

EB3

Module II
Immigration Petition
and Related Forms

Ramon Rocha

EB3

Complete Guide

Work-Based Visa

Module II

Immigration Petition and Related Forms

Ramon Rocha

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Summary

About the author

Foreword

Legal Notice

Chapter 1: Immigration Petition (I-140)

Header

Part 1: Information About the Person or Organization Filing This Petition

Part 2: Petition Type

Part 2: Petition Type (continued)

Part 3: Information About the Person for Whom You Are Filing

Part 4: Processing Information

Part 4: Processing Information (continued)

Part 5: Additional Information About the Petitioner

Part 5: Additional Information About the Petitioner (continued)

Part 6: Basic Information About the Proposed Employment

Part 7: Information About the Spouse and All Children of the Person for Whom You Are Filing

Part 7: Information About the Spouse and All Children of the Person for Whom You Are Filing (continued)

Part 8: Contact Information, Certification, and Signature of the Petitioner or Authorized Signatory and Signature

Part 9: Interpreter's Contact Information, Certification, and Signature

Part 10: Contact Information, Certification, and Signature of the Person Preparing this Petition, if Other Than the Petitioner or Authorized Signatory

Part 11: Additional Information

Chapter 2: Application for Permanent Residence Registration or Adjustment of Status (I-485)

Header

Part 1. Information About You (Person applying for lawful permanent residence)

Part 1. Information About You (Person applying for lawful permanent residence) (continued)

Part 1. Information About You (Person applying for lawful permanent residence) (continued)

Part 1. Information About You (Person applying for lawful permanent residence) (continued)

Part 2. Application Type or Filing Category

Part 2. Application Type or Filing Category (continued)

Part 2. Application Type or Filing Category (continued)

Part 3. Request for Exemption for Intending Immigrant's Affidavit of Support Under Section 213A of the INA

Part 4. Additional Information About You

Part 4. Additional Information About You (continued)

Part 5. Information About Your Parents

Part 5. Information About Your Parents (continued)

Part 6. Information About Your Marital History

Part 6. Information About Your Marital History (continued)

Part 7. Information About Your Children

Part 8. Biographic Information

Part 9. General Eligibility and Inadmissibility Grounds

Part 9. General Eligibility and Inadmissibility Grounds(continued)

Part 9. General Eligibility and Inadmissibility Grounds(continued)

Part 9. General Eligibility and Inadmissibility Grounds(continued)

Part 9. General Eligibility and Inadmissibility Grounds(continued)

Part 9. General Eligibility and Inadmissibility Grounds(continued)

Part 9. General Eligibility and Inadmissibility Grounds(continued)

Part 10. Applicant's Contact Information, Certification, and Signature

Part 11. Interpreter's Contact Information, Certification, and Signature

Part 12. Contact Information, Certification, and Signature of the Person
Preparing this Application, if Other Than the Applicant

Part 13. Signature at Interview

Part 14. Additional Information

Mandatory Initial Evidence Checklist for Employment-Based Form I-485
Applicants

Chapter 3: Work Authorization (I-765)

Header

Part 1. Reason for Applying

Part 2. Information About You

Part 2. Information About You (continued)

Part 2. Information About You (continued)

Part 3. Applicant's Statement, Contact Information, Declaration,
Certification, and Signature

Part 4. Interpreter's Contact Information, Certification, and Signature

Part 5. Contact Information, Declaration, and Signature of the Person
Preparing this Application, if Other Than the Applicant

Part 6. Additional Information

Chapter 4: Travel Authorization (I-131)

Header

Part 1. Application Type

Part 1. Application Type (continued)

Part 1. Application Type (continued)

Part 1. Application Type (continued)

Part 2. Information About You

Part 2. Information About You (continued)

Part 2. Information About You (continued)

Part 2. Information About You (continued)

Part 3. Biographic Information of the Person Who Will Receive the Travel Document, Parole Document, or Arrival/Departure Record

Part 4. Processing Information

Part 4. Processing Information (continued)

Part 4. Processing Information (continued)

Part 5. Complete Only If Applying for a Reentry Permit (Part 1., Item Number 1.)

