Work Visas and Permanent Residency For UNM International Students and Scholars

Agenda

- Information on Student Work Authorization (on-campus, CPT, OPT, Academic training)
- Current Climate and Making Yourself Competitive
- Work Visas and Permanent Residency

Student Work Authorization

- Take advantage of all opportunities that exist on campus to get professional training and experience!!!
- Info session at the beginning of EVERY semester
- Reference the GEO website information
- Take advantage of Career Services FROM THE BEGINNING OF YOUR STUDENT EXPERIENCE!!!
- Plan when you will complete your program

Employment Categories for Those on Student Visas

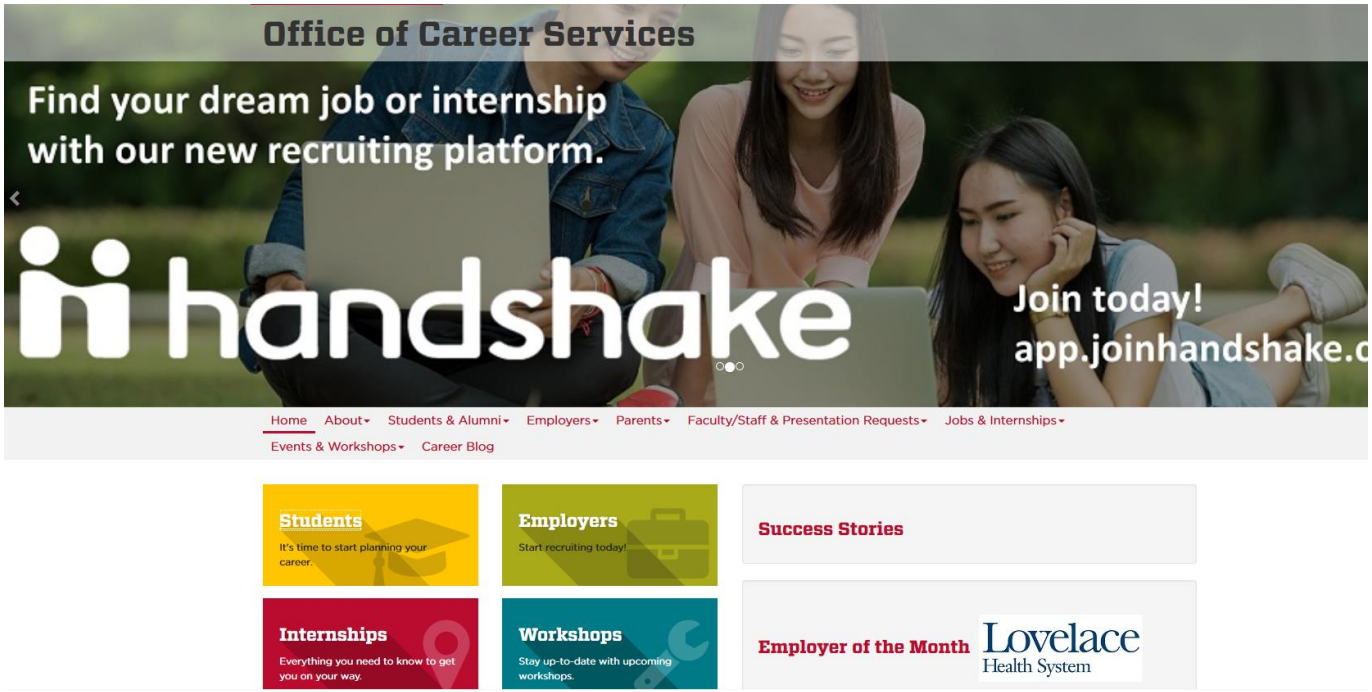
F-1 Students	**J-1 Students**
"ON CAMPUS": "UNM" work only OTHER WORK: 1.Curricular Practical Training ("CPT") 2. Optional Practical Training ("OPT")	"ON CAMPUS": "UNM" work only OTHER WORK: 1. Academic Training ("AT")

Current Climate and Making Yourself Competitive

- International students are in the US for study; work permission/authorization is a privilege and not a right!
- Easier to hire those who don't need visas
- Currently H1B applications are challenged more than ever; YOU NEED TO BE COMPETITIVE!!!

