90 – 120 day processing time
    - No more than 90 days of unemployment permitted
OPT EXTENSION

- 17 months of post-graduation employment AFTER completion of initial 12 months of OPT
  - Must be applied for during 12 months validity of initial OPT
  - F-1 student must be completing initial OPT based on Science, Technology, Engineering or Math (STEM) degree
  - Employer F-1 will work for MUST be enrolled in E-Verify
  - No more than 120 days of unemployment, including time during initial 12 months of OPT
  - Employer agrees to notify school within 48 hours of termination
E-VERIFY

- Web based system for verifying work authorization
  - Required for employers seeking 17 month STEM extension
  - Required for companies which have federal contracts or subcontracts
  - For others, it is voluntary
TRAVEL ON OPT

- ANY travel by an F-1 student is risky because you MUST show intent to return to home country
- If you choose to travel, you will need
  - Endorsed I-20
  - Valid Visa
  - Employment Authorization Document (EAD)
  - Employment letter
- Absence of ANY presents additional risk
  - Travel after applying for H-1B is not advised
WORK AFTER GRADUATION

- **H-1B – Most Common Work Visa**
  - Employer must “sponsor” (offer a job that requires a degree)
  - Applicant must have degree
  - Degree must relate to the job
    - No need to advertise for U.S. workers
H-1B ISSUES

- **Duration**
  - 3 years initially
  - 3 year extension
  - 6 year maximum

- **Scope of H-1B Authorization**
  - Can only work for this employer, doing what was described on the petition in the location described on the petition

- **Change Employer**
  - New employer must file new petition
  - But can begin working as soon as new petition is filed without waiting for approval
Cost - Who Pays?

- Legal Fee
- CIS Filing Fees
  - Base fee - $325
  - Fraud Prevention Fee - $500
  - “Training Fee” - $1500 ($750 for 25 employees or less)
  - Optional Premium Processing Fee (15 days) - $1225
  - Additional $2000 fee for companies with 50 or more employees, and 50% or more of workforce is H-1B or L.
H-1B QUOTAS

- **CIS FISCAL YEAR:** October 1 – September 30

- **Quotas:**
  - 85,000 H-1Bs available
  - U.S. Advanced Degree Applicants – 20,000
  - All Degrees – 65,000

- **Current availability:** ?
BEAT THE H-1B CAP

- October 1 – new quota released
- April 1 – pre-filing for new quota
- May/Dec – graduation & OPT
H-1B “CAP GAP” RELIEF

- If you file an H-1B application on or after April 1, AND
- OPT is still valid at the time of filing, THEN
- OPT is extended until September 30
H-1B EXEMPT ORGANIZATIONS

- Universities

- Non-profit organizations affiliated with universities (such as research facilities or hospitals)

- Non-profit research organizations, engaged primarily in basic or applied research

- Governmental research organizations
H-1B ALTERNATIVES

- Canada, Mexico, Chile, Singapore, Australia
- L-1 Manager / Executive / Specialized Knowledge. Work overseas for one year; now working for affiliate in United States
- E treaty investor/trader (not China, India) working for companies owned by citizens of your country in the United States
- Re-enroll in full-time study (F-1 or J-1)
- Other possible options are very limited (O-1, Q, J-1). Consult qualified immigration specialist
GREEN CARD

- Limited Ways to Obtain
  - Family Relationships
  - Lottery
  - Employment/Special Skills
    - EB-1 – Extraordinary / Outstanding / Multi-national
    - EB-2 - Advance Degree / Exceptional
    - EB-3 - Bachelor’s Degree/ Skilled worker
  - PERM Processing – lengthy
  - Must maintain non-immigrant status
EXTEND H-1B BEYOND 6 YEARS

- Normal length of H-1B – 6 years
- Can Extend for the following:
  - Recapture time outside the U.S.
  - Green card pending at least 1 year – can extend H-1B in 1 year increments
  - Approved I-140, but no quota number to adjust – 3 year extension
CHOOSING AN ATTORNEY

- **Location** - Irrelevant
  - Immigration law is federal, not state specific
  - All H-1B filings are done centrally in California or Vermont

- **Knowledge and Experience** – Very Relevant
  - Cheaper is NOT better
  - One chance to file
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- Practice Areas
- Immigration

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