

Work Authorization Visa (Immigrant and Nonimmigrant) Chart

The United States welcomes thousands of foreign workers in multiple occupations or employment categories each year. All of these workers must obtain permission to work legally in the U.S. The United States Citizenship and Immigration Services (USCIS) provides several paths to work authorization, but the first two on the list below are the most often utilized:

1. **Permanent (Immigrant) Worker:** A permanent worker is an individual who is authorized to live and work permanently in the U.S. This means that the immigrant has been granted Permanent Residence status (Green Card) while still residing in their home country. Due to the often lengthy processing times associated with immigrant visas it is not the preferred method of gaining work authorization for most employers.
2. **Temporary (Nonimmigrant) Worker:** A temporary worker is an individual who wish to enter the U.S. for a specific purpose. Nonimmigrants enter the U.S. for a temporary period of time and are restricted to the activity or reason for which their nonimmigrant visa was issued. Temporary/nonimmigrant visas include the following categories of work visas:
 - E – treaty traders and investors and qualified employees;
 - H – Workers in specialty occupations; registered nurses; temporary seasonal and/or agricultural works;
 - I – Representatives of foreign press, radio, film or other foreign information media;
 - L – Intracompany transfers;
 - O – Persons of extraordinary abilities in the sciences, arts, education, business, or athletics, and motion picture or TV production;
 - P – Internationally recognized athletes;
 - Q – Persons participating in cultural exchange programs for the purpose of providing practical training, employment, and to share the history, culture, and traditions of the aliens home country;
 - R – Religious workers; and
 - TN – North American Free Trade Agreement (NAFTA) temporary professionals from Mexico and Canada.

NOTE: Employment based visas generally do not provide the opportunity for the employee to file for U.S. Permanent (green card) status. While both the H-1B and L visas fall into the category of a non-immigrant visa, they have the unique characteristic of being defined as “dual intent.” This means that the visa holder can have the legal immigration intent to apply for a “green card,” while still being employed under his or her H-1B visa.

3. **Education-Based:** Work authorization is associated with student (F-1 and M-1) visas, via Optional Practical Training (OPT) programs.

The following chart provides detailed information on education-based and nonimmigrant visas. Due to the numerous government regulations associated with these visas and the significance of timely filings and responses, engaging a knowledgeable immigration attorney is strongly encouraged if an employer is considering sponsorship.

Detailed Chart on Education-Based and Nonimmigrant Visas

<i>Visa</i>	<i>Desc</i>	<i>General Requirements</i>	<i>Term</i>	<i>Ability to Renew?</i>	<i>Maximum Period of Stay</i>	<i>Dual Intent (1)</i>	<i>Notes/Comments</i>
F & M – Education Based USCIS F-1 Visa Page							
F-1	Student Optional Practical Training (OPT) Curricular Practical Training (CPT)	Student must have been enrolled on a full-time basis in a DHS approved college, university, conservatory, or seminary for 1 full academic year (F-1 students may not work off-campus during the first academic year); the OPT must be directly related to the students major area of study; F-1 status must be maintained	Up to 12 months of full-time practical training at each educational level (undergraduate graduate & post-graduate)	24 month extension for STEM	n/a	No, but student may qualify for H-1B	OPT can be done while still attending school (pre-completion OPT) or after graduation (post-completion OPT), or a combination of the two; if done on a pre-completion basis, work cannot exceed 20 hours per week. NOTE: students should not be employed in a capacity outside of their course of study

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H - Specialty Occupation USCIS H-1B Visa Page							
H-1B	Specialty occupation	Job must qualify as a specialty occupation by meeting one of the following criteria: 1. A bachelor's degree or higher, or its equivalent is normally the minimum requirement for the particular position; 2. The degree requirement is common for the position in the industry, or the job is so complex or unique that it can only be performed by someone with at least a bachelor's degree in a field related to the position; 3. The employer normally requires a degree or its equivalent for the position; or 4. The nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's degree or higher.	3 years	Yes	6 years	Yes	Other qualifications apply: <ul style="list-style-type: none"> The job must be in a specialty occupation related to the field of study of the person seeking the H-1B The employee must be paid at least the actual or prevailing wage for the occupation, whichever is higher An H-1B number must be available at the time of filing the petition, unless the position is exempt from numerical limits
H-2A	Temporary agricultural workers	Open only to prospective employees of designated countries; employer must demonstrate that there is not a sufficient number of U.S. workers who are able, willing, qualified, and available to do the temporary work.	Based on labor certification	Yes	3 years	No	
H-2B	Temporary non-agricultural workers	Employer must prove that the need for temporary workers cannot be met by U.S. workers; work must be temporary, seasonal, peak load, or intermittent.	Based on labor certification	Yes	3 years	No	Note: Congress has instituted a cap on the number of H-2B visas that can be issued or granted during a fiscal year.

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J - Exchange Visitor							
USCIS J Visa Page							
J-1	Exchange visitor	Authorized for those who intend to participate in an approved program for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, receiving training, or to receive graduate medical education or training.	Employment and length are based on the terms of their individual exchange program	No	Varies based on program	No	This is not recommended for employers as the time frames are limited and the company may need to be authorized by the state department to create an exchange program.
L - Intracompany Transfers							
USCIS L Visa Page							
L-1A	For managerial or executive positions	Company must have a qualifying relationship with a foreign company (parent, branch, subsidiary, or affiliate);	3 years	Yes - 2 years extensions	7 years	Yes	Period of stay for L-1A holder opening new office in the US is 1 year; employers may petition for blanket L visa if certain requirements are met
L-1B	Positions requiring specialized knowledge	Same as L-1A	3 years	Yes - 2 years extensions	5 years	Yes	