Immigration 101: What Happens After I Graduate?
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Today’s Presentation

1. Overview of Immigration System
2. Review of Important Documents
3. Nonimmigrant Visas
4. Immigrant Visas
5. Immigration Reform
Broad Immigration Overview

3 Categories of People in the U.S.

- Citizens
- Immigrants
- Nonimmigrants
Involved Government Agencies

Department of Homeland Security:
- United States Citizenship and Immigration Services - USCIS (formerly the Immigration & Naturalization Service – INS or BCIS)
- Immigration & Customs Enforcement – ICE
- Customs & Border Protection – CBP

Department of Labor:
- Office of Foreign Labor Certification
- PERM Processing Centers
- State Workforce Agencies (SWAs)

Department of State (DOS):
- U.S. Embassies and Consulates
Legal Structure & Resources

- Immigration and Nationality Act (INA)
- Subsequent legislation
- Regulations – CFR 8 (immigration), 20 (labor), & 22 (Department of State)
- Operating procedures
  - Inconsistent
  - Always changing
- USCIS memoranda
- Foreign Affairs Manual (FAM)
Document Review

What are some of the more common documents we see in immigration?
Visa Stamp
I-94 (D/S)
I-94

Admission (I-94) Number Retrieval

Admission (I-94) Record Number: 69000888062
Admit Until Date (MM/DD/YYYY): 10/10/2012

Details provided on Admission(I-94) form:

- Family Name: LI
- First (Given) Name: LYDIA
- Birth Date (MM/DD/YYYY): 01/01/1990
- Passport Number: P123423213
- Passport Country of Issuance: Mexico
- Date of Entry (MM/DD/YYYY): 04/11/2012
- Class of Admission: B1

Individuals can visit www.cbp.gov/I94 to retrieve a copy of their electronic Form I-94.
U.S. Department of State

CERTIFICATE OF ELIGIBILITY FOR EXCHANGE VISITOR (J-1) STATUS

Personal Information:
- **Name:** Emily Green
- **Birth Date:** 01-01-1980
- **Country of Birth:** Germany

Legal Permanent Residence Country Code:
- **Country:** Germany
- **Residence Country:** Germany

Program Sponsor:
- **Name:** Digging a New Institute
- **Program Title:** Exchange Visitor Program Number:
  - **Number:** P-3-121344

Purpose of the Form:
- Replace a DS-2019 form (Damaged)

Term Cover Period:
- **Start Date:** 01-01-2002
- **End Date:** 12-31-2003

Literate and Communication Skills:
- **Language:** English

U.S. Department of State/Use on Certification by Responsible Officer
- Statement of Responsible Officer for Releasing Sponsor (for transfer of program): signed by

Preliminary Endorsement of Consular or Immigration Officer Regarding Section 212(a) of the Disposition and Nationality Act and 21 CFR 98.44a, As Amended (see new label of page 6):

Travel Validation by Responsible Officer (Maximum validation period is one year):

**Exchange Visitor Certification:** I have read and agree with the statement on item 2 on page 2 of this document.

Signature of Applicant

Page 1 of 2

DS-2019 (Form AP-20)
10-2019
I-94 (Expiration Date)
I-797 Approval Notice & I-94 Card

The above petition and extension of stay have been approved. The status of the alien (foreign worker) in this classification is valid as indicated above. The Foreign Worker may work for the petitioner, but only as detailed in the petition(s) and for the period shown. The petition(s) must be filed again to acquire a new position. Approval of the extension of stay is valid for the period shown. No new employment authorization statement from the filing of this petition is required. Please contact the ISS with any questions about the extension.

The petitioner should keep the upper portion of this form. The lower portion should be given to the worker. Be sure the sponsor keeps the right part, with his or her name, for his or her personal record. This should be turned in with the "1-sr" when entering the U.S. The left part is for his or her records. A person granted an extension of stay who leaves the U.S. must normally obtain a new visa before returning. The lower part may also be used in applying for the new visa. If a visa is not required, he or she should present it, along with other required documentation, when applying for reentry in this new classification at a port of entry or at a border inspection station. The petitioner may also file Form I-129, Petition for Alien Worker, to an Approved Application Center office to request that we waive a non-refundable portion of the fee.

