



Immigration Sponsorship Options after OPT

An information session presented by Boston University's
International Students & Scholars Office

Guest speaker

Sharryn Ross

of Ross Silverman LLP

Presenters

Jeanne E. Kelley, Director, ISSO

James E. Leck, Associate Director for Student Services, ISSO



Agenda

- F-1 STEM Extension of OPT
- F-1 Cap-Gap Extension
- H-1B Classification
- Alternatives to the H-1B
- Lawful Permanent Residence
- Q & A



Format and Questions

- Presentation of each section
- Questions regarding that section
 - As time permits
- Opportunity for questions at end of program
- Presenters and ISSO staff will remain to entertain individual questions



F-1 STEM Extension

- Limited to
 - Certain Science, Technology, Engineering and Mathematics majors
 - Students completing a period of F-1 Post-completion Optional Practical Training (OPT)
 - Employer must be registered with E-Verify
- 17-month extension
- Must apply prior to end of regular OPT



F-1 Cap-Gap Extension

- Designed to fill the gap between the end of OPT and the start of H-1B on October 1st
- If cap-subject employer files H-1B requesting change of status and October 1st start date while OPT is valid:
 - F-1 status is extended until 10/1
 - OPT employment authorization also extended until 10/1
- If H-1B is filed during 60-day grace period:
 - F-1 status is extended until 10/1
 - OPT employment authorization NOT extended



F-1 STEM and Cap-Gap Extensions

- Keep documentation of your employment because... You may not accrue periods of inactivity or unemployment
 - No more than 90 days during regular OPT
 - No more than 120 days overall if STEM extension is approved

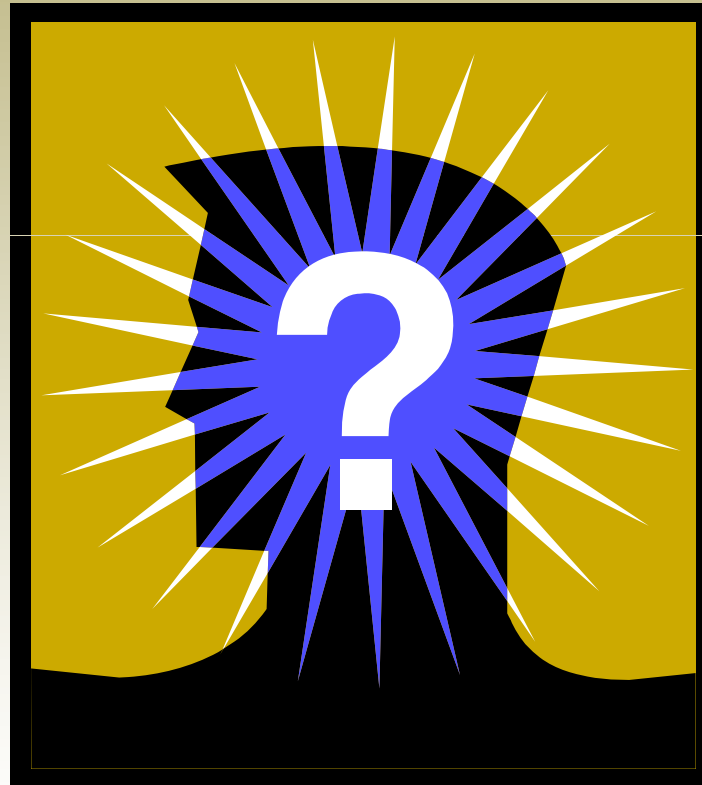


Paystubs
Letter from
employer verifying
employment dates

Letter from
organization
verifying volunteer
dates



Questions?





H-1B Classification

- Overview of the H-1 Classification
 - Temporary worker in a "specialty occupation"
 - The position must require at least a bachelor's degree in a specific field
 - The employee (YOU) must possess at least a bachelor's degree (or equivalent) in the field of specialization
 - Employer sponsored
 - Employer pays most application fees
 - Employer submits all documentation to government agencies on behalf of employee



H-1B Classification

- Limitations
 - Six (6) year limit on holding H-1B status
 - Up to three years, initially
 - Extension up to three additional years