Part 6. Complete Only If Applying for a Refugee Travel Document (Part 1., Item Number 2. or 3.)

Part 6. Complete Only If Applying for a Refugee Travel Document (Part 1., Item Number 2. or 3.) (continued)

Part 7. Information About Your Proposed Travel (Complete only if you are applying for an Advance Parole Document (Part 1., Item Number 5.)

Part 8. Complete Only If Applying for an Initial Parole Document, Parole In Place, or Re-parole (Part 1., Item Numbers 6. - 11.)

Part 9. Employment Authorization For New Period of Parole (Re-parole) (Part 1., Item Number 10. or 11.)

Part 10. Applicant's Contact Information, Certification, and Signature (Read the information on penalties and travel warnings in the form Instructions before completing this Part 10.)

Part 11. Interpreter's Contact Information, Certification, and Signature (if applicable) (If no interpreter was used, skip to Part 12.)

Part 12. Contact Information, Certification, and Signature of the Person Preparing this Application, if Other Than the Applicant

Part 13. Additional Information

Chapter 5: Immigrant Visa Application (DS-260)

Sign In

Summary Information

Getting Started

Personal Information 1

Personal Information 2

Present and Previous Address Information

Mailing and Permanent Address Information

Family Information: Parents

Family Information: Spouse

Family Information: Previous Spouse

Family Information: Children

Previous U.S. Travel Information

Present Work/Education/Training Information

Previous Work/Education/Training Information

Additional Work/Education/Training Information

Petitioner Information

Security and Background: Medical and Health Information

Security and Background: Criminal Information

Security and Background: Security Information 1

Security and Background: Security Information 2

Security and Background: Immigration Law Violations Information 1

Security and Background: Immigration Law Violations Information 2

Security and Background: Miscellaneous Information 1

Security and Background: Miscellaneous Information 2

Social Security Number Information

Sign and Submit

E-Signature

Submitting Supporting Documentation

Required Documentation

Additional Information

After the Interview

Chapter 6: Questions & Answers

Chapter 7: Final Message

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About the author



With a career marked by diverse and enriching experiences, I bring with me a baggage that reflects not only my academic background, but also my world view and the way I face challenges. Graduating in Systems Analysis from Mackenzie University in São Paulo in 2000, I sought to broaden my horizons with a postgraduate degree in Professional MBA in Systems Engineering, complemented by studies in Business and

Marketing in the United States.

My journey in the USA began in 2018, when I decided to explore the opportunities and cultural richness of this country. This transformative experience led me to change my status from tourist to F-1 student, immersing myself intensely in learning the language and understanding the local culture.

Before that, in Brazil, I had the privilege of working as a journalist and editor for a website specializing in event coverage. This experience not only refined my communication skills, but also awakened in me a passion for writing. At the same time, I built a solid career in technology, working for renowned companies in the states of São Paulo and Minas Gerais, where I acted as a specialist and contributed my technical knowledge.

As an administrator, I have faced a variety of challenges, always guided by a commitment to excellence. I am driven by constructive perfectionism and believe deeply that knowledge only has value when it is shared. It is this belief that inspires me to leave a meaningful legacy for generations to come.

With this vision in mind, I present this guide as a reflection of my journey and my desire to help others navigate the complex process of legalization in the United States through work visas. I hope that this material will be a useful and enlightening source for anyone looking to turn dreams into reality in this country full of possibilities

Foreword

Dear reader,

I am delighted to present this comprehensive guide to the EB3 visa process. During my own immigration journey in the United States, I faced challenges that required perseverance, resilience, and a constant desire to learn and understand every detail. Like many who embark on this path, I was faced with the scarcity of accurate and organized information, which led me to search, compile and structure each step of the process. The result of this effort is the content you'll find in this guide. Due to the complexity and extent of the topic, this guide has been divided into **two modules**, each focused on specific aspects of the EB3 process:

