

IMMIGRATION Employment Based Options MIT Spring 2026

GOSS ASSOCIATES, LLC

Agenda

- 2026 Expectations
- Non-Immigrant vs Immigrant Visa
- Temporary Work Visa Options
- Defining Work & Why It Matters
- Immigrant Visa System
- Self-Sponsored Legal Permanent Residence
- Questions

Expectations

Rapid shifts in policy, but not the law.

Renewed focus on status compliance.

Heightened scrutiny from DOS and USCIS across visa categories.

Plan ahead ask questions (information is power)

The System

Non-Immigrant Visa

Single Purpose, Limited Duration, Requires Sponsorship

**Immigrant Visa/Legal Permanent Residence (LPR)/
Green Card**

Post-Approval: Right to Live and Work in the US

Caution: Non-Immigrant Intent 214(b)

H-1B Professional Temporary Worker

- Employer-Employee relationship – flexibility for Entrepreneurs
- Bachelor's degree in a specific field matching job description
- Wage requirement
- 85,000 Quota- 20,000 carved out for US Master's degrees & above
- CAP-Exemption (Chile/Singapore/Australia)
 - 501(C)(3) non-profit/Academic Institution
 - Affiliated with a non-profit institution of higher education
 - Federally Funded Research Institution

FY 2027 Lottery

- Weighed Selection Process based on offered salary - job duties and location of employment
- Beneficiary centric process
- Lottery registration March 4-19
- Filings up to June 30th Start date October 1st
- \$100,000 rule- when does it apply.

O-1A Persons of Extraordinary Ability Sustained Acclaim in a Field

- Requires US Employer to Petition
- Agency and other employment relationships authorized
- Must document a level at the top of a specific field
- Meet at least 3 criteria

Other Options

L-1 Intra-company Transferees Executives/Managers/Special Knowledge

TN NAFTA Treaty Canadians & Mexicans (3 years)

E-1/2 Temporary Investor Visas

<https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/fees/treaty.html>

Work Defined

Employment: Services in exchange for remuneration (money, equity, stocks) 8 CFR section 274a.1(b)(12)

Employee: *an individual who provides services or labor for an employer for wages or other remuneration.* 8 CFR 274a.1(f)

Activity: Fair Labor Standards Act states (FLSA): Time spent “in physical or mental exertion (whether burdensome or not) controlled or required by the employer and pursued necessarily and primarily for the benefit of the employer and his business

Passive vs. Active

Stock Trading/Property Ownership

- Volume Matters

Registration of Business, Trademark/Owning a Business

- No Active Role

Royalties, Internet Activities

- Location at Point of Commercialization

VOLUNTEERING OR WORKING?

Department of Labor Definition:

Service for civic, charitable, or humanitarian reasons where no individual receives anything in return for the service provided (e.g. mosque, church, synagogue, temple, homeless shelter; etc.)

Fair Labor Standards Act: Tasks others are paid to do requires work authorization

Immigrant System – Legal Permanent Residence

Current System is based on laws passed: the INA (1965) and IMMACT (1990). US grants approximately 1 million Legal Permanent Residence applications per year; 675,000 under a quota system.

The system includes humanitarian, family, and economic immigrants

Employment-Based Immigrant Visas

Quota Limits & Priority Date

- Annual Quota Limit of 140,000 employment-based Green Cards
- Country Quota Limits 7% Based on Country of Birth
- Determining Preference Category
- Determining Priority Date

Employment-Based Categories

EB-1: Extraordinary Ability/Outstanding Professor/Researchers

Certain Executives and Managers

EB-2: NIW/Faculty PERM/PERM, Degree requirements BA/BSc +5 or MSc +

EB-3: PERM, Requirements 2 years up to BA/BSc +4

Visa Bulletin

<http://travel.state.gov/content/visas/en/law-and-policy/bulletin.html>

Employment-based	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
1st	C	01JAN23	15APR22	C	C
2nd	15NOV23	01JAN21	01FEB13	15NOV23	15NOV23
3rd	01MAY23	22DEC20	08JUN13	01MAY23	01MAY23

February 26 EB Dates for
Filing Chart



September 2025 EB Dates for
Filing Chart

Employment-based	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
1st	C	01AUG23	01AUG23	C	C
2nd	15OCT24	01JAN22	01DEC13	15OCT24	15OCT24
3rd	01OCT23	01JAN22	15AUG14	01OCT23	01OCT23
Other Workers	01DEC21	01OCT19	15AUG14	01DEC21	01DEC21

National Interest Waivers EB-2

- Master's Degree Minimum
 - Matter of Dhanasar: Designates Entrepreneurship as a National Interest

Government specific interests that can be documented
Critical Technology lists; AI, Healthcare

Common Issues in Adjusting to LPR Status

J-1 -INA 212(e), 2 YR Home Rule & Waivers

**F-1 Adjustment of Status – Understand Benefits Post Filing
Travel**

Family Members

Processing Times

LPR Portability

Employment-Based Category 1 Petitions

**Outstanding
Professor/Researcher:
Internationally Recognized as
Outstanding**

Employer/Petitioner -3 FT
Research Staff

3 years of full-time research
experience required

Criteria match: 2 min/typical 4+

**Extraordinary Ability:
Sustained National or
International Acclaim**

Self-sponsored

No degree or experience required

Criteria Match minimum of
3/typical 5+

Thank You!

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