

Immigration, Education, and Employment Opportunities in the United States

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AMEDF

American Education Foundation | Ensuring College Success



Agenda

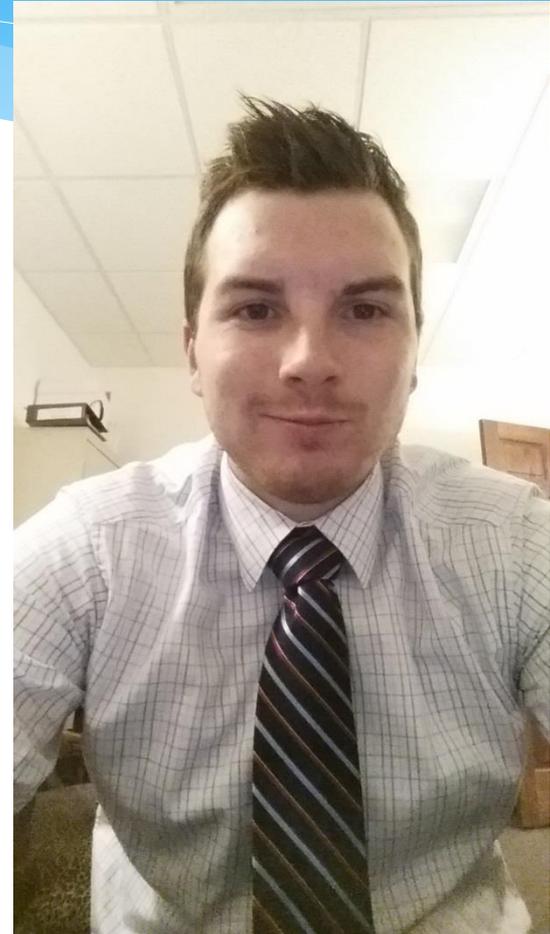
- **Introduction and AMEDF History**
- **Options after Graduation**
- **Visas: Temporary vs. immigrant**
- **Path to Work and Immigration**
- **Wrap up and Q&A**

AMEDF Horizons Initiative

- * AMEDF Mission- helping you achieve EDUCATION SUCCESS
- * Research dates back to 2005 AMEDF internship program
- * Fall 2014 launch of pilot
- * Sponsorship for programs at 50 targeted colleges with high level of international students (Nixon Peabody and Ivy Education Consultancy)
- * Help Us Help You
- * Special recognition: International Internship Program

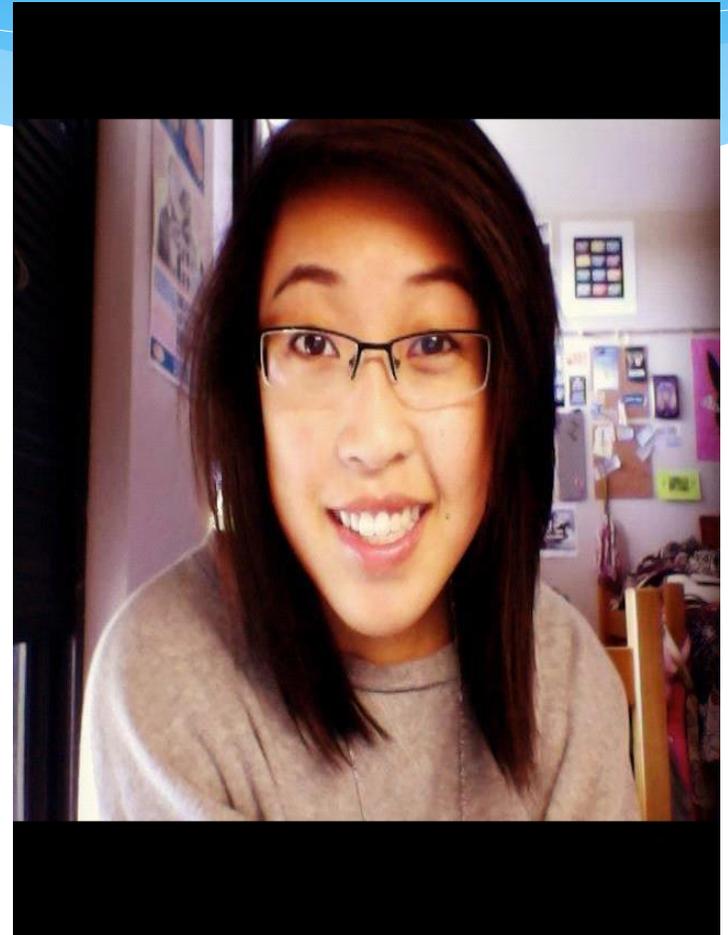
Jordan Mercer

- * Is a Senior here at UB majoring in Finance and International Business
- * Originally from Rochester, NY
- * Expert Chef in Mediterranean Cuisine and fluent in Mandarin Chinese