Module I: PERM Stage and General Aspects of the Immigration Process

In this first module, we will cover the initial steps of the EB3 process, including:

1. **PERM Stage:** A complete breakdown of the labor certification process required for most employment-based visas.
2. **General Matters Relating to the Process:**
 1. *Visa Bulletin:* How to Interpret Priority Dates and Understand Visa Availability.
 2. *CSPA (Child Status Protection Act):* Rules to protect the eligibility of dependent children.
 3. **Adjustment of Status vs. Consular Process:** A comparative analysis between the two options for obtaining a Green Card.
 4. **Immigration Fees:** An overview of the costs involved in the process.
 5. **Frequently Asked Questions and Answers:** To answer common questions and provide practical guidance.

Module II: Immigration Petition and Related Forms

The second module will be dedicated to the immigration petition phase and the forms required to complete the process, either through adjustment of status or consular processing. This module will include:

1. **Form I-140:** Immigrant Worker Petition.
2. **Form I-485:** Adjustment of Status for Permanent Residents.
3. **Required Documentation:** Evidence and specific requirements for each category.
4. **Other Relevant Forms:**
 1. Work Authorization (Form I-765).
 2. Travel Authorization (Form I-131), among others.

This guide is designed to be a practical and reliable source for those who want to not only obtain permanent residency in the United States but also deeply understand the steps required to achieve this goal. With a clear and detailed approach, you'll find useful information to navigate the complex decisions that arise along the way.

Immigration is a unique journey for each individual. This guide is not just a compilation of information, but a tool designed to support you at every stage of the process. I recommend always seeking qualified professional guidance to ensure that your applications are successful.

May this guide be a reliable companion as you make your way toward permanent residency in the United States.

I wish you success at every step of this journey!

With best wishes,

Ramon Rocha

Legal Notice

The author of this guide is not an immigration attorney and does not offer legal advice. All content in this book is intended only to provide general guidance on the EB3 visa process and should not be construed as legal advice specific to individual situations.

Readers are advised to use this guide as a resource for understanding the EB3 immigration process and to assist in preparing their own petitions or reviewing processes made by third parties. However, if you have any questions or needs that are not clear in this guide, or if you need any legal advice specific to your situation, it is recommended to consult with a licensed immigration attorney in the United States.

This guide does not establish an attorney-client relationship between the author and the reader, and the author assumes no responsibility for any loss or damage resulting from the use of this guide or reliance on its contents.

Chapter 1: Immigration Petition (I-140)

Form I-140, known as **the Immigrant Petition for Alien Worker**, is a crucial step in the process of employment-based immigration to the United States. It is used by U.S. employers to request that a foreign worker be classified as eligible for an immigrant visa, allowing them to work and reside permanently in the country. Below, we explore the key aspects related to the I-140.

The Role of the I-140 in the Immigration Process

The I-140 is part of the employment-based immigration system, which includes categories such as EB-1, EB-2, and EB-3:

- **EB-1:** Workers with extraordinary abilities, outstanding professors/researchers, and multinational executives.
- **EB-2:** Professionals with an advanced degree or exceptional ability (including National Interest Waiver cases).
- **EB-3:** Skilled workers, professionals, and other workers.

The petition must demonstrate that the worker meets the requirements of the requested category and that the employer has the financial capacity to pay the salary offered.

Submission Requirements

Depending on the category, the process may require a **Permanent Labor Certification** (PERM), obtained through Form ETA-9089, approved by the U.S. Department of Labor (DOL). This document proves that there are no qualified U.S. workers available to fill the vacancy.

Required items include:

1. **Form ETA-9089 Certificate:** Document signed by the DOL, employer and worker.
2. **Worker Qualification Tests:** Diplomas, certificates and professional experience.
3. **Employer's Financial Capacity:** Tax Returns or Financial Statements.

