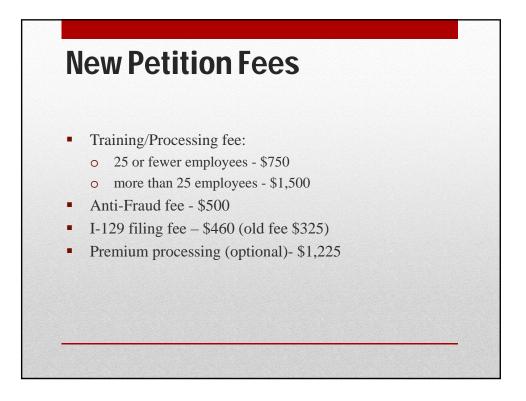
### H-1B Visa

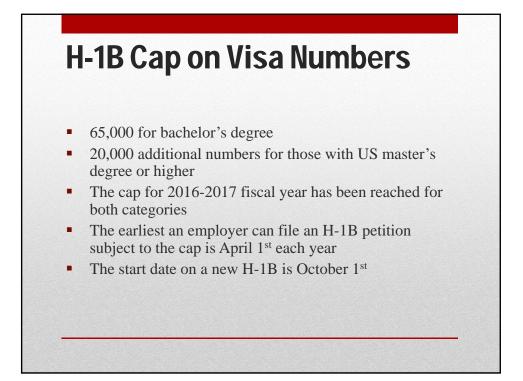
Presented by Sok-Khieng (So-Can) Lim of Davies Pearson, P.C. Tacoma, WA

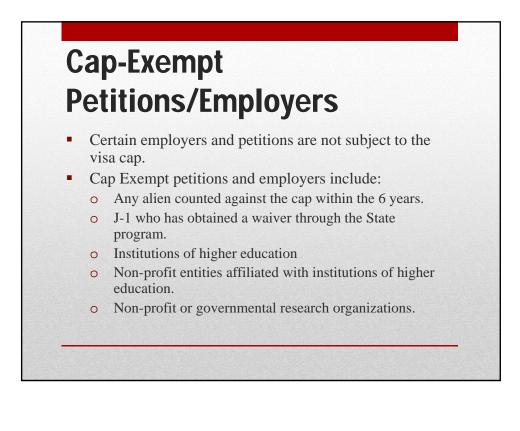
## Summary of the H-1B Visa

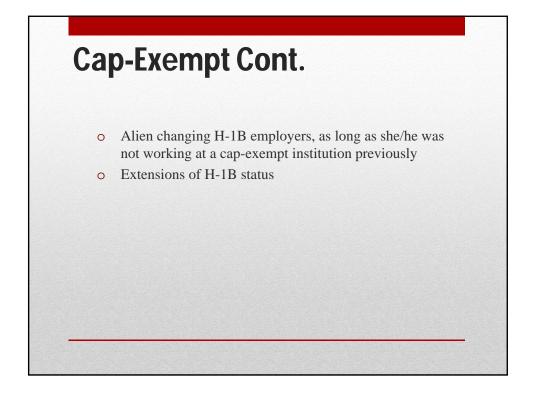
- Non-immigrant (temporary) visa
- Six years (with certain exceptions)
- Professional or "specialty" occupation requiring a bachelor's degree
- Employer specific
- Location specific