Krystal Truong

- * Is a Senior here at UB majoring in MIS and Marketing
- * Originally from Henrietta, NY
- * Rides and swims with elephants in spare time



Rex Huang

- * Is a Senior here at UB majoring in Finance
- * Originally from GuangZhou
- * Avid origami expert



Crystal Hu

- * Is a Senior at UB majoring in Finance
- * Originally from Guangzhou, China
- * Wants to pursue her dream as a stand up comedian



Janice Lin

- * Is a Senior here at UB majoring in MIS
- * From New York City
- * Practices the art of traditional Chinese dancing



Options after Graduation

- ❖ Return to native country with intention to stay (default)
- ❖ Return to native country with intention to immigrate
- ❖ Gain temporary employment/training experience and return to native country
- ❖ Start the process to eventually gain permanent status to be in the United States.
- ❖ **DO NOT OVERSTAY STATUS!**

You are in a Race!

- * Limited paths to stay in the U.S. with annual quotas
- * Can take multiple years of planning so start early!
- * Default is to go home after education is stopped or completed
- * Plan strategically- **OVERSTAYING STATUS can result in future visa ineligibility!**

Temporary vs. Immigrant Visas

- * **Temporary Visas issued for non-permanent purpose**
 - * **Education and training (B, E, F, H, J, L, O)**
- * Immigrant Visas issued for path to residency and citizenship
 - * Family (unlimited for immediate relatives- limited for family preference)
 - * Employment (140,000/yr for E 1 through 5)
 - * Special (adoption and diversity)

Temporary Education and Training Visas

F Student Visa:

To enter United states to attend **SEVP** approved University, High School, Elementary school, Language training program.

M Vocational Visa:

To enter United States to attend Vocational and other recognized non academic institution, other than a language training program

J Exchange Visitor Visa:

Exchange visitor visas are nonimmigrant visas for individuals approved to participate in exchange visitor program in the United states.

Temporary Employment Visas

- * **B-1:** alternative to H-1B for employment by **foreign** (non-US) **company** to complete specific purpose
- * **E-1 & E-3:** Treaty of trade or commerce between alien country and U.S. for foreign business owners (E-1) or Australian H1-B alternative (E-3)
- * **J-1:** intern or trainee exchange program for **third party companies already approved by State Department**

Temporary Employment Visas Eligible for Conversion

- * ***L-1:** Inter-company transferee for employees of U.S. multinational or subsidiary firms (eligible for vertical conversion to EB-1 or green card)
- * ***O-1:** Aliens of extraordinary ability (USCIS defined) in science, education, business or athletics (no quota and stepping stone to immigrant visa)

Temporary H1-B Visa

- * Non-Immigration Visa
- * Allows US employers to **temporarily** employ foreign workers in specialty occupations (Sch A)
- * Duration of 3 years with a maximum of 6 years
- * Not automatic but possible to convert to immigrant employment visa
- * 65,000 annual quota and 20,000 advanced degree exemption (*already reached on April 7, 2014 for fiscal year 2015*)

Labor Statistics

F-1 visas approved in 2010



H-1B visas approved in 2010



F-1s enrolled in advanced degree programs



H-1Bs transferring from F-1 status



F-1s enrolled in advanced degree programs AND studying a STEM field



H-1Bs transferring from F-1 status who had a graduate degree



H-1B Labor Condition Application and Special Occupations

- * **LCA:** A determination by the U.S. Department of Labor that there are **not sufficient U.S. workers** able, willing, qualified and available and employment of aliens **will not adversely affect the wages and working conditions** of U.S. workers similarly employed
- * **Schedule A Occupations** that qualify for a LCA
 - * Group I: Physical Therapists and Professional Nurses
 - * Group II: **EXCEPTIONAL ABILITIES TEST**
 - * Sciences or Arts (nonperforming)
 - * Performing Arts

H-2B and H3 Alternatives to H1-B

- * H-2B is a temporary non-agricultural visa for an employer that can demonstrate need
 - * Max time is for 1 year and must be a one-time need
- * H3 is a trainee visa for someone who has not completed a degree but enrolled in a formal, established training program
 - * Trainee not allowed to be in a position of normal operation and lasts up to 3 years without extensions

