

Online Resource

How International Students and Scholars in the United States Can Tackle Visa Sponsorship Challenges?

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Abstract

This article is intended to help prepare international students and scholars who desire to stay and work in the United States. While the barrier of immigration law may seem like an insurmountable mountain, it is possible to climb over it and achieve your career goals. It will also provide a brief introduction to the job search strategy that you need to adopt as well as the role confidence and perseverance play in your U.S. job search success.

Beating the Odds

Mihaela, a former international student from Bulgaria, had just lost her first American job after two solid years and was suddenly facing a scary immigration situation. She no longer had a company sponsoring her H-1B work visa and she knew that she needed to quickly find a new company to sponsor her. She contacted an immigration attorney immediately to find out her options and how long she had. He told her the laws describing how long she could legally stay in the country without sponsorship are vague, but sixty days is usually the limit.

Sixty days. That's a lot of pressure, isn't it?

Since starting school in the U.S. in 2005, Mihaela had worked hard to find a career she loved and had invested the last seven years building professional skills. Now, in order to stay in America and continue to pursue her passions, she had to take action. The lawyer had advised her that she had three options: 1) find a company to sponsor her 2) apply for a visitor's visa to extend her stay for three more months (though this would jeopardize her immigrant status) 3) apply to school and change to student visa status or 4) get married to a US citizen.

Not ready to hit the books or go down the aisle, she began to look for a company to sponsor her. She didn't sit back and only apply online to jobs. Instead, Mihaela used her network and interpersonal skills. She was a Quantitative Market Researcher and



found twenty companies she would like to work for. The day she lost her job, she sat down and made a plan of action that included:

- Quickly update résumé
- Identity strengths
- Reach out to her network
- Decide on job title
- Identify target companies
- Expand her network
- Reach key decision-makers
- Become an expert in her field

Within the first week, she connected with the right people at some of the companies, but that wasn't enough. She wanted to get interviews at all twenty companies. So she continued to network online and offline to meet the right people. She went to networking events every single night, travelled to different cities to attend industry-related conferences, and had absolutely no fear when approaching people who might be able to help her in her job-search. At these events, she focused all of her energy on finding and talking to CEOs, CFOs, Directors and other decision-makers. Mihaela, understanding that her Bulgarian contacts were of little use in the United States, simply walked up to company CEO and said, "This is what I think you can improve and this is how I think I can improve it."

She maximized her time by reading name tags, approaching conference speakers and speaking to few people her age. She was well-read on industry happenings and able to provide interesting insights that added value to the conversations. She had strong opinions that gave lasting impressions, and made sure to follow up with these decision makers the next day. Ultimately, it is this last quality of fearlessness that is one of the best you can have. The ability to approach and engage with anyone is crucial in the modern business world, particularly when you may not have many on-hand connections (i.e. you now live in a foreign country and do not have the same list of contacts and connections that you might back home). In the end, her confidence, and direct, solution-oriented approach led her to find a job and new visa in 25 days!

In four weeks, she had only applied to her twenty dream companies and had been internally recommended by decision makers at fifteen! Those fifteen recommendations led to ten interviews and two final job offers.

Mihaela proved herself to be a very solution-oriented person. Her ability to explain specifically what she could do for the potential employer made her stand out. By presenting someone with an example of how her presence in the company would benefit and improve their situation, she gave people a solution, and shown her own potential value. One must also be proactive, as Mihaela demonstrated during her interviews. Whenever the talk of visas came up, she was not concerned: she had done her own

research, spoken with an immigration lawyer and knew the steps necessary to finalize a sponsorship. When the topic arose, she was able to reply, “I need a visa but don’t worry, I can explain to you the process and connect you with my lawyer who can do it easily.”

Before the first interviews, these companies had no intention to sponsor a visa, and yet they were willing to do so when they chose Mihaela as their best candidate. Her case disproves one of the biggest myths espoused by foreign nationals: that some companies don’t sponsor visas. This is simply not true. Almost any company that wants you on the team can sponsor a visa. You just have to be specialized and able to help that company succeed.

After losing her job, Mihaela could have put her tail between her legs and gone home. She could have got a job in a different country or gone to graduate school. Instead, she saw an opportunity to find something better than her previous position, and pursued that chance. During her four-week job search, she discovered a lot about both her career and herself. She never wavered from her passions, her life, other dreams.

The same is true for international students who are finishing their degrees and want to join the profession in their area of study.