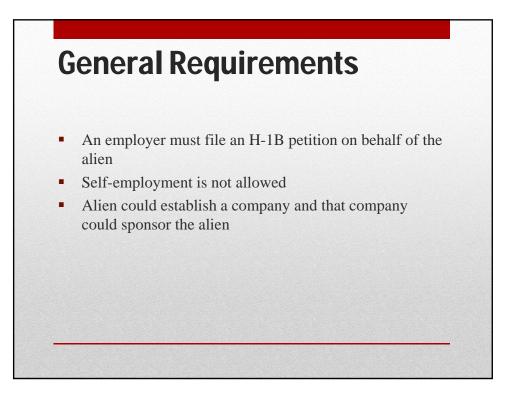


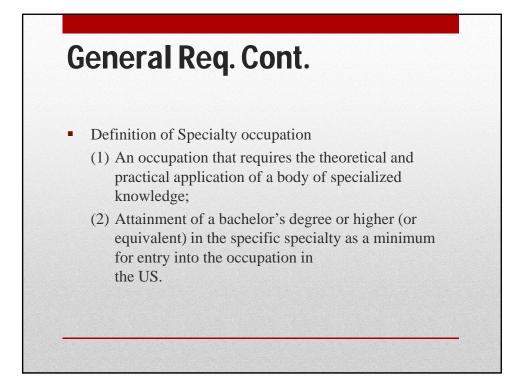


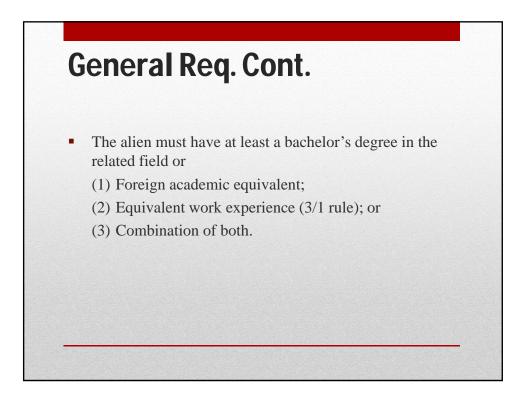


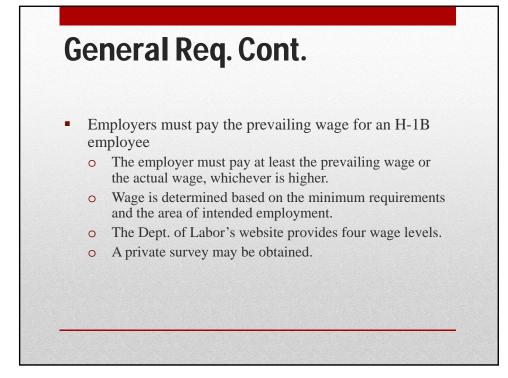


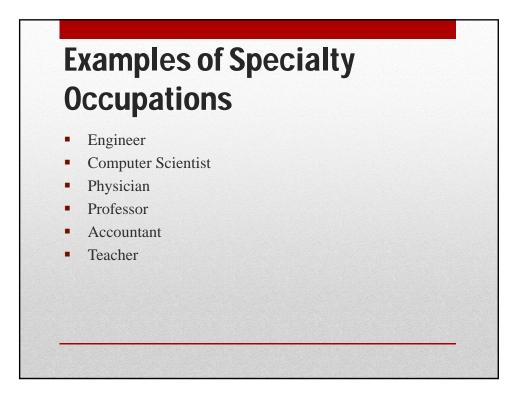








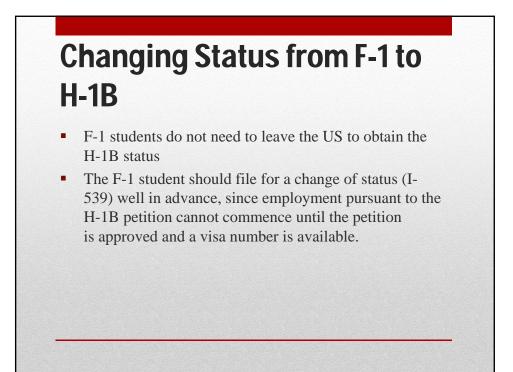


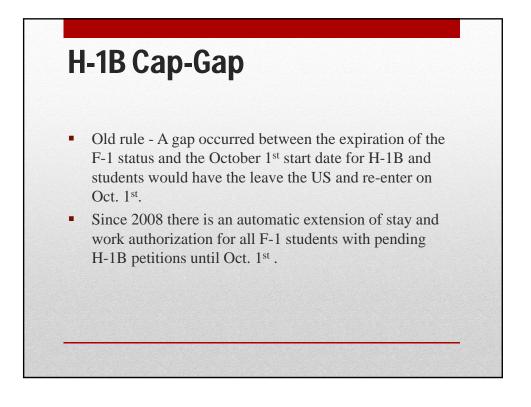


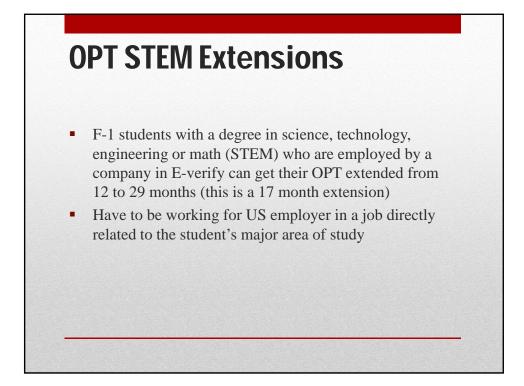
#### Examples of Non-Specialty Occupations

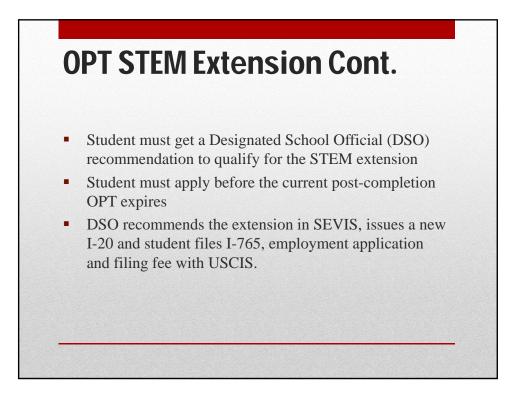
- Waitress with a Ph.D.
- General office manager
- Receptionist
- Cleaning maid
- Customer service representative in a nontechnical field

# Application Process Obtaining an H-1B is a two step process The US employer must file an LCA with DOL containing certain representations regarding wages & working conditions to get certification Employer must file an H-1B petition and supporting documentation with USCIS regional center after obtaining a certified LCA from DOL After receiving an approved H-1B petition, aliens who are not in the US must apply for an H-1B visa at a US consulate abroad.







