Staff and Faculty Immigration

Overview of Staff and Faculty Immigration Options

ISS

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Invent the Future
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Agenda

• Overview of Statuses
• Common Considerations
• Discussion/Questions
Overview of Options

• B-1/WB
• F-1 OPT + F-1 STEM OPT
• J-1 AT
• J-1 Scholar categories
• H-1B
• TN
• E-3
• Green Card
B-1/WB

- Tourist Status (ESTA)
- No employment permitted
- 9/5/6 rule – if paid
- 30-day rule for unpaid activities
- Effectively, 6 month limit for truly independent activities
Recent Graduates

**F-1 OPT**
- 12 months
- Related to degree
- EAD
- Free to department
- 17 months extension for STEM

**J-1 AT**
- 18 months
- 18 months extension if PhD
- No EAD
- Free to department
- Potential 212(e) because of underlying J-1 status
J-1 Scholar categories

• 1 day up to 5 years
• Free to department
• Research and/or teaching only
• No tenure track positions
• No wage requirement
• Potential of 212(e)
  • Skills List
  • Funding Source
  • Waiver
TN

- Canadian and Mexican citizens only
- Specific position only
  - Many research positions qualify
- No wage requirements
- No cost to the department, unless filed in US
- Increments of up to 3 years
- No immigrant intent permitted
H-1B

- Specialty Occupation
- Increments of up to 3 years, 6 years max
- Wage requirement
- Filing fees
  - Must generally be paid by the department
- Dual intent
- Not eligible if subject to 212(e)
E-3

- Australian citizens only
- Specialty occupations
- Wage requirement
- Abbreviated application process
- No fees to department, unless filed in the US
- 2 year increments
- No immigrant intent
Green Card

• No restrictions – treated as US worker
• To apply for a green card based on employment (current law)
  • Expertise
  • Experience
  • Standing in field
  • Job offer (for some)
• Not eligible if subject to 212(e)
Common Considerations

- Eligibility
- 212(e)
  - Impact
  - Options
- Cost to department
- Speed/involved processes
- Salary requirements/equity
- Tax treaties
- Ultimate goal of foreign national
  - Green card?
  - Return home?
- Does H-1B automatically lead to a Green Card?
- Dependents and their work authorizations
Discussion/Questions

• Who decides which status is sought?
• Who drives the process?