



NMSU 11/21/2024

Postgraduate Immigration Options

Christian G.A. Zeller
Board Certified Immigration Attorney
Maney | Gordon | Zeller, P.A.
Albuquerque, NM
505-266-8739
c.zeller@maneygordon.com



OPT
H-1B
O-1
TN

NMSU – NIV





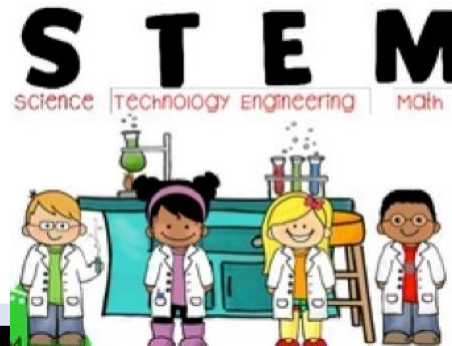
OPT

- F-1 status
- Apply timely
- Work one year in your field
- 60 days grace period @ end
 - Get out or EOS or COS



STEM-OPT

- 24 months STEM OPT extension
- Be in valid OPT
- Current or previous STEM degree





STEM–Employer

- ▶ E–Verify
- ▶ Employer / Employee Relationship
- ▶ Material Changes Reported to DSO
- ▶ Training Program and Opportunities
- ▶ Not replacing U.S. worker

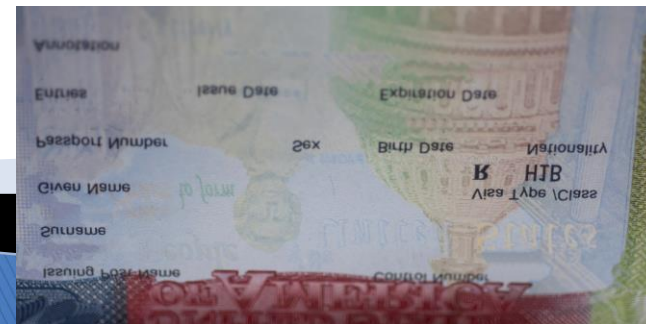




H-1B

Annual Numerical Limitations

- $65K - 5.4K - 1.4K + 20K = ?$
- Cap or No Cap?
- Lottery





H-1B Registration & Filing Process

- ▶ Registration will open sometime March 2025
- ▶ Registration requires an online USCIS Organizational Company Account



H-1B Registration & Filing Process

IMPORTANT

- ▶ Beneficiary Centric Selection Process
- ▶ Registrations Selected by Unique Beneficiary



I've Been Selected For H-1b Processing

- ▶ 90 day window to apply starting 4/1
- ▶ H status not available prior to 10/1
- ▶ What happens if I run out of OPT?



OPT → H-1b

OPT and the Cap-Gap





H-1B

The Basics

- Degree
- Job
- Specialty Occupation

- Wages:
 - Actual
 - Prevailing





H-1B

More Basics

- 6-year limit – what is it?
- H-1B v. H-4 limits
- How to port to another job



H1B visa



H-1B

Beyond Basics

- AC21
- H-1B beyond 6 years





H-1B

Basics & Beyond

An H-1B can be extended beyond its 6-year limit if a L/C or Immigrant Petition has been filed for you at least 365 days prior to the expiration of your 6-year H-1B time limit.

1-year and 3-year increments to infinity





0-1

Are you among the small percentage
who have risen to the very top of
their field of endeavor?





0-1

Extraordinary abilities in the sciences, arts, education, business, or athletics





0-1

Nobel Prize, Olympic Medal or
3 out of 8



1 award, 2 membership, 3 published, 4
judge, 5 original work, 6 scholarly
authorship, 7 critical /essential
employment, 8 \$



TN
under the USMCA

Are you a Mexican or Canadian
Professional?





TN

- What are the TN Professions?
- How to get it and for how long?
- Pro's and Con's





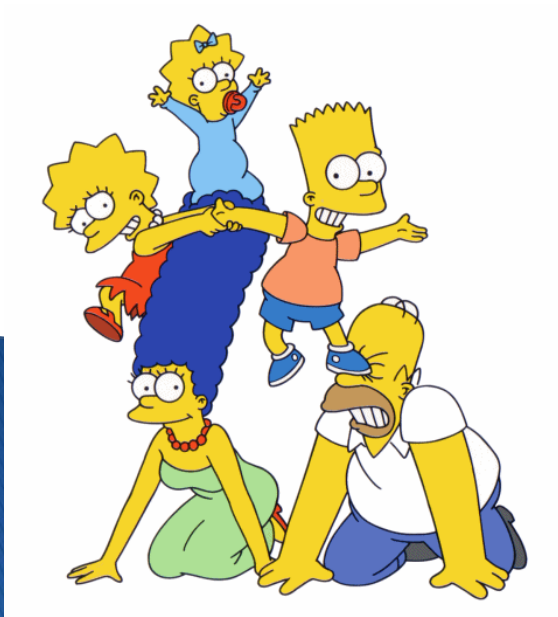
Other NIV's

A B C D E F G H I J
K L M N O P Q R
S T U V W X Y Z



What is an IV?

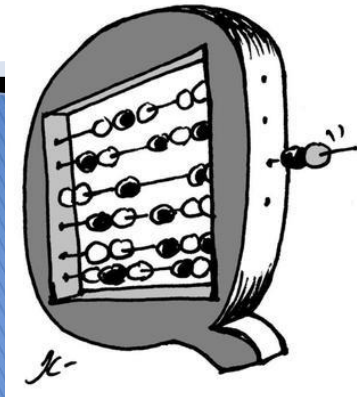
Family-based or Employment-based





The Visa Bulletin

What Are The Categories?
How Do Visa Quotas Work?





