

# WORK VISA OPTIONS FOR FOREIGN STUDENTS



---

**Mark B. Rhoads, Esquire**  
**Phone: (804) 775-3824**  
**Email: [mrhoads@lawmh.com](mailto:mrhoads@lawmh.com)**

**McCandlish Holton PC**  
**Website: [www.lawmh.com](http://www.lawmh.com)**



# 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

# PRE-GRADUATION WORK (F-1)

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



# TYPICAL POST- COMPLETION EMPLOYMENT PATH

---

- F-1 - Optional Practical Training (12 or 36 months)
  - or
- H-1B – Most common work visa (6 years of work eligibility)
- Then Green Card (if desired)
  - Family-based
  - Employment-based



# 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



# “STEM” OPT EXTENSION

---

- **24 months of post-graduation employment AFTER completion of initial 12 months of OPT**
  - F-1 student must have obtained qualifying Science, Technology, Engineering or Math (STEM) degree
  - Must apply before initial OPT expires and within 60 days of Foreign Student Advisor’s authorization for STEM extension
  - Employer **MUST** be enrolled in E-Verify
  - Students/employers must prepare a “Training Plan”



# 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
    - Employer must pay “prevailing wage”
    - 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



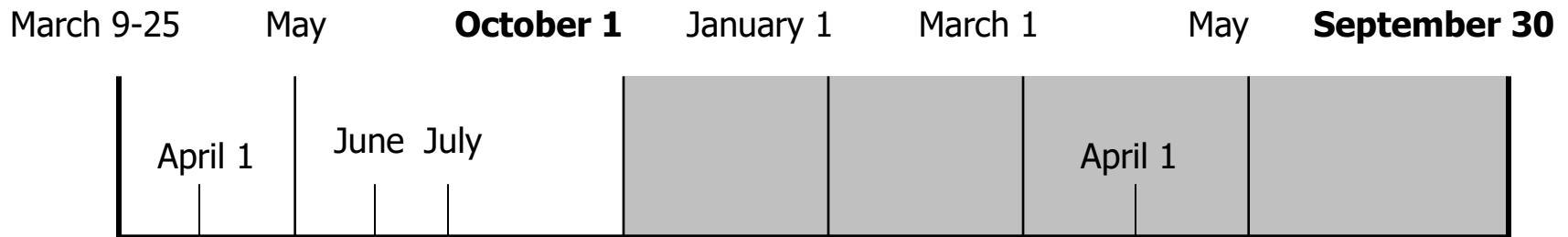


# H-1B QUOTAS

---

- **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
- March 9-25 – pre-registration for new quota
  - Lottery Selection: 90 days to file H-1B petition
- May/Dec – graduation & OPT



# 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 (federal, state, or local government)



# 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



# RESOURCES

---

- [www.lawmh.com](http://www.lawmh.com)
  - Practice Areas
  - Immigration
- *Mark Rhoads*  
[mrhoads@lawmh.com](mailto:mrhoads@lawmh.com)  
*(804) 775-3824*
- *Helen Konrad*  
[hkonrad@lawmh.com](mailto:hkonrad@lawmh.com)  
*(804) 775-3825*