The approval of this visa petition does not of itself grant the alien regular status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for U.S. permanent resident status or for an extension, change, or adjustment of status.

This form is not a visa nor is it to be used in place of a visa.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

U.S. CITIZENSHIP & IMMIGRATION SVC
CALIFORNIA SERVICE CENTER
LAGUNA NIGUEL, CA 92677-0111
Customer Service Telephone: (800) 375-5263
Form I-94A (Rev. 09/10/70)

Please tear off form 797A printed below, and staple to original 797A if available.

Detach this half for personal records

Receipt # WAC-09-0
I-94# x 20
NAME
CLASS H1B
VALID FROM 01/ /2008 UNTIL 06/ /2008

Receipt Number WAC-09-0

Immigration and Naturalization Service
I-94

Departure Record
Petitioner: UNIVERSITY OF MINNESOTA

1. Petition Number
2. visa classification
3. Case Number

Form I-94A (Rev. 10/21/08) N

FRAGOMEN
Nonimmigrants

• Coming to the U.S. temporarily
• Retain residence abroad
• Dual intent - only for H’s and L’s
• “Alphabet Soup” - A-V
Alphabet Soup of Visas

- A: Govn Officials
- B: Visitors
- C: Aliens in Transit
- D: Crewmen
- E: Treaty Traders & Investors
  - E-3: Australian Temporary Workers
- F: Academic or Language Students
- G: Int’l Organization Representatives
- H: Temporary Workers
- I: Media Representatives
- J: Exchange Visitors
- K: Fiance/Spouse of US Citizens
- L: Intracompany Transferees
- M: Vocational Students
- N: Parents/Children of Special Immigrants
- O: Extraordinary Ability
- P: Artists, Athletes, Entertainers
- Q: Cultural Exchange
- R: Religious Workers
- S: Witnesses & Informants
- T: Victims of Human Trafficking
- TN: Canadian & Mexican Temporary Workers
- U: Victims of Certain Crimes
- V: Spouses & Minor Children of LPRs
- W, X, Y, Z: Coming Soon?
Business (Work) Visas

- Intracompany transferees (L-1)
- Treaty Traders and Investors (E-1 & E-2)
- Workers of Extraordinary Ability (O-1)
- Students on Practical Training (F-1 & J-1)
- Exchange Visitors (J-1)
- Most common work visas (H-1B, E-3, TN)
### Treaty Countries

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F-1 Students

Six employment programs for F-1’s:
- On campus
- Severe Economic Hardship
- Special Student Relief
- Internship with international organization
- Curricular Practical Training
- Optional Practical Training
Curricular Practical Training (CPT)

- Integral part of established curriculum
  - Need letter from school
  - School endorsed I-20 (issued via SEVIS System)
  - Can be internship, practicum, coop, work/study, or similar program
- Attended ICE approved school for full academic year in any nonimmigrant status; certain grad students may begin immediately
- Available part-time or full-time
- One year or more of full-time CPT makes you ineligible for OPT at that educational level
“Optional Practical Training:” pre- or post-graduation
- Total = 12 months; part-time during school year, full-time during vacations and after graduation
- Need employment authorization document (EAD);
- Not tied to particular employer
- Employment related to degree program

One year of full-time OPT for each academic level (Associate’s, Bachelor’s, Master’s, Professional, PhD). OPT can’t be “saved” for future degree programs; very hard to cancel after card received

Part-time OPT counts one-half of full-time rate

Can have up to 90 days of unemployment (Volunteer instead!)

You can start a business and be self-employed
STEM OPT Extension

• Student’s who majored in certain STEM (Science, Technology, Engineering, Math) fields may be eligible for a 17 month extension of work authorization

• BUT, must have a job offer from a company that is enrolled in E-Verify

• Allowed to have up to 120 days of unemployment

• Must file I-765 with USCIS BEFORE current OPT expires (and preferably 120 days before expiration)

• Students CAN work with an expired OPT card when the STEM extension application is pending with USCIS
J-1 Exchange Visitors

- Categories include trainees, interns, research scholars, specialists, students, au pairs, etc.