Temporary Visas and Work Authorization for Spouses

- * Statuses that authorizes spouses

- * E-1, E-2, E-3
- * J-1
- * L-1

- * Statuses that DO NOT authorize spouses

- * H-1B, H3
- * F-1
- * O-1
- * TN (Treaty National or NAFTA)

Temporary vs Immigrant Visa

- * Temporary visas are for persons who want to enter the United States for employment lasting a fixed period of time, and ARE NOT considered PERMANENT or INDEFINITE
- * Foreign citizens who want to live permanently in the United States must first obtain an immigrant visa
- * Immigrant Visas are the FOUNDATION for establishing PERMANENT RESIDENCE within the United States.

Temporary vs. Immigrant Visa

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Immigrant Family Visas

Immediate Relatives of Citizens (no quota)

*Spouse, minor children under 21, parent of an adult citizen or adoptee

Family Preference

- quotas based on 4 categories
- Available for adult U.S. citizens and Legal Permanent Residents (LPR)

- * Unmarried children of citizens and their minor children (23,400)
- * Spouse and minors of LPR and unmarried adult children (114,200; 77% to spouses and minors)
- * Married children of citizens and their spouses & minors (23,400)
- * Siblings of adult citizens and their spouse & minor children (65,000)

Visa for a Fiancé

K-1 temporary visa : permits the foreign-citizen fiancé(e) to travel to the United States. Must be engaged prior to applying.

K visa applicant's will **apply in home country** at US consulate office. Window is 90 days.

Who is considered a Fiancé?

- ✓ In general, the foreign-citizen fiancé(e) and U.S. citizen sponsor must have met in person within the past two years
- ✓ Both the U.S. citizen and the K visa applicant must have been legally free to marry at the time the petition was filed and must have remained so thereafter.

Immigrant Employment Visas

- * 140,000 annual quota
- * 5 categories
 - * **E1** Priority (28.6%)
 - * **E2** Professionals and Exceptional Ability (labor certification required- 28.6%)
 - * **E3** Skilled (labor certification- 28.6%)
 - * **E4** Special List (7.1%)
 - * **E5** Immigrant Investor (7.1%)

(E1): Priority Workers: 3 subgroups

Persons with Extraordinary Ability

- ✓ Extensive documentation showing sustained national or international acclaim and recognition in their fields of expertise
- ✓ Do not have to have specific job offers, so long as they are entering the U.S. to continue work in the fields

Outstanding Professors and Researchers

- ✓ With at least **three** years experience in teaching or research
- ✓ Must be coming to the U.S. to pursue tenure

Multinational managers or executives

- Have been employed for at least one of the three preceding years by the overseas affiliate, parent, subsidiary, or branch of the U.S. employer
- Must have been in a **managerial or executive capacity**, and the applicant must be coming to work in a managerial or executive capacity
- 28.6% of annual quota for E1

(E2): Professionals & Exceptional Ability: 2 subgroups

- * Labor certification and job offer required with employer-filed petition
- * 1. **Advanced-Degree Professionals** (Beyond Bachelors or Bachelors plus 5-years experience)
- * 2. **Exceptional ability** in sciences, arts or business defined as degree or expertise SIGNIFICANTLY beyond ordinarily encountered in the position
- * 28.6% of annual quota for E2

(E3): Skilled, Professionals & Unskilled: 3 subgroups

- * Labor certification and job offer required with employer-filed petition
- * 1. **Professionals** At least Bachelors
- * 2. **Skilled Worker** At least 2-years training or experience that is non-seasonal
- * 3. **Unskilled** Not temporary or seasonal
- * 28.6% of annual quota for E3

Employment Visas Rules of Thumb

- * With the **exception** of **E-1 & E5** Immigrant and **O-1** non-immigrant visas, employment-based Visas (**temporary and immigrant**) typically require the employer to initiate the process and Labor certification
- * All foreign company initiated Visas are temporary
- * U.S. multinationals and domestic employers provide path to permanent residency through conversion of certain temporary employment visas to immigrant visa

Other Visa Rules of Thumb

- * Attempting to obtain a visa by the **willful misrepresentation of a material fact or fraud** may result in you becoming permanently ineligible to receive a U.S. visa or enter the United States

(E5 or EB5): Immigrant Investors

To qualify as an Immigrant Investor:

- ☑ Invest \$1,000,000 USD
- ☑ Only \$500,000 if enterprise located in a high-unemployment or rural area, considered a **targeted employment area (TEA)**.
- ☑ A qualifying investment must, within **TWO YEARS**, create full-time jobs for at least 10 U.S. citizens, permanent residents or authorized immigrants (does not count investor, spouse or children).