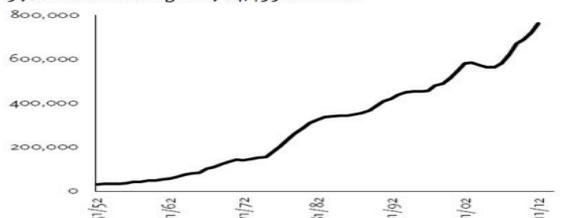
The Expectation

You will not be handed a job. If you think the visa immigration laws are “not fair” and you deserve a job for all your hard work in school, then you might as well stop reading this article right now.

You need to be willing to work even harder, overcome your fears, adapt to American business culture and change the way you’re approaching your job search. You’re literally competing against hundreds of thousands of Americans, international students, foreign nationals, and global business people. You need to act differently to succeed.

B. INTERNATIONAL STUDENT TRENDS

In 2011/12, the number of international students in the U.S. increased 5.7% to a record high of 764,495 students.



* Data from the National Center for Education Statistics

As you can see from this figure, the US international student population is steeply increasing year after year. It is projected to top 800,000 students this year and will only continue growing.

The problem is that the number of H-1B visas (the most sought-after) being issued by the U.S. government *isn't* growing. Except in some professional fields, there is an annual “cap” for H1B

visas, which means that the U.S. government can only issue a certain amount of these visas every year. Currently, the H-1B cap is set at 65,000 with an extra 20,000 on top of that for people that have master degrees or higher (MBA candidates, PhDs, etc.).

Many of the 800,000 will seek one of the 85,000 visas available. Furthermore, that is only the U.S. international student population; the job market is flooded with global candidates and recent graduates seeking the same visas, on top of all the American citizens qualifying for the same jobs available.

So how could you possibly get your dream job and visa with those odds?

Don't Believe Everything You Hear

I often tell people that throughout their life that they will encounter two choices of travel. One route is easier and less-frightening. The other is road and the other is grueling and time-consuming. Ninety-five percent of people follow road number one. Why?

Some people are terrified of the unknown people. They're worried about getting their feelings hurt, getting rejected, encountering difficult circumstances and failing. The first thing you should understand is the greatest myth about immigration law: "My dream company said it doesn't sponsor visas." The simple truth is that absolutely *any* company can sponsor a visa. Does that surprise you? I was surprised when I first learned this.

If you can prove to a company that you will provide enough value to merit sponsoring, they can sponsor you. Yes, this is a difficult task; but if you plan and work the way Mihaela did, you can achieve the results you desire.

More Options Than You Think

There are many different visa options available to foreign nationals. In this section, I will briefly cover each of them so you know what possibilities exist. Often international students and scholars think that the H-1B is the *only* option for employment in the U.S. As a result, they miss out on viable alternatives like the J-1, O-1, E-3, H-1B1, and the L1 visas.

If you are a student, make sure you consult with the international student office in your school about CPT, OPT or STEM OPT. While I will provide as comprehensive an overview as possible within the pages of this article, I still strongly suggest that you speak with an immigration attorney for "pro bono" advice (meaning provided free of charge) regarding your specific situation. Everyone is from a different country and has different variables involved in their immigration process. The information provided here will allow you to enter the lawyer's office with a confident understanding of your choices, and the ability to make the most of your conversation with the legal professional.



The H-1B

The highly sought-after H-1B visa is familiar to most international students looking to work in the United States. Its popularity stems from the fact that it is the only visa which may lead to eventual permanent resident status. The H-1B allows employers to recruit and hire foreign nationals for a specific period of time (which can be no less than three years and no longer than six years). Typically, an employer will apply for a three-year visa and if the new employee continues to do well, the company may apply again at the end of the second year.

To qualify for an H-1B, you must have a specialty occupation that cannot easily be done by an American. For this reason, it is crucial to be *extremely* specific in your job search (a process which will be discussed in the next chapter). This demand for “specialization” is intimidating, and many international students assume that they do not qualify.

Bear in mind, though, that your particular job may be done in a broad range of industries and professions. You simply need to be able to correlate your degree and skills to the position of interest. There are, of course, qualifications for the company, as well. To sponsor you, the employer must have the appropriate credentials and be registered at the state and federal level. They must also be willing to pay you an “equal wage,” which means that you must be paid the average wage for your exact title. This is why it’s difficult for an immigrant entrepreneur to get a visa.