Get Help From Career Services

career.unm.edu



Get Help From Career Services
career.unm.edu

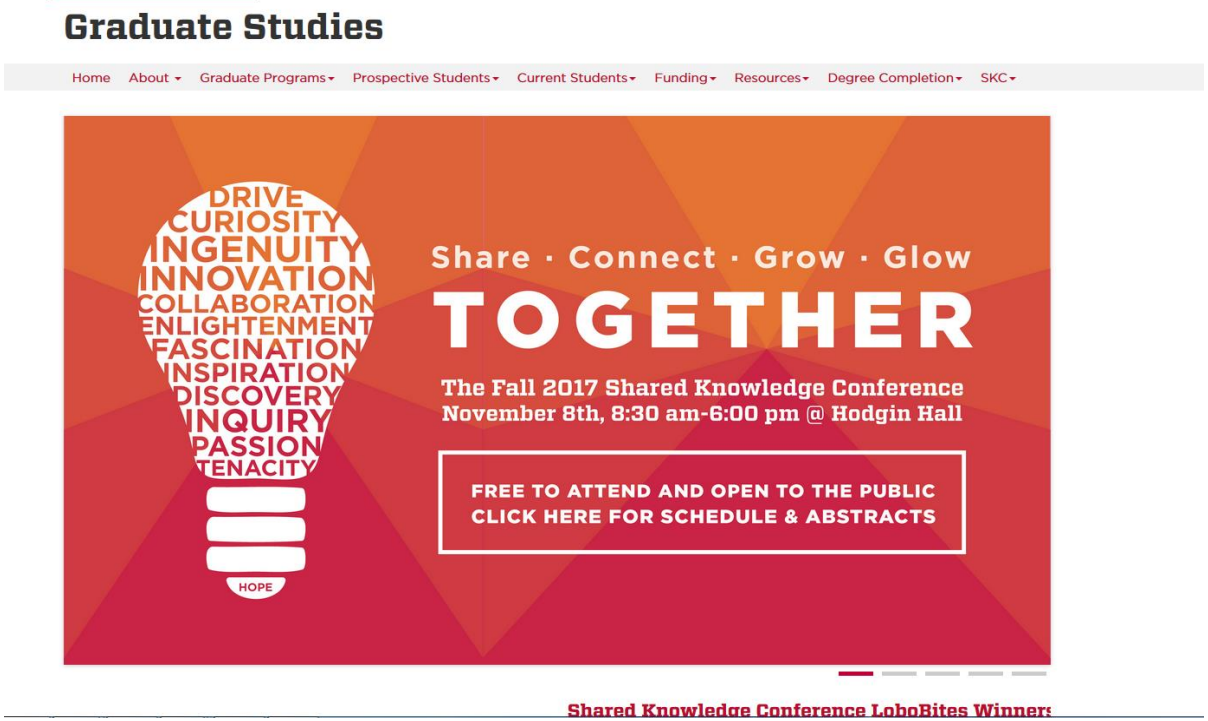
- Learn how to Network
- Practice interviewing
- Get help with your resume/CV
- Take advantage of all opportunities to learn more about the job search process
- Get experience!

Inform Yourself about Cultural Issues

- Resumé writing, job searching and job interviewing are all culturally specific!
- Important to learn the US process for these
- Also varies by field and academia vs. private sector
- Get feedback by utilizing UNM Career Services and coming to GEO/Career sessions
- Also check with your department, professors and colleagues
- Get informed before beginning the job search to have the best chance at success!!

Learn your Profession!!!

- Go to conferences (funding available on campus!
- Present your studies/research at poster fairs and sessions on and off campus (Shared Knowledge conference)
- Read and review the work of others in your field (GPSA



EMPLOYMENT BASED VISAS

AN IMMIGRATION OVERVIEW

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THE PLAN

- Non-Immigrant Visa Options (Temporary Employment-Based Visas)
- Employment-Based Immigration Options (Options Leading to Lawful Permanent Residency)
- Brief Word About Family-Based and Humanitarian Immigration Options

IMMIGRATION BASICS

TWO MAJOR CATEGORIES OF IMMIGRATION

- **Nonimmigrant Visas (NIV)**
  - The person is coming to the U.S. for a temporary period of time & will eventually return to their home country

- **Immigrant Visas**
  - The person intents to move to and remain in the U.S. permanently

Intent Matters!!!!!

HOW LONG CAN I STAY IN THE U.S.?