Submission Process

1. The employer must fill out the I-140 correctly and attach the required documents.
2. The petition must be submitted within 180 days of PERM approval, if applicable.
3. Applicable fees must be paid separately for each related form (such as the I-907 for premium processing)

Recent Updates

Since 2023, DOL has implemented changes to the PERM system with the introduction of the FLAG system and a new version of Form ETA-9089. This brought greater detail to the information about the vacancy and the worker's qualifications. Now, only the signed "Final Determination" is required as evidence of labor certification when submitting the I-140.

As of June 1, 2023, the U.S. Department of Labor (DOL) has implemented changes to the permanent labor certification process with the introduction of the *Foreign Labor Application Gateway* (FLAG) system and the update of Form ETA-9089. These changes have modernized the process, requiring more detailed information about the job vacancy and the foreign worker's qualifications, such as specific places of work, telecommuting options, and position requirements.

1. **Final Determination:** The DOL now electronically issues a two-page "Final Determination" to employers who pass labor certification. This document is considered the official evidence of certification and must be submitted with Form I-140 to USCIS. Only the signed version of the Final Determination is required, as detailed certification information is shared directly between DOL and USCIS through a data-sharing agreement.

2. **Specific Requirements for Different Petitions:**

- For Schedule A *occupations*, you must include an uncertified Form ETA-9089, the signed Final Determination, and a valid predominant wage determination tracking number.
- For National *Interest Waiver* (NIW) applications, it is necessary to attach Form ETA-9089, including Appendix A, and the signed Final Determination.

3. **Simplification of the Process:** The change aims to reduce the amount of physical documentation required by USCIS, as much of the information is transmitted electronically through the DOL. This improves efficiency and reduces errors in submitting petitions.

Impact of the Changes

These updates do not change how I-140 petitions are processed by USCIS, but they do clarify the new documentary requirements. Employers must adapt to the use of the FLAG system and the new requirements to ensure compliance and avoid delays in the processing of petitions.

These changes highlight the transition to a more digitized and efficient system, making it essential for employers and foreign workers to be mindful of the new rules for the correct submission of I-140 petitions.

Keep in mind that these instructions may be out of date after the publication/revision date of this ebook (specified in the table of contents), so always check the official USCIS website for the latest versions of the form and instructions. Here are the general steps for filing Form I-140:

Access the Form and Instructions:

- Visit the official USCIS website (<https://www.uscis.gov/i-140>) and download the latest I-140 form as well as read the corresponding instructions.

To fill out the form, you can do it digitally, by directly typing the information in their respective fields, or by printing it and filling in these fields manually, in letters, using a common black ink pen.

Important note: although USCIS offers the option of filling out and submitting online some of the forms described here, as it is a petition that usually has a lot of supporting documentation, needs an organization and printed documentary evidence, the entire process must be printed and sent via postal services.

Answer all questions completely and accurately. If a question doesn't apply to you (for example, if you've never been married and the question asks, "Please provide the name of your current spouse"), type or print "**N/A**" unless otherwise noted. If your answer to a question that requires a numeric answer is zero or none (for example, "How many children do you have" or "How many times have you left the United States"), type or print "**N/A**" unless otherwise prompted.

Additional Space

If you need extra space to complete any item inside the I-140, use the space provided in Part 11. Additional Information , where you must inform the **Page Number** , **Part Number** (part of the form) and the **Item Number** (item number) of the form, as references of what the additional information is about, which must be informed in the subsequent fields.

If this space is not enough, you must attach as many sheets of paper as necessary, always informing, in the header, the references established above, your full name and foreigner registration number, if you have an (**A-Number**), or **Alien Number**, signing and dating each sheet.

Validity of signatures

USCIS will consider a photocopied, faxed, or scanned copy of the original handwritten signature valid for archival purposes. The photocopy, fax or scan must be of the original document containing the manuscript in black ink of the signature.

Copies

You must submit legible photocopies of the requested documents, unless the Instructions specifically state that you must submit an original document. USCIS may request an original document at the time of filling out any form or at any time during the processing of an application or petition. If USCIS requests an original document, it will be returned to you after USCIS determines that it no longer needs your original.