Once all the qualifications are met, the employer must send your visa application to the U.S. Bureau of Immigration. The approximate cost of this whole process is \$1500 – \$4000, varying depending on the size of the company (greater or less than 50 employees). Websites like **myvisajobs.com** list all companies that sponsor H-1B visas, sorted by industry, category, etc. On this site, you can also find additional answers to many questions and laws surrounding the H-1B visa.

Unlimited H-1B’s

The U.S. Citizenship and Immigration Services (USCIS) exempts individuals working at certain organizations from the annual H-1B cap. This means that you can work for one of these kinds of companies without having to worry about that 85,000 number. Specifically, the exemption applies to anyone employed at an institution of higher education; a related or affiliated nonprofit entity; a nonprofit research organization; or a governmental research organization.

Optional Practical Training (OPT)

Optional Practical Training, otherwise known as OPT, can grant temporary employment directly related to an F-1 student’s area of study. It is conferred on you once you



graduate, and it lasts 12 months. You must not leave the country while on it as you may not be able to re-enter it. For the 12-month period, you can work for a company whose work is directly related to your major. This is a great way to show your value to an employer. Remember: when you show yourself to be a valuable employee, a company is much more likely to sponsor you for an H-1B. Your school will be able to answer any questions you have about applying and getting OPT.

Pre-Completion OPT

This program allows you to work in your field after just one full academic year. The only condition is that the work must be part time. As a result, many international students utilize this visa option for internships. Such internship work experience can be very valuable for undergraduate students, both as a means of gaining situation experience, and an avenue through which you can network and connect to business contacts who may prove very helpful following graduation. Have in mind that any pre-completion OPT will be subtracted from your 12 month OPT limit. So if you have a three month internship, you will only have 9 months left.

Curricular Practical Training (CPT)

CPT allows you to work during your school year. For some degrees, this work experience is mandatory prior to graduation. Northeastern University in Boston, Massachusetts, for example, requires its students to participate in three “co-ops” (internships) before completing their studies. For any work like this, you will need a CPT. The biggest advantage of CPT is that the time will not be subtracted your OPT limit.

STEM OPT (Science, Technology, Engineering, and Mathematics)

This is the same as regular OPT except that it is for science, technology, engineering, and mathematic degrees. If you’re wondering if your major falls into one of these categories, you can find out online. STEM OPT candidates can apply for a 17-month extension.

I should mention that this option can serve as a safety net when applying for an H-1B. It is possible that an employer’s filing does not go through the first year. However, in this case the employer can extend your OPT. This allows you to remain with the company even if the visa cap has already been reached that year. The process of application for an H-1B can resume the following year, giving you a great way to stay in the US and keep working for the company.

J-1

The J-1 is used by a lot of researchers, professors, and short-term visiting scholars. If you’re trying to work for university or research firm, you may qualify for this visa. In this situation, the program sponsor must be sponsored by Department of State, rather than a private company. Also, the J-1 visa is distinct in that its recipients must be able to



demonstrate non-immigrant intent, and prove residence abroad. In other words, you must have proof a home or apartment ownership in your home country, and need to prove that you have no intent to permanently relocate to America. This is noticeably different from other visa types like the H-1B, which may ultimately lead to U.S. residency. Proving these details of non-immigrant intent can be a little tricky, but an immigration attorney can provide simple solutions to ensure that you comply with this rule. The ultimate benefit of the J-1 is that it is easy to prepare, faster to obtain and it is also cheaper than the H-1B.

O-1

The O-1, or Extraordinary Ability visa, is a great one to get if you are capable of getting it. Of course, it's difficult to acquire because you must be one of the top people in your field. Some professions that can receive O-1's include athletes, coaches, musicians, writers, physicists or scientists.

There is no cap for the Extraordinary Ability visa. The only issue with this visa is that in order to remain in the US, you must continue to be extraordinary. Essentially, the government has the ability to say that you are no longer extraordinary and end the visa. The subjective nature of this call has led to many interesting legal situations.

L-1

This visa is for key employees of an international company. To qualify, that company can be located in the U.S. or outside of it, so long as it can establish a parent or subsidiary of that company in the US. There is no cap to this visa, either. Consequently, it can be a strong visa option, if you can find a company willing to sponsor it.