- Some J’s must return to home country for 2 years after completion of program or seek waiver
  - Skills list
  - Government funding
  - Graduate medical education

- J-1 Students can get practical training (similar to OPT)
  - 18 months max for pre-doctoral students; 36 months for Ph.D.s
  - Total training period can’t exceed the period of full course of study
  - Academic training permitted during or after school
H-1B

• “Specialty Occupation” -- Entry level requirement = minimum Bachelor Degree or equivalent
• Six-year maximum stay (can extend under certain circumstances - AC-21); 3 year increments
• 65,000 annual ceiling, of which 6,800 are set aside for citizens of Chile and Singapore
• 20,000 additional visas allocated to holders of advanced degrees from U.S. universities
• 4/1/14 – 4/5/14: 172,500 H-1B applications…50/50 chance!!
• Cap Subject vs. Cap Exempt
  - Cap Subject: File on 4/1 for a start date of 10/1
  - Cap Exempt: File at any time
H-1B (Continued)

• H-1B tied to employer
  - Concurrent (Dual) H-1B possible
• H-1B can be part-time or full-time
• What are the government fees? ($325, $500, $750/$1500); What are standard legal fees?
• Reasonable costs of return transportation for dismissed employee
• No grace period; once you stop working must leave
• Spouse and children (H-4) not eligible to work
Wage Requirements for H-1B

• Wage offered must be the higher of Prevailing Wage or Actual Wage paid to similarly situated employees.

• What is actual wage? Actual wage is the salary paid by the employer to workers with similar skills and qualifications.

• What is prevailing wage? The prevailing wage rate is defined as the average wage paid to similarly employed workers in a specific occupation in the area of intended employment.
Cap Gap Automatic Extension

- **Automatic Extension of your OPT work authorization to September 30th:** This happens if your approved OPT end date (on your EAD card) is April 1st, 2011 or later.
  - For example: if your OPT ended on or before March 31st, you would not be eligible for extension of work authorization until September 30th, 2011. However, you would be allowed to stay in the US if you otherwise maintain your status.

- **Extension of your F-1 “duration of status.”** This happens if your OPT had expired before April 1st, 2011. Again, you would be allowed to stay in the US if you otherwise maintain your F-1 status, but you are not authorized to work until the H-1b petition is approved and goes into effect October 1st, 2011.

- **Eligibility:**
  - H-1B petition has been timely filed (within the acceptance period)
  - Requests an employment start date of October 1st
  - Requests a change of status

- **Beware of international travel during the cap gap!**
E-3 Visa for Australian Nationals

• Visa category for citizens of Australia to take up professional positions in the U.S. – 10,500 per year available
• Job offered must be for a “specialty occupation” as defined for H-1B visa category
• Requires certified LCA
• Visas can be applied for at consulates without prior USCIS approval
• Filings can be submitted to USCIS, but premium processing is not available
• 2-year validity; renewable indefinitely
• Dependent spouses may apply for employment authorization
• No 240 day rule; no portability; no premium processing
TN Category for Canadian and Mexican Professionals

- Must be nationals of either Canada or Mexico
- Coming to U.S. to work in profession listed on NAFTA schedule
- Generally require a Bachelors degree in field
- Canadians apply at border (non-national dependents must obtain visa at U.S. Consulate)
- Mexicans apply at Consulate
- Three year increments, renewable indefinitely
- Extensions and changes of status may be filed at USCIS Service Center
TN Jobs

**General**
- Accountant
- Architect
- Computer Systems Analyst
- Disaster Relief Insurance Claims Adjuster
- Economist
- Engineer
- Forester
- Graphic Designer
- Hotel Manager
- Industrial Designer
- Interior Designer
- Land Surveyor
- Landscape Architect
- Lawyer
- Librarian
- Management Consultant
- Mathematician
- Range Manager/Range Conservationalist
- Research Assistant
- Scientific Technician/Technologist
- Social Worker
- Sylviculturist
- Technical Publications Writer