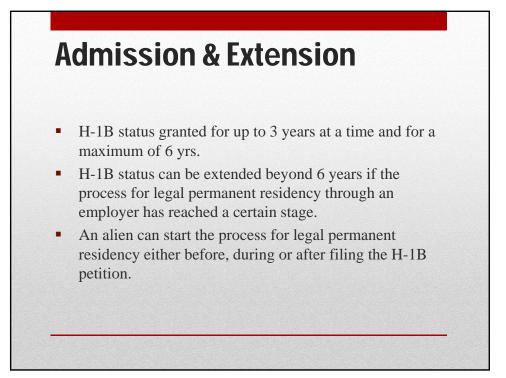


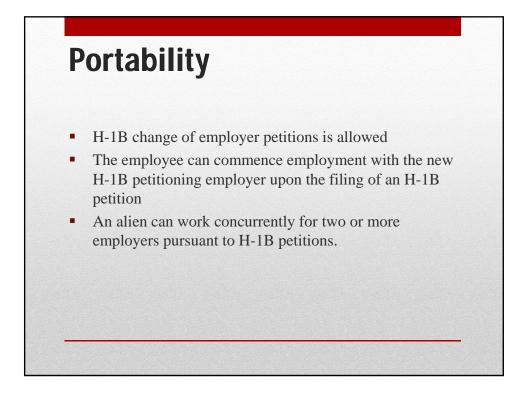
#### **Requirement for Post Extension Approval**

- Student must report to the DSO by 10 days of any change to name, resident/address, email address, employer name, employer address or job title/position, supervisor's name, start and end date.
- Student must report to the DSO every 6 months confirming the information even if there are no changes.



- F-1 student may not aggregate more than 90 days of unemployment during the first 12 months in OPT
- F-1 student may not aggregate more than 120 days of employment during the entire 29 months, extended OPT STEM period.
- Students have a 60 day grace period at the end of the OPT or STEM extension once it expires.





#### Obtaining U.S. Permanent Resident

- To obtain legal permanent resident through an employment based category is a three step-process:
  - (1) Filing and obtaining an approved LCA from DOL
  - (2) Filing an I-140 immigrant petition.
  - (3) Upon approval of an I-140 petition and if a visa is available, filing I-485 application for adjustment of status to become legal permanent resident.

#### Labor Certification

- Labor certification is the first step in a three step process.
- Purpose of labor certification is to establish that there are no US workers qualified, willing and able to fill the job
- A US employer must show a pattern of recruitment before filing an LCA application with DOL

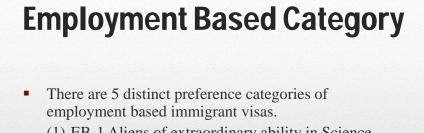


#### Recruitment Requirements Cont.

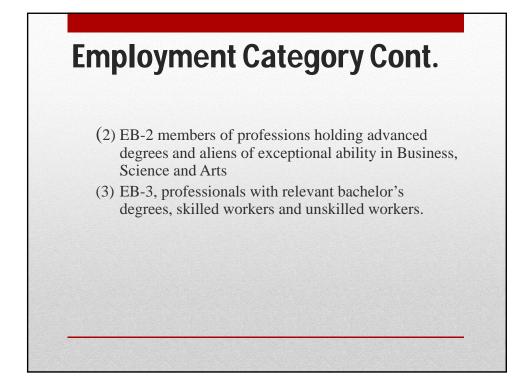
- US employer must place an advertisement in additional listings such as a professional magazine or journal, company website, campus placement office, radio or television for at least 2 weeks
- US employer need to obtain the prevailing wage determination from the SWA

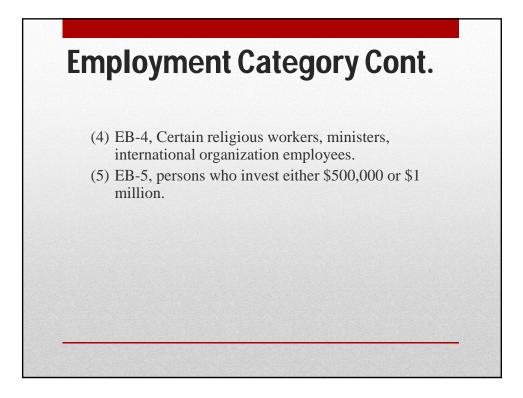
#### Recruitment Requirements Cont.

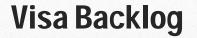
- US employer must internally post the job/position at the company's facility for at least 30 days
- Once the requirement is completed and US employer determined there are no US workers who are qualified for the job, US employer then files LCA (Form 9089) with DOL to get it approved before filing the I-140 petition for a foreign worker.



 EB-1 Aliens of extraordinary ability in Science, Arts, Education, Athletics or business, Outstanding Professors or Researchers and Multi-National Executives and Managers.







- Each month the State Dept. publishes the Visa Bulletin listing the priority dates that are current for each category, which can be found at <u>http://travel/state.gov/visa/frvi\_bulletin.html</u>
- The only way to project one's priority date is by monitoring the State Dept.'s visa bulletin and inferring from the movement over the last several months.
- There is currently a 12 year backlog for someone in the EB-3 category who is not from India