Employment based Categories

Eb-1 (1), Eb-1 (2), Eb-1 (3)

Eb-2

Eb-3

Eb-4

Eb-5





Visa Bulletin 12/2024

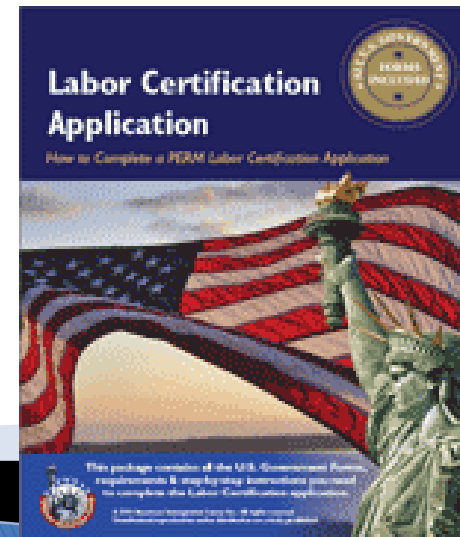
Employment-Based	All Chargeability Areas Except Those Listed	CHINA - mainland born	INDIA	MEXICO	PHILIPPINES	
1st	C	01 Jan 23	15 Apr 22	C	C	
2nd	01 Aug 23	01 Oct 20	01 Jan 13	01 Aug 23	01 Aug 23	
3rd	01 Mar 23	15 Nov 20	08 Jun 13	01 Mar 23	01 Mar 23	
Other Workers	22 May 21	01 Jan 18	08 Jun 13	22 May 21	22 May 21	
4th	01 Feb 21	01 Feb 21	01 Feb 21	01 Feb 21	01 Feb 21	
Certain Religious Workers	01 Feb 21	01 Feb 21	01 Feb 21	01 Feb 21	01 Feb 21	
5th Targeted Employment Areas/ Regional Centers and Pilot Programs	C	01 Oct 16	01 Apr 22	C	C	



Labor Certification

Most need it, but some do not

- What is it?
 - Able
 - Willing
 - Qualified
 - Available





Labor Certification

Employer Requirements

- Full-time
- Bona fide
- Not tailored
- Business necessity
- PWD
- No U.S. workers (able - willing - qualified - available)





Eb-1(1)

Persons of extraordinary ability in the sciences, arts, education, business, or athletics.





Eb-1(1)

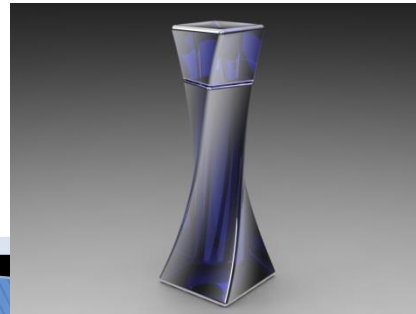
Nobel Prize, Olympic Medal or
3 out of 10

1 lesser award, 2 membership, 3
published about you, 4 judge, 5
original contributions, 6 authorship,
7 exhibits, 8 performance in leading
role, 9 \$\$, 10 commercial success
performing arts



Eb-1(1)

What do a spine surgeon, a perfume bottle designer and a mountain biker have in common?





Eb-1 (2)

Outstanding Professors and
Researchers standing apart in the
academic community through
eminence and distinction





Eb-1 (2)

3 years experience in teaching or research in the academic area and 2 out of 6

1 major prize, 2 membership, 3 published about you, 4 judge, 5 original scientific research, 6 authorship



Eb-2

- 3 distinct sub categories
 - Advanced Degree
 - Exceptional Ability
 - National Interest Waiver





Eb-2

Advanced Degree

LC required

not just have an
advanced degree,
job must require it





Eb-2

Exceptional Ability

A degree of expertise significantly above that ordinarily encountered and 3 out of 6

1 related degree, 2 10 years experience, 3 license, 4 \$\$, 5 membership, 6 recognition for achievements, (7 comparable evidence)





Eb-2

National Interest Waiver

- No LC required
 - The proposed endeavor has both substantial merit and national importance
 - You are well positioned to advance the proposed endeavor
 - That on balance, it would be beneficial to the U.S. to waive the job offer and the L/C requirement





Eb-3

Professional, Skilled & Unskilled Labor





Other Considerations

- ▶ Social Media
 - Disclose all handles for past 5 years
 - Consideration in visa issuance
 - Clean up your accounts
 - Do's and Don'ts



Trump Administration 2.0

- ▶ The Good
 - Biz
 - History
 - No more Chevron Deference
- ▶ The Bad
- ▶ The Ugly
 - Noem – Homan – Miller



Trump Administration 2.0

The Bad

- ▶ All Biden EO's
- ▶ PIP
- ▶ TPS
- ▶ DACA



Trump Administration 2.0

The Bad

- ▶ STEM NIW EO
- ▶ STEM OPT
- ▶ H-4 EAD's



Trump Administration 2.0

The Bad

- ▶ H-1b Best & Brightest
- ▶ Wage Increase Requirements
- ▶ Filing Fee Increase
- ▶ Site Visits



Trump Administration 2.0

The Bad

- ▶ More complex RFE's
- ▶ USCIS delays
- ▶ Consular delays



Ask About Any Immigration Issue

- Administrative Processing
- Rule Changes
- Processing Times
- Immigration Reform
- Anything of Interest to You.....