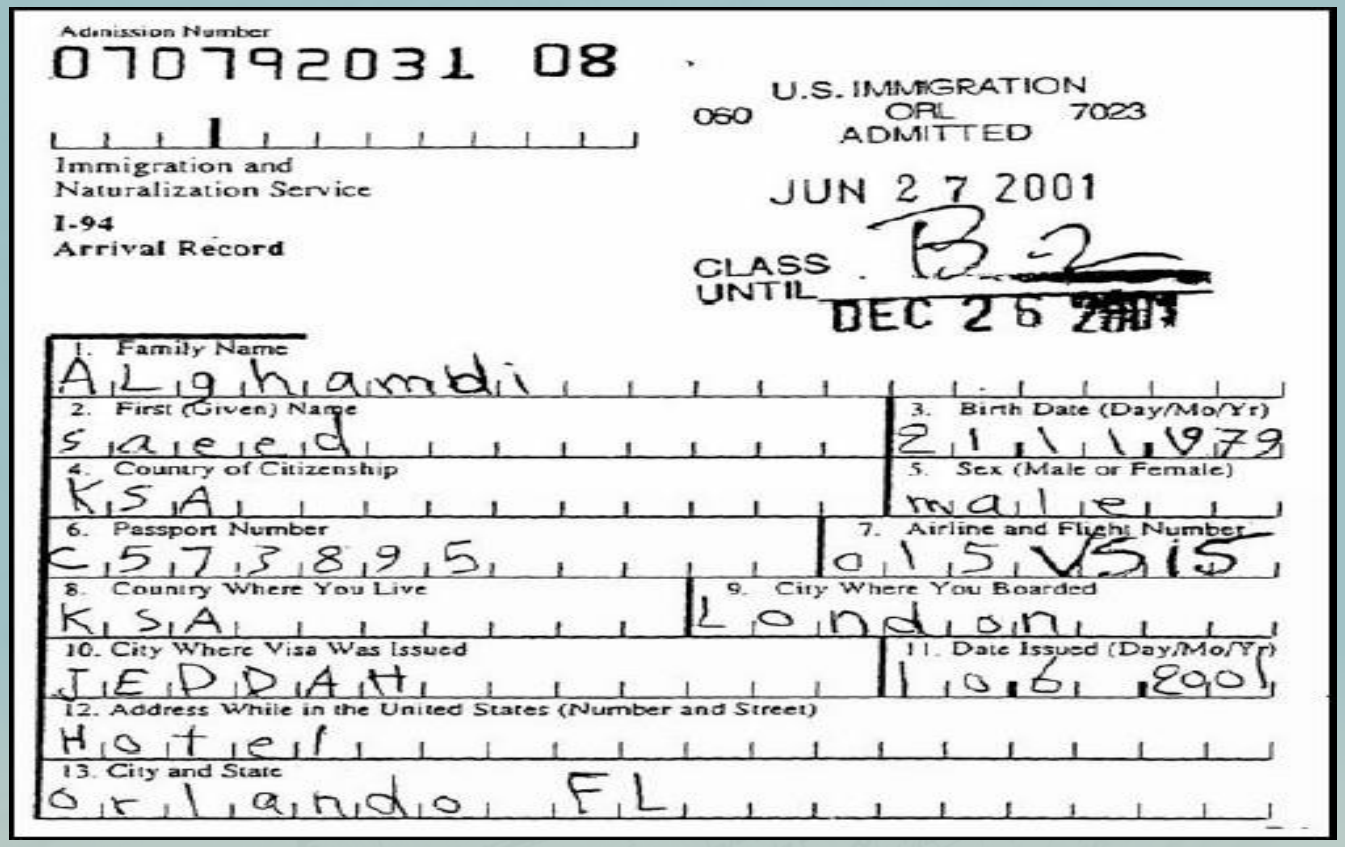
- **Visa v. Status**
  - Permission to Enter
    - Visa is a stamp in the passport with information about window of time a person can enter the U.S., how many times (one-entry or multiple), and visa category
  - Permission to Stay – How Long and for What Purpose
    - I-94 Record indicates status

KEY DOCUMENTS

- **Passport**: Issued by Country of Citizenship
- **Visa Stamp**: A Stamp in the Passport Used for Entry in the U.S.
- **I-94 Record**: Record Indicates Status (Activity/Purpose & Length of Authorized Stay)
- **Evidence of Eligibility** (I-20, DS-2019, I-797)