ATTENTION! If you submit original documents when not required or requested by USCIS, your original documents may be immediately destroyed after receiving them.

Translations

If you submit a document with information in a foreign language, you must also submit an English version of the entire content. The translator must sign a certification that the English translation is complete and accurate, and that he or she is competent to translate from the foreign language into English. The certification must include a signature of the translator. The Department of Homeland Security (DHS) recommends that the certification contain the translator's name, date, signature, and contact information (email and phone).

How to Fill Out Form I-140

1. **Black Ink Fill:** Write or type legibly using black ink.
2. **Additional Space:** If you need more space to respond to an item, use Part 11 (Additional Information) or attach a separate sheet. Place your name, A-Number (if applicable) at the top of each sheet, indicating the page number, part, and item corresponding to your answer. Sign and date each sheet.
3. **Answer Fully:** Answer all questions accurately. If a question does not apply, write "N/A" (not applicable). If a numeric answer is zero or none, write "None".
4. **USCIS Online Account Number (OAN):** You will only have this number if you have already submitted a form with a receipt number beginning with "IOE." If you don't have one, leave this field blank.

5. **Reduced Rates for Small Employers and Nonprofits:**
 - **Criteria for Reduced Rate:** Have 25 or fewer full-time equivalent employees or be a nonprofit educational or research organization as defined by the IRS.
 - **Supporting Documents:** These include IRS forms such as Form 941 or a valid tax exemption letter.
6. **Country of Birth and Citizenship:** Indicate the countries using the current names. If the beneficiary does not have citizenship, write "stateless" and explain in Part 11.
7. **Industry and Occupation Codes:**
 - **NAICS Code:** Can be obtained from the U.S. Census website. Fill in the six digits, adding zeros if necessary.
 - **SOC Code:** Available on the Department of Labor (DOL) website, filled in the same way.
8. **Petitioner's Signature:** The petitioner or authorized representative must sign, provide telephone number, e-mail and date. Stamped or typed signatures are not accepted.
9. **Interpreter Information:** If someone helped with the reading or translation, that person must complete and sign Part 9.
10. **Form Preparer:** If someone else has filled out the form, they must complete and sign Part 10.

Initial Evidence Required for Form I-140

1. **If you are applying for an alien with extraordinary ability in the sciences, arts, education, business, or sports** (Part 2, Item Number 1.a. on Form I-140):

You must include evidence that the foreign national has sustained national or international acclaim, and that their achievements are recognized in the area of specialization.

A. Proof of a unique achievement (e.g. a prestigious international award); or

B. At least three of the following criteria:

1. Receipt of nationally or internationally recognized awards or honors for excellence in the area of expertise;
2. Membership in associations in the field that require exceptional achievement evaluated by recognized national or international experts;
3. Publications abroad in professional magazines, wide-ranging industry publications or other major media;
4. Participation as a member of a panel or individually as a judge of the work of other professionals in the field or in related fields;
5. Original contributions of great scientific, academic, artistic, sporting or commercial importance in the field;
6. Authorship of academic articles in the field, published in professional journals, wide-ranging publications, or other major media;
7. Exhibition of foreigner's work in artistic shows or exhibitions;
8. Evidence that the foreigner has played a leading or critically important role in organizations or institutions of distinguished reputation;
9. Proof that the foreign national received high salaries or other significant compensation for their services;
10. Evidence of commercial success in the performing arts, as demonstrated by box office or sales of music or videos.

C. Comparable evidence may be presented if the above criteria do not apply directly to the foreigner's occupation.

D. Evidence that the alien is coming to the United States to continue working in his or her area of expertise.

- This evidence may include letters from potential employers, evidence of pre-arranged commitments such as contracts, or a statement from the foreign national detailing how he or she intends to continue working in the United States.