**Medical/Allied Professional**
- Dentist
- Dietitian
- Medical Laboratory Technologist/Medical Technologist
- Nutritionist
- Occupational Therapist
- Pharmacist
- Physician
- Physiotherapist/Physical Therapist
- Psychologist
- Recreational Therapist
- Registered Nurse
- Veterinarian

**Scientist**
- Agriculturist
- Animal Breeder
- Animal Scientist
- Apiculturist
- Astronomer

**Teacher**
- College
- Seminary
- University

**Biochemist**
- Biologist
- Chemist
- Dairy Scientist
- Entomologist
- Epidemiologist

**Geneticist**
- Geologist
- Geochemist
- Geophysicist
- Horticulturist
- Meteorologist
- Pharmacologist
- Physicist
- Plant Breeder
- Poultry Scientist
- Soil Scientist
- Zoologist
Immigrants

• “Green card holders” = “Permanent residents” = “Immigrants”

• Coming to U.S. permanently

• Numerically limited
  - Visa bulletin
  - Priority date

• Can become U.S. citizens after 3 - 5 years
How to Get a Green Card

1. Family
2. Work
3. Diversity Lottery
4. Asylum
5. Special Legislation
Special Legislation
Diversity Lottery

• 50,000 green cards given out each year (about 14 million applicants); usually apply sometime in October of each year
• Odds of winning the Powerball jackpot? 1 in 195,249,054
• Who is NOT eligible? Persons BORN in: Bangladesh, Brazil, Canada, China (mainland born), Colombia, Dominican Republic, Ecuador, El Salvador, Haiti, India, Jamaica, Mexico, Pakistan, Peru, Philippines, South Korea, United Kingdom (except Northern Ireland) and its dependent territories, and Vietnam.
• Persons born in Hong Kong SAR, Macau SAR, and Taiwan are eligible.
Family-Based Permanent Residence

- Immediate relatives (spouses, minor children & parents of U.S. citizens)
- Other close family members of citizens or permanent residents, including:
  1. Unmarried sons & daughters of citizens (over age 21)
  2. Spouses & children of LPRs (2A) & unmarried sons/daughters of LPRs (2B)
  3. Married sons & daughters of citizens
  4. Brothers & sisters of citizens
## August 2014 Family Bulletin

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Employment-Based Categories

• EB-1: Priority Workers
• EB-2: Advance-degree professionals & aliens of exceptional ability*
• EB-3: Professional, skilled & unskilled workers* (* labor certification required)
• EB-4: Special Immigrants
• EB-5: Employment Creation (Investors)
August 2014 Employment Bulletin

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EB-1 vs. EB-2 vs. EB-3

- **EB-3**: Jobs that require a Bachelor’s degree
- **EB-2**: Jobs that require an advanced degree
- **EB-1**: Priority workers (no labor certification)
  - Persons of extraordinary ability (similar to the O-1 nonimmigrant category)
  - Outstanding professors & researchers
  - Multinational executives/managers
Employment-Based Permanent Residence: 2/3-Stepm Process

- Labor certification (where required)
  - Filed by employer on behalf of foreign national
  - Processed under PERM system
- Immigrant preference petition
  - Filed by employer
  - Processed by USCIS
- Adjustment of status or consular processing
  - Filed by the foreign national & family members
EB-2 National Interest Waiver

• Aliens seeking a national interest waiver are requesting that the Labor Certification be waived because it is in the interest of the United States.

• Though the jobs that qualify for a national interest waiver are not defined by statute, national interest waivers are usually granted to those who have exceptional ability and whose employment in the United States would greatly benefit the national interest.

• Those seeking a national interest waiver may self-petition (they do not need an employer to sponsor them) and may file their labor certification directly with USCIS along with their Form I-140, Petition for Alien Worker.

• Good category for Post-Docs
Immigration Reform???

Comprehensive Immigration Reform in 2014? 2015? Ever?

- Dream Act?
- STEM Bill?
- EB-2 fix for India/China?
- Help entrepreneurs?
POP QUIZ!!!

What is the easiest way to get a green card?
Marry an immigration attorney!
Aaron M. Blumberg
Attorney-at-Law

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