Employment and Immigration Options

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Employment and Immigration Options

- On-Campus Employment
- Curricular Practical Training (CPT)
- Optional Practical Training (OPT)
- H-1B — Specialty Occupation
- TN — NAFTA professional
- Employment Permanent Residence
- US Citizen Spouse Permanent Residence

On-Campus Employment

- Permitted as part of F-1 status
- No need for SEVIS/USCIS authorization
- HR letter for social security number
- 20 hours/week or less while in session
- See Career Services about Work Study positions

Curricular Practical Training (CPT)

- Employment must be related to program
- Valid F-1 status for one full academic year
- Internships and other opportunities
- Student and Department complete application and submit to Advisor/DSO
- Advisor/DSO process SEVIS authorization
- I-20 with CPT confirms authorization for employer
- Cumulative duration <365 days allows OPT

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Optional Practical Training (OPT)

- Employment must be related to program

- Valid F-1 status for one full academic year

- Result = 12 months US work authorization

- Requires EAD approval (60-90+ days processing)

- "Cap-gap" automatic extension after H-1B filed/accepted

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Optional Practical Training (OPT)

- Pre-Completion OPT
  - Counts against post-completion OPT
  - CPT is generally better option during program
- Post-Completion OPT
  - Only 90 days unemployment permitted
  - 24-month extension for STEM degrees/E-Verify employer and training plan

  https://www.ice.gov/sites/default/files/documents/Document/2016/stem-list.pdf

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Optional Practical Training (OPT)

- Student submits application to Advisor/DSO
- Advisor/DSO process SEVIS authorization
- Student sends I-765 to USCIS within 30 days
  - www.uscis.gov
  - Template letters
- Biometrics
- EAD/SS card received in mail

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Optional Practical Training (OPT)

- Application window
  - Up to 90 days prior to program completion
  - Up to 60 days after program completion
  - 90 day unemployment limit
  - Minimum "employed"
    - May be unpaid
    - Minimum of 20 hours
  - International Travel
    - Need to file first
    - Need employment to return if approved
  - If resume studies, new I-20 discontinues OPT

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H-1B Purpose

- To allow employers to hire foreign nationals qualified to perform "specialty occupations"
  - ITS
  - Accounting
  - Finance
  - Marketing
  - Other technical/scientific positions

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H-1B Requirements

- Bachelor degree or equivalent in specialized field

- Position requires similar specialized degree

- Employer certifies to US DOL in labor condition application:

  - Job classification

  - Wage levels – Level I wage issues

  - Work location

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H-1B Process – Information Gathering

- Collect Information
  - Job title, description, work location and wage from Employer
  - Credentials, immigration, biographic and family information from Employee
- Assess options
  - H-1B qualified
  - Time left on H-1B
  - In valid immigration status
  - Timing issues — CAP

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H-1B Processing Timelines

- Standard Processing: 8-10 months
- Premium Processing: 15 days if available
- H-1B portability
  - If in valid H status when petition filed
  - May begin work with USCIS receipt notice
  - Do not need to wait for approval notice

H-1B Duration

- 3 year initial term and extension
- 6 year maximum EXCEPT
  - If filed permanent residence before 6th year
  - 1 year extensions beyond 6 years available if labor certification application filed
  - 3 year extensions beyond 6 years available if immigrant visa approved

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TN Purpose

- To allow employers to employ Canadian/Mexican professionals in specific categories including:
  - Faculty
  - Computer Systems Analysts
  - Engineers
  - Accountants
  - Management Consultants
  - Scientific Technologists
  - Nurses — visa screen requirements

TN Requirements

- Canadian or Mexican citizenship
- Bachelor degree in field related to category
  - Accountant
  - Graphic Designer
  - Nurse
  - Occupational Therapist
  - Medical Lab Technologist
- Employment Offer

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TN Requirements – Bachelor Exceptions

- Management Consultant

  - Degree or 5 years' experience

- Scientific Technologist

  - 2 year scientific degree or training

  - Work in support of degreed scientists/engineers

- Computer Systems Analyst

  - Bachelor degree

  - Post-secondary diploma/certificate plus 3 years' experience

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TN Process – Information Gathering

- Collect Information
    - Job title, description, work location, and wage from Employer
    - Credentials, immigration, biographic and family information from Employee
- Assess options
    - TN category available
    - Process at border, consulate or service center

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TN Processing Timelines

- Border Processing
  - Canadians only: Immediate
- Consulate Processing
  - Mexicans only : 2 weeks
- USCIS Standard Processing
  - Approx 3 months
- USCIS Premium Processing
  - 15 days

TN Duration

- 3 year initial term and extensions
  - Mexican visa currently limited to 1 year duration
  - 3 year PED so need to pay attention to I-94 expiration date
- May extend indefinitely
  - If maintain ties to Canada/Mexico
  - Often move to H-1B to facilitate permanent residence for long-term employees

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International Travel Issues

- Visa processing
  - Complete at US Consulate outside US
  - Online visa application preparation
  - Documents related to visa category
  - Travel to/re-enter from Canada/Mexico for trips less than 30 days with:
    - USCIS approval notice
    - Valid passport
    - Expired visa

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Employment Based Permanent Residence

- Three steps
  - Labor certification application
  - Immigrant visa
  - Adjustment of status

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Labor Certification Application

- Strategic step
- Recruitment
- Generally "no American worker minimally qualified"
- Processed with Department of Labor
- Current processing approx 5 months

Immigrant Visa

- Confirm Employee meets requirements
- Confirm Employer ability to pay
- Confirms preference category

Adjustment of Status

- Dependent on available visa number
  - EB-1 Worldwide
  - EB-2 India/China nationals
  - EB-3 India/China/Philippines
- Review immigration/criminal history
- Travel restrictions if not in H or L visa status or want advance parole
- Interview now required
- Results in permanent residence

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US Citizen Spouse Permanent Residence

- One step filing - Magic
  - Interview to confirm validity of marriage
  - Employment/travel authorization issued in about 90 days
  - Processed within approximately 6 months
  - If within first 2 years of marriage when approved → 2 year conditional permanent residence and need to file petition to remove conditions
  - US Citizenship application may be filed with 3 years permanent residence

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Trump Administration Impact

- New DACA ended – renewals permitted
- Rumored changes to H-1B program
  - Increased wages
  - Recruitment requirements
  - Dependent employers
- Rumored changes to permanent residence
  - Update recruitment requirements
  - Increase wages
- Increased deportation

Questions?