EXAMPLE: NON-IMMIGRANT VISA

EXAMPLE: I-94 ARRIVAL/DEPARTURE RECORD



Admission Number
070792031 08

Immigration and
Naturalization Service

I-94
Arrival Record

U.S. IMMIGRATION
060 ORL 7023
ADMITTED
JUN 27 2001
CLASS B-2
UNTIL DEC 26 2001

1. Family Name: Alghamdi
2. First (Given) Name: Saeed
3. Birth Date (Day/Mo/Yr): 21 11 1979
4. Country of Citizenship: KSA
5. Sex (Male or Female): male
6. Passport Number: C573895
7. Airline and Flight Number: 015 VS15
8. Country Where You Live: KSA
9. City Where You Boarded: London
10. City Where Visa Was Issued: JEDDAH
11. Date Issued (Day/Mo/Yr): 10 6 2001
12. Address While in the United States (Number and Street): Hotel
13. City and State: Orlando FL

EMPLOYMENT-BASED NONIMMIGRANT VISAS

TEMPORARY EMPLOYMENT-BASED VISA CATEGORIES

- Visitors for Business or Tourism (B1/B2)
- Students (F)
- Professional Workers (H-1B)
- Exchange Visitors (J)
- Extraordinary Ability (O-1)
- Canadian & Mexican Professionals (TN)
- Intra-Company Transferees (L-1)
- Treaty Traders and Investors (E-1/E-2)
- Family Members (F-2, J-2, H-4, L-3, O-3, TD)

B1/B2 VISITOR VISA

B-Visa category is for persons who wish to enter U.S. to engage in temporary tourism, business or professional activities related to employment abroad.

- **B1 Visa:** Allows visitor to work on business-related project such as consulting, negotiating a contract, or short-term training. Visitor can accept per diem and expense payment but payment for actual work generally from home country.

- **B2 Visa:** Allows visitor to travel within the U.S. for tourist activities. Visitor is not allowed to work.

J-1 EXCHANGE VISITOR

- **Different Categories & Limitations**
  - Professors & Research Scholars
  - Trainees & Interns
  - Short-Term Scholars
  - Foreign Medical Graduates
- **Before You Commit – Will the INA 212(e) 2 year home residency requirement apply?**
  - Government funding (U.S. or COI)
  - Skills List
  - Medical Graduates
  - Can you get a waiver? CONRAD 30, No Objection, Hardship

CANADIAN & MEXICAN NAFTA PROFESSIONAL WORKERS

- **TN Visa**:
  - Nonimmigrant NAFTA Professional visa allows Canadian and Mexican citizens to work in the U.S. as NAFTA Professionals in prearranged business activities for U.S. or foreign employers
  - Profession must be listed on NAFTA list
  - Must meet specific education/experience requirements of profession
  - Valid for up to 3 years & can be renewed indefinitely

O-1 VISA: EXTRAORDINARY ABILITY

- Extraordinary abilities in sciences, arts, education, business, or athletics; or
- Demonstrated record of extraordinary achievement in film or television
- Extremely difficult to obtain!
  - Win a Nobel or Pulitzer Prize
  - Get a leading role in a movie
  - Win a national award
  - Get media attention
- Granted for up to 3 years & renewed indefinitely

H-1B SPECIALTY OCCUPATIONS

- Basic Requirements:
  - Job Offer
  - Prevailing Wage
  - Bachelor or Higher Degree
  - Specialty Occupation
  - Dual intent
- Procedure/Processing:
  - Quota & Exemption
  - Length of Approval
  - Extensions
  - Spouses and work

H-1B SPECIALTY OCCUPATIONS

Things to keep in mind regarding the H-1B:

- The job must require a Bachelor's degree or higher (or it's equivalency)
- The employer must specify the duties and responsibilities for the position
- The employer must be willing to meet the prevailing wage set by the DOL
- The employer must be able to prove it has the ability to pay the prevailing wage
- Annual quota : The "cap" : numbers become available in April for October start dates
- 6 year maximum time allowed unless visa petition has been filed

H-1B SPECIALTY OCCUPATIONS: F-1 CAP GAP

- "Cap-Gap" Defined
- Automatic extension of work authorization vs. extension of status only
- H-1B filed during 60 day grace period
- Cap-Gap and STEM OPT extension
- H-1B change of employer
- H-1B revocation
- Timing is ESSENTIAL for transition to H-1B

H-1B VISA: NEW CHALLENGES

- More intense scrutiny of H-1B visa applications
- 45% increase in Requests for Evidence – Especially for Entry Level Positions
- Slowing Down Overall Process
- Greater cost to employer to respond to RFEs

PERMANENT EMPLOYMENT-BASED IMMIGRATION

LAWFUL PERMANENT RESIDENCY (LPR)

Authorization to Live & Work Indefinitely in the U.S.