H-1B Classification

- H-1B “Cap”
 - 65,000 each fiscal year (government’s fiscal year which begins on October 1st)
 - 20,000 additional for those who earned master’s degree or higher from U.S. institutions
 - All employers subject to the cap EXCEPT:
 - Institutions of Higher Education
 - Higher Ed affiliated non-profit entities
 - Non-profit research organizations
 - Government research organizations
- The FY 2011 Cap was reached in January
- The FY 2012 Cap has not yet been reached

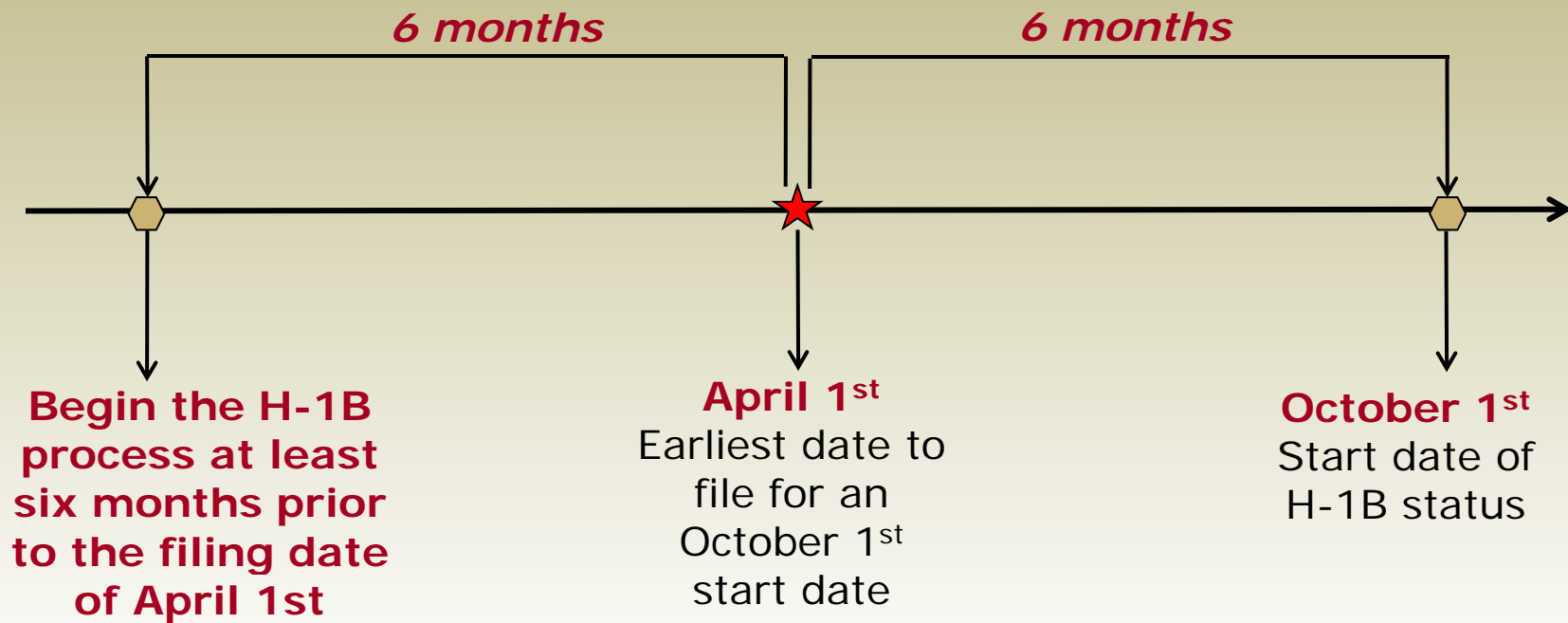


H-1B Classification

- The H-1B Application Process
 - Prevailing Wage
 - Labor Condition Application (LCA)
 - USCIS Petition
- Timing of the application
 - How long does the process take?
 - Premium processing
 - When to begin discussing sponsorship with the employer
- Concurrent and part-time employment