An example of such an international company might be World Bank. Let us say that you work for World Bank in France, and you decide to get a master's degree in the U.S. If World Bank hires you after graduation, they can easily get you this visa in the States. Or perhaps you're currently working in a global company and want to move to America. You can speak to your manager, hiring manager, or recruiting manager about the possibility of a foreign stay. They might be able to provide that opportunity through an L-1 visa.

H-1B1

This is the last visa I will review and is only for citizens of Singapore and Chile. If you're a citizen of either of these countries, you can apply directly at a U.S. Consulate abroad. As with the J-1 visa, you must have non-immigrant intent and plan on returning to your home country.



How to find the right immigration attorney

Now that you have a basic understanding of some of the visas available, you should speak to an immigration attorney. Finding the right attorney is crucial to your success, because their counsel will provide you with the most effective, secure means of legally residing in the United States. Keep in mind that some companies will have their own attorneys, but I still strongly advise that you have your own legal contact.

A piece of advice I give my students is that the immigration attorney you choose should be willing to consult you for free. You should feel like you can trust them completely. You should know that they have your best interests in mind and want to help you succeed. If they are not willing to consult you for free, they may not give you the attention you deserve. Of course, there are legal services which you will need to pay for, but basic question-and-answer sessions should be available to you for free.

To find a lawyer, simply search Google or LinkedIn to search for “immigration attorney” in your city. There will be many options and it is up to you to set up phone calls and meetings with them.

Questions & Actions

What if I speak to a company and they say “We don’t sponsor visas.”

Earlier in this article, I described Mihaela’s experience. After losing her job, and with only 60 days to find a new one, she began searching. She really worked her tail off, found 20 target companies, met the right people, got interviews and negotiated a job offer. She never gave them a chance to say this.

She discussed sponsorship once the company was interested in giving her a job. I suggest you try to do the same. Again, you just have to prove your value to the company. At this point the cost of a visa is \$1500 - \$4000, which is not a big sum for most companies. Once you have established yourself as a potentially valuable employee whom they are eager to hire, the negotiations of visa paperwork simply become part of the process.

How important is it that I know these laws?

Most American employers don’t know much about visa laws. It is a complex and scary process to some employers. Many do not know the cost of sponsoring a visa. For this reason, you are at a great advantage when you are able to present your future employer with their options. The preparedness on your part will also additionally affirm in your employer’s mind your suitability for the job.

Imagine saying to a future employer: “Applying for an H-1B is easy and I have a great chance of being approved because my background matches the exact requirements



of this position. The cost is only about \$3000, but I think that I could generate that value for you very quickly. I have my own immigration attorney ready to file the paperwork for you too.” Instead of, “You can give me a visa, right?”

How do I prepare for the visa discussion with a future employer?

To prepare for this you should write down questions that they may ask you and the appropriate answers. You can do online research, ask people in informational interviews and ask other foreign nationals to come up with these questions.

If I’m outside of the country do I have to tell the companies I’m applying to?

I tell my students that they should have their correct address on their resume but if you are flexible you can find other options. I know of a case where a German businessman was able to fly to America immediately for any interview. In another case, a person was utilizing the 3-month visitors visa. If you have this flexibility, you should make it clear.

Can I pay for my own visa?

No. The employer must pay. You can however pay to expedite the process and decision. If you pay an expedite fee, you will typically get an answer in a few weeks instead of months.

How do I know whether my job is a “specialty occupation”?

While some occupations are clearly “specialty occupations” as defined by laws and regulations, others are not so clear, and the USCIS will make a decision on a case-by-case basis. For some professions such as computer programmer, general manager, librarian, consultant, designer, etc., determination of “specialty occupation” is a complicated process, and many factors will be considered.

What if the visa cap has already been hit?

You should still have your company apply. It may get you an extension and allow you to stay in the country for another year, at which point your company can apply again.

When can the H-1B cap petitions be filed?

The past few years have shown that it is best to file H-1B cap cases by the beginning of April. The USCIS permits H-1B cases to be filed by more than one potential employer on behalf of a single foreign national. However, it is not permissible to have a single employer file multiple H-1B petitions for the same beneficiary in an effort to increase one's chances in the lottery. Call an immigration attorney and ask for pro-bono advice on your specific situation. Make sure to call rather than email. If the first lawyer you ask



says “no,” call another one. Keep calling until you are successful. You may get more information on the website of the U.S. Citizenship and Immigration Services (www.uscis.gov) - Government-run website that has many free resources, updates and necessary forms.

Editor’s note:

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