Obtained Through:

- Family Immigration
- Employment Based Immigration

-Deportation/Removal Proceedings

- Diversity Visa Program
- Asylum

EMPLOYMENT-BASED IMMIGRATION

- Results in Legal Permanent Residency (green card)
- In general, which preference category (which level) you qualify for depends on the degree and experience required for the position
- There are waiting lists for many categories, especially for (Mainland) Chinese and Indian nationals
  - Waiting lists DO NOT move in normal time, many move more slowly

EMPLOYMENT-BASED IMMIGRANT CATEGORIES

- First Preference (EB-1)
  - Extraordinary Ability, Outstanding Researcher, Multinational Executive
  - Exempt from Labor Certification Requirements
- Second Preference (EB-2)
  - Nat'l Interest Waiver of the Labor Cert,
  - Labor Cert required: Advanced Degree Professionals, Bachelors plus 5 years experience
- Third Preference (EB-3) (Labor cert required)
  - Skilled Worker (2+ years experience), Bachelor's Degree

EMPLOYMENT-BASED IMMIGRATION

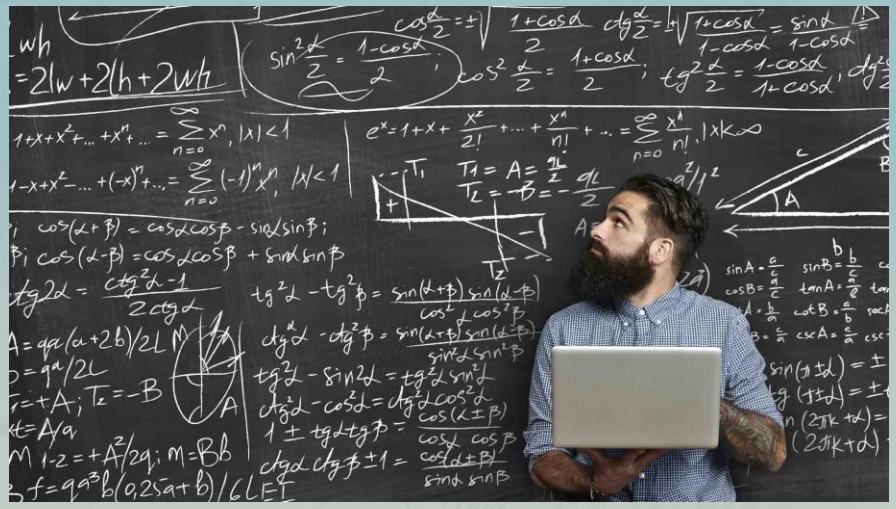
- 140,000 green cards available per fiscal year plus unused family green cards
  - EB-1: 28.6% + unused EB-4 & EB-5
  - EB-2: 28.6% + unused EB-1
  - EB-3: 28.6% + unused EB-1 & EB-2
  - EB-4: 7.1%
  - EB-5: 7.1%
- No more than 7% of total green cards approved annually may be issued to individuals born in same foreign country
- SO????? “Priority Date” Backlogs

PERMANENT RESIDENCY QUOTAS NOW (NOVEMBER 2017 VISA BULLETIN)

Employ-ment based	All Charge-ability Areas Except Those Listed	CHINA-mainland born	EL SALVADOR GUATEMALA HONDURAS	INDIA	MEXICO	PHILIPPINES
1st	C	C	C	C	C	C
2nd	C	15JUN13	C	08OCT08	C	C
3rd	C	01FEB14	C	15OCT06	C	15JAN16
Other Workers	C	01APR06	C	15OCT06	C	15JAN16
4th	C	C	01NOV15	C	01APR16	C
Certain Religious Workers	C	C	01NOV15	C	01APR16	C
5th Non-Regional Center (C5 and T5)	C	01JUL14	C	C	C	C
5th Regional Center (I5 and R5)	C	01JUL14	C	C	C	C

EB-1: OUTSTANDING RESEARCHERS & PROFESSORS

- **Part A Requirements**:
  - International Recognition
  - At Least 3 Years Experience in Teaching or Research in the Academic Area
  - Tenure Track Teaching or Comparable Research Position