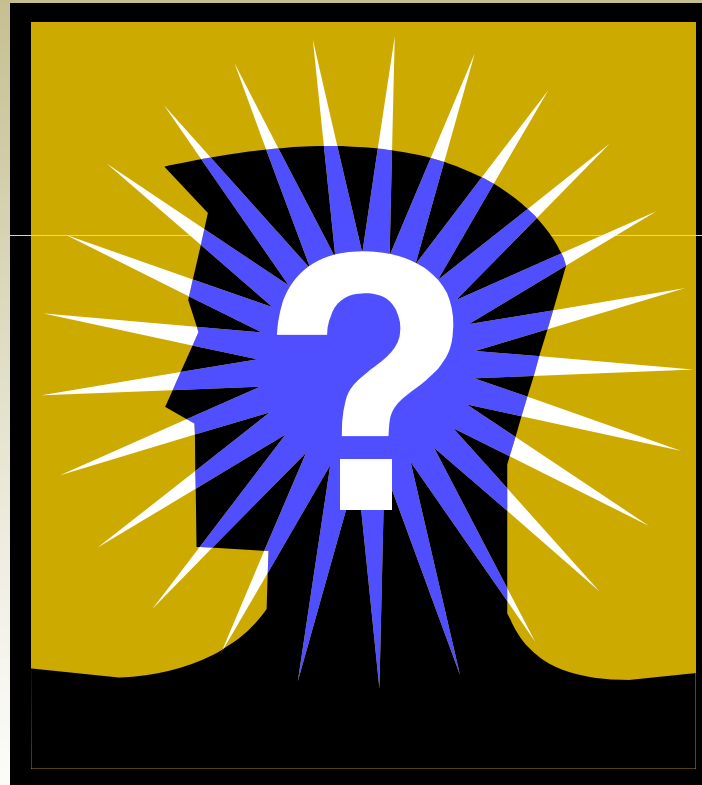


H-1B Cap Application Processing Timeline





Questions?



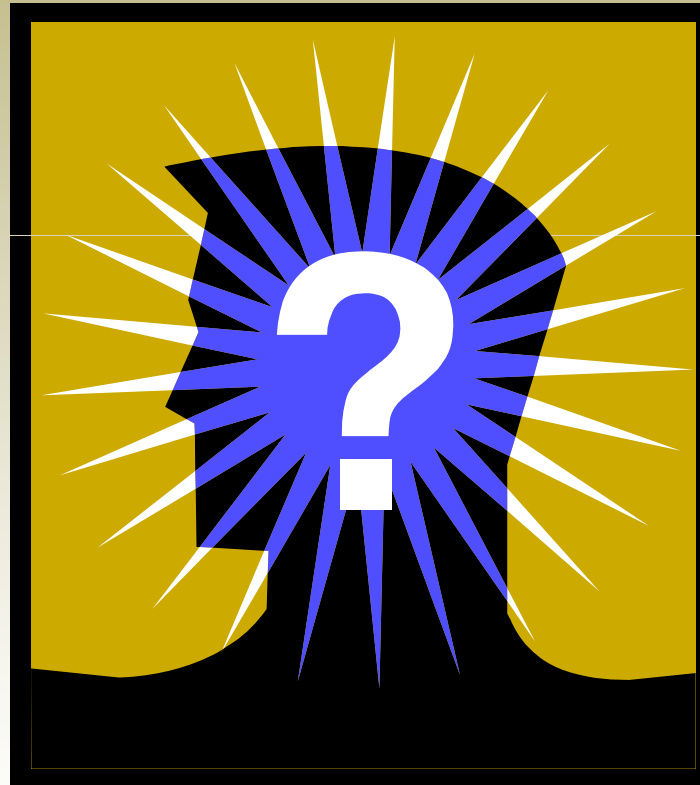


Alternatives to the H-1B

- Citizenship-based alternatives
 - TN (NAFTA): Canada, Mexico
 - H-1B1 (Free Trade Temporary Worker): Singapore, Chile
 - E-3 (Specialty Occupation Worker): Australia
- Employment/Activity-based alternatives
 - J-1 Exchange Visitor
 - Research Scholar
 - Professor
 - Short-term Scholar
 - Specialist
 - Trainee
 - O-1 Workers of Extraordinary Ability
 - P-1, P-2, P-3 – Artists and athletes
 - Q-1 International cultural exchange employment
 - R-1 Religious worker



Questions?