Immigrant Investor or Entrepreneur Visa

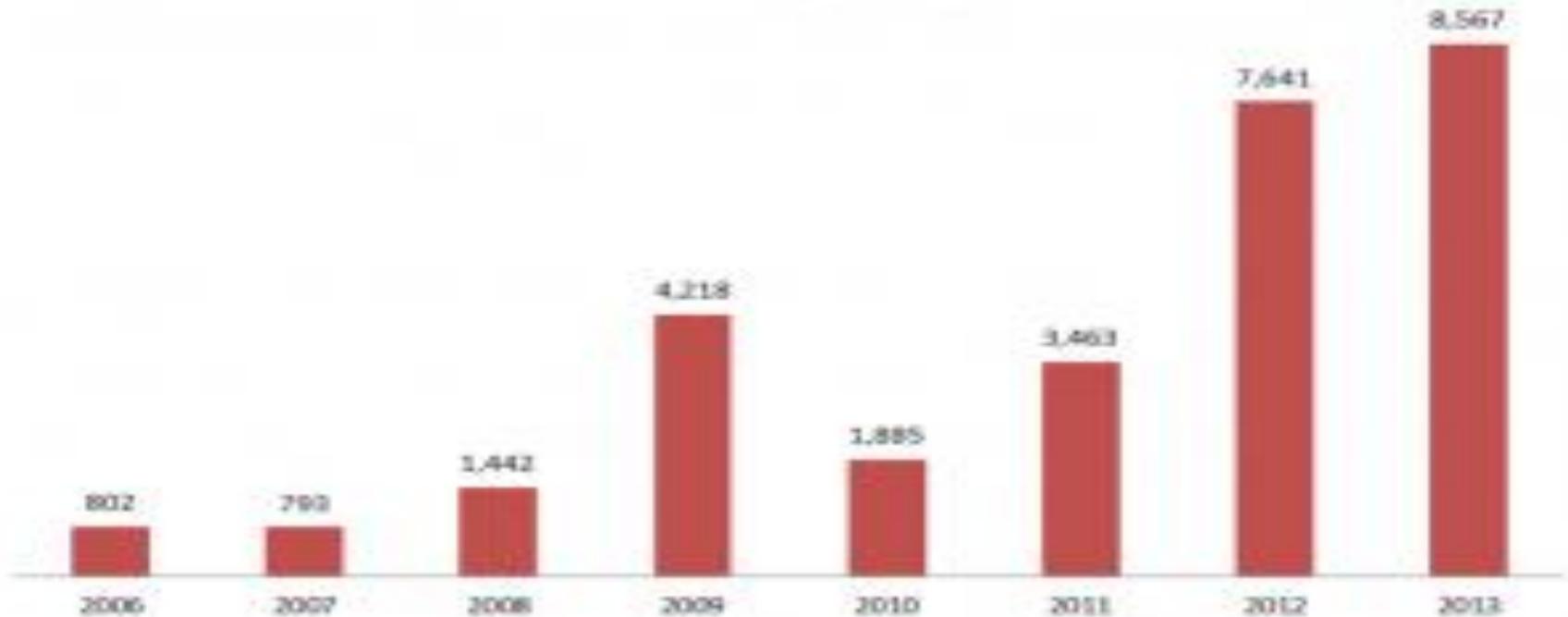
- * Invest without borrowing
- * Invest in new or troubled enterprise
- * Create 10 full-time equivalent jobs within 2 years
- * Direct investment or through Regional Center
- * At risk and active participation are required
- * Annual quota is 10,000 (already reached in 2014 given petitions already received)
- * Approved status then allow spouse and minor children (under 21) to also apply for immigrant visa

EB5 Regional Center

- * USCIS provisionally approved business plan
- * Allows for counting both indirect and direct job creation
- * Allows mixing of E5 or EB5 foreign investor funds with non-foreign investment funds to get job credits
- * Allows for quicker provisional visa to travel and stay in the U.S.
- * Easier diversification but more formality
- * TEA time sensitive!

E5 or EB5 Cont.

Total EB-5 Visa Usage by Fiscal Year



Wrap Up

Please give us your feedback!

Q & A Session

Evaluation!

Next Step : One-on-One Session 2

(E5 or EB5 real estate investment article- see Shuvo)

Resource Links:

www.eastwesthorizons.webs.com

www.AMEDF.org