EB-1: OUTSTANDING RESEARCHERS & PROFESSORS

- **Part B Requirements *(must meet 2)*:**
  - Recipient of major prize or award
  - Membership in associations that require their members to demonstrate outstanding achievements
  - Published material in professional publications written by others about the alien's achievements
  - Participation as a judge of the work of others in same or allied academic field
  - Original scientific or scholarly contributions in the field
  - Authorship of scholarly books or articles

EB-2: EXCEPTIONAL ABILITY

- Also known as “National Interest Waiver”
- Applicants must show their work:
  - Will be in an area of substantial intrinsic merit
  - Will offer the U.S. a benefit that is national in scope
  - Will serve the national interest to a substantially greater degree than a U.S. worker having same minimum qualifications

EB-2 EXCEPTIONAL ABILITY

- Exceptional Ability: "A degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business."
- Applicants must demonstrate abilities are exceptional by meeting 3 of following:
  - Degree relating to area of exceptional ability
  - 10 yrs experience (documented in letters from employers)
  - License to practice profession
  - High salary compared to others in field
  - Membership in prestigious professional associations
  - Recognition from peers, industry, organizations and/or governments

EB-3: SKILLED WORKER, PROFESSIONAL, OR OTHER WORKER

- Skilled Workers: Persons whose job requires a minimum of 2 years training or work experience
- Professionals: Persons whose job requires at least a U.S. Bachelor's degree or foreign equivalent and are a member of the profession
- Other Workers: Persons performing unskilled labor requiring less than 2 years training or experience
- All EB-3 categories require labor certification, full time job offer, and employer sponsor

EMPLOYMENT-BASED LPR PROCEDURE

- Employer-sponsored or self-sponsored
- Labor certification or extraordinary/national interest/exceptional
- Multiple petitions
- Multi-step process (Labor Cert → I-140 → I-485)
- I-485 approval = green card
- Non-immigrant status?
- Policy issue: evaluation of permanent residence eligibility at time of hire

LABOR CERTIFICATION PROCESS

- Prevailing Wage Determination
- Job Description/Job Ad
- Recruitment Process
  - State Job Order
  - 2 Sunday Journal Ads
  - 1 Local/Ethnic Newspaper Ad
  - Job Search Website
  - Employer's Website
  - Internal Posting Notice
- DOL EtA-9089
- I-140, Immigrant Petition for Alien Worker

RECRUITMENT QUESTIONS ABOUT IMMIGRATION STATUS

- Non-Discrimination Requirement
  - No Discrimination Allowed Between U.S. Citizens, U.S. Nationals, Permanent Residents, Asylees, Refugees, and 1986 amnesty program's "Temporary Residents."
  - Recruiters NOT allowed to ask "Are you a U.S. Citizen?" or "Do you have a Green Card?"
  - Recruiters NOT allowed to request specific documents or to require "more or different" documents than the minimum required.

RECRUITMENT QUESTIONS ABOUT IMMIGRATION STATUS

- Employers May Elect Not to Hire Candidates Needing "Immigration Sponsorship"
- Recruiters ARE allowed to ask "Are you legally authorized to work in the United States?" followed by "Will you now or in the future require sponsorship for an employment visa status?" (e.g., H-1B visa status)

EMPLOYMENT-BASED IMMIGRATION: TIMING MATTERS

- H-1B Visa Beneficiaries should strategize aplan for Permanent Residence with an attorney as soon as possible but no later than 4 years into H-1B status
- A carefully timed plan for Permanent Residency can extend H-1B visa beyond 6 years (under certain circumstances)

FAMILY-BASED IMMIGRATION

FAMILY-BASED IMMIGRATION

- You may be able to immigrate through a family member if you are the spouse, minor (under 21) unmarried child of a United States Citizen, or parent of a 21 year old child. There are no quotas for these categories.
- You also may be able to immigrate through a family member if you are the adult (over 21) child of a United States citizen or a Legal Permanent Resident (unmarried children only), or if you are the sibling of a United States citizen. However, you may be subject to quotas (waiting lists).