Lawful U.S. Permanent Residence (“Green Card”)

- Paths to permanent residence?
 - Diversity lottery
 - Family-based petitions
 - Refugee/Asylee
 - **Employment-based**



Lawful Permanent Residence (“Green Card”)

- Approximately 140,000 employment-based immigrants per year as limited by U.S. law
- Divided among five (5) employment-based categories.
 - First Preference (EB-1) - 28.6% (40,040)
 - Aliens of Extraordinary Ability
 - Outstanding Professor or Researcher
 - Certain multinational executives and managers
 - Second Preference (EB-2) - 28.6% (40,040)
 - Members of the professions holding advanced degrees
 - Aliens of exceptional ability in the sciences, arts, or business



Lawful Permanent Residence (“Green Card”)

- Third Preference (EB-3)
 - Professionals and skilled workers (requiring 2 or more years of specific education, training, or experience - 28.6% (40,040))
 - Other (unskilled) workers – 10,000
- Fourth Preference (EB-4) - 7.1% (9,940)
 - Certain special immigrants
- Fifth Preference (EB-5) - 7.1% (9,940)
 - Employment creation, for immigrants who invest in a new commercial enterprise that will benefit the U.S. economy and create at least 10 full-time jobs for U.S. workers



Lawful Permanent Residence (“Green Card”)

- Employment-Based Categories
 - EB-1 (First Preference)
 - Aliens with extraordinary ability
 - *No labor certification, no job offer required*
 - *Must show that you have extraordinary ability in the sciences, arts, education, business or athletics which has been demonstrated by sustained national or international acclaim and your achievements must have been recognized in the field through extensive documentation. Available only for those who have risen to the top of their field.*
 - Outstanding professors and researchers
 - *No labor certification, job offer required*
 - *Must show that you are internationally recognized as outstanding in a specific academic field.*
 - *3 years of teaching and/or research experience, generally post-Ph.D.*



Lawful Permanent Residence (“Green Card”)

- EB-2 (Second Preference)
 - Members of professions holding advanced degrees
 - *Labor certification required, job offer or national interest waiver* required*
 - Aliens with exceptional ability in the arts, sciences or business
 - *Labor certification required, job offer or national interest waiver required*
 - *An individual with at least 10 years of experience in the field, with expertise significantly above that ordinarily encountered in the sciences, arts or business*

*** The National Interest Waiver:** *requirement of a job offer from a U.S. employer can be waived if the services of an alien who qualifies under the employment-based second preference are determined to be in the "national interest."*



Lawful Permanent Residence (“Green Card”)

- Labor Certification establishes that
 - The position has been properly advertised
 - There are no minimally qualified U.S. workers who are willing and able to take the position
 - Employment of a foreign worker will not adversely affect the wages and working conditions of similarly employed U.S. workers
- Labor Certification is filed through a system called PERM



Lawful Permanent Residence (“Green Card”)

- Summary
 - Categories requiring PERM Labor Certification
 - EB-2 Advanced degree holder
 - EB-3 Skilled worker or professional
 - Categories that do NOT require PERM Labor Certification
 - EB-1 Extraordinary Ability – *must prove they continue to work in the field*
 - EB-1 Outstanding Professor or Researcher – *must have an offer of a tenure track teaching or research position*
 - EB-2 Advanced degree holder – *must show that their work is in the national interest*
 - EB-2 Exceptional Ability in Arts, Sciences or Business – *must show that their work is in the national interest*



Lawful Permanent Residence (“Green Card”)

- The application process
 - Labor Certification obtained from Department of Labor through PERM
 - Employer petitions USCIS (Form I-140)
 - Employee submits application for adjustment of status (Form I-485)
 - Employee submits optional application for employment authorization (I-765) to be authorized to work while I-485 is pending
 - Employee may also submit application for Advanced Parole for travel outside the U.S. (Form I-131)

These
are filed
together
when a
visa is
available



Lawful Permanent Residence (“Green Card”)

- Timing of the application
 - How long does the process take?
 - When to begin discussing sponsorship with the employer
 - Other timing considerations
- Who pays for what?
 - PERM process
 - I-140 Petition
 - I-485 Application
 - I-765 EAD application
 - I-131 Advanced Parole
 - Attorney/legal fees



Loss of Employment – Remaining in U.S.

- Dependent status (spouse, child)
- Visitor Status
- Returning to school

**These options will likely require the
submission of a change of status
application to USCIS**



Closing Thoughts





Contact Information

Sharryn E. Ross

Ross Silverman LLP

59 Temple Place, Suite 605

Boston , MA 02111

Phone: (617) 542-5111

Fax: (617) 542-2331

Email: sross@rsllp.net



Questions?