HUMANITARIAN RELIEF

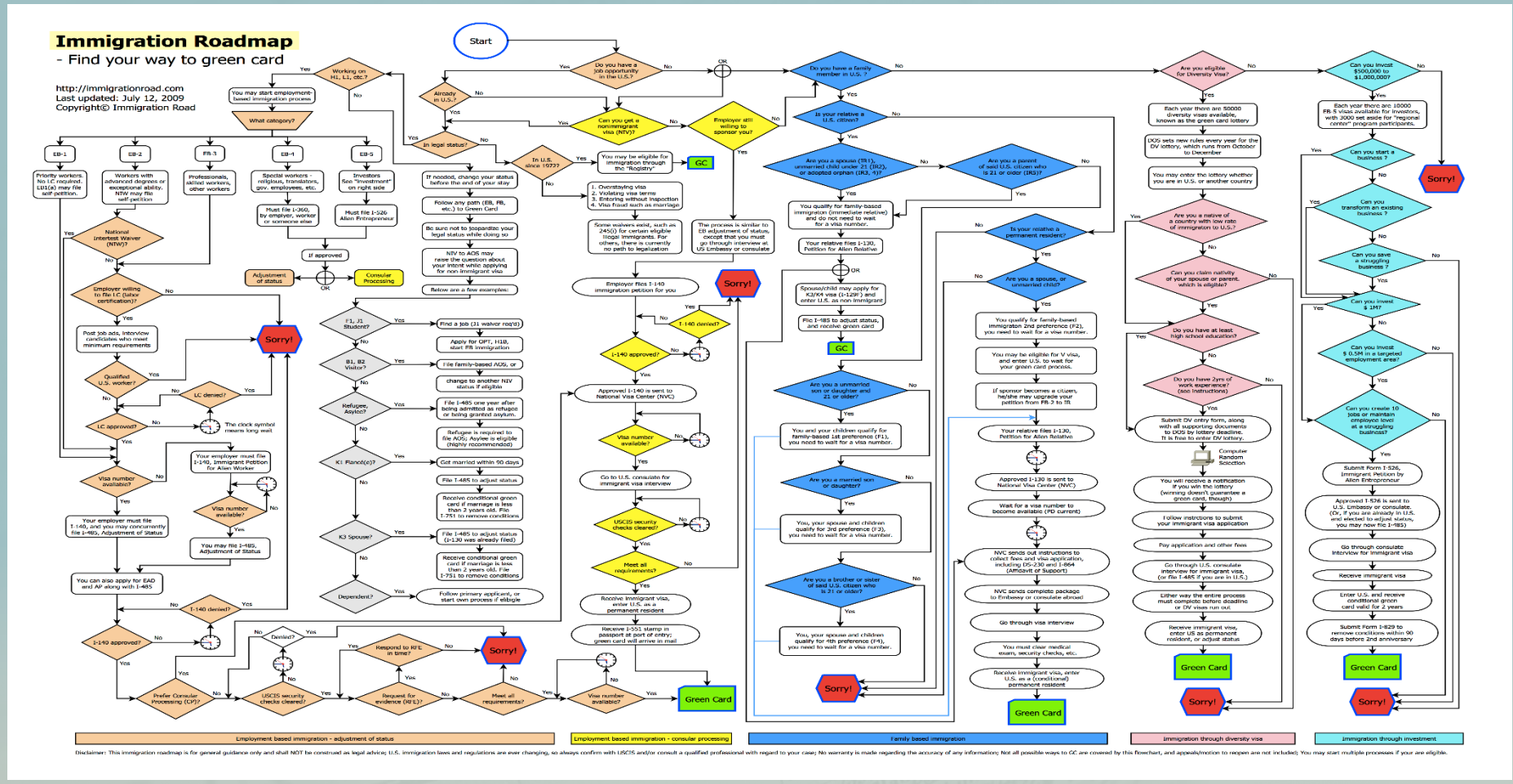
HUMANITARIAN RELIEF

If you are….

- A victim of a violent crime (including domestic violence) and you assist law enforcement, you may have a path to a U visa.
- Afraid to return to your home country because of a fear of persecution, you may have an asylum claim.
- A victim of domestic violence and are married to a United States Citizen or Legal Permanent Resident, you may have relief available.
- Remember that DACA is no longer an option under new administration ☹

PLANNING FOR YOUR FUTURE

IMMIGRATION PROCESS IS LIKE A MAZE



PLANNING FOR YOUR FUTURE

- Identify Your Goals
- Seek Legal Advice on Steps to Achieve Your Goals
- Do Not Rely on Internet Research
- Know that Your Case/Situation is Not the Same As Your Friend's Situation
- Be Mindful of Timing When You Make Choices About Your Future!

QUESTIONS?????

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