2. **U.S. employer applying for an outstanding professor or researcher** (Part 2, Item Number 1.b. on Form I-140):

The employer must file the petition with:

The. **Proof that the professor or researcher is internationally recognized as outstanding in the academic field specified in the petition.** This proof must include **at least two of the following**:

1. Receiving major awards for outstanding achievements in the academic field.
2. Membership in academic associations that require exceptional achievements from their members.
3. Publications on the work of foreigners in professional journals written by third parties.
4. Participation as a member of a panel or individually as a judge of academic papers in the same or related areas.
5. Original scientific or scholarly contributions to the academic field.
6. Authorship of books or academic articles published in international journals in the academic field.

B. If the above standards do not apply directly, **comparable evidence** may be provided to demonstrate the alien's eligibility.

C. Proof that the foreign national has at least three years of teaching and/or research experience in the academic field.

D. If you are a university or other institution of higher education, include a job offer in the form of a letter indicating that you intend to hire the foreign national to:

- A permanent position as a researcher; or
- A tenured or tenure-track teaching position.

E. If you are a private employer:

1. A job offers in the form of a letter indicating that you intend to hire the foreign national for a permanent research position in the academic field.
 2. Proof that the company employs at least three full-time researchers.
 3. Proof that the company has documented achievements in the academic field.
3. **U.S. employer applying for a multinational executive or manager** (Part 2, Item Number 1.c. on Form I-140):

The employer must file the petition with a statement demonstrating:

A. If the worker is currently employed outside the United States, **he or she must have been employed outside the U.S. for at least one year in the past three years in an executive or managerial capacity by the petitioning company or its parent, branch, subsidiary, or affiliate; or**

B. **If the worker is already employed in the United States**, he or she must have been employed outside the U.S. for at least one year in the three years preceding his or her entry as a nonimmigrant, in an executive or managerial capacity by the petitioning company or its parent, branch, subsidiary, or affiliate; and

C. The potential employer in the U.S. must be the same company, corporation, or other legal entity, or a subsidiary or affiliate, that employed the foreign national abroad;

D. The potential employer in the U.S. must have been in operation for at least one year; and

E. The alien will hold a managerial or executive function in the United States.

- Include a description of the duties he or she will perform.

4. **Employer in the U.S. (or any individual, employer, or third party applying for a NIW)** Applying for a member of the professions with an advanced degree or an alien with exceptional ability in the sciences, arts, or business (Part 2, Item Number 1.d. on Form I-140 for a petition filed by an employer with Schedule A or individual labor certification, or Part 2, Item Number 1.h. on Form I-140 for a petition requesting an NIW) must include:

A. A labor certification (see Item 1 in the General Evidence section of these Instructions), or an application for a waiver of employment because the work is considered to be in the national interest, with documentation showing that the alien's presence in the United States is in the national interest, and:

1. **An official academic record** showing that the foreign national holds a U.S. advanced degree or an equivalent foreign degree, or an official academic record showing that the foreign national holds a U.S. bachelor's degree or an equivalent foreign degree and letters from current or previous employers showing that the foreign national possesses at least five years of progressive experience after a bachelor's degree in the specialty; or
2. At least **three of the following**:
 - a) **An official academic record** showing that the foreign national has a diploma, certificate, or award from an educational institution related to the area of exceptional ability;
 - b) **Letters from current or former employers** showing that the foreign national has at least 10 years of full-time experience in a specific occupation;
 - c) **License to practice the profession** or certification for a specific profession or occupation;
 - d) **Evidence that the alien has received a salary or other compensation** for their services, demonstrating exceptional ability;
 - e) **Evidence of membership in professional associations**; or

- f) **Evidence of recognition for significant achievements and contributions** to the industry or field, by peers, government entities, or professional or business organizations.
- 3. **If the above criteria do not directly apply to the alien's occupation**, you can provide **comparable evidence** to demonstrate the alien's eligibility.
- 5. **U.S. employer applying for a professional** (Part 2, Item Number 1.e. on Form I-140) must include:
 - A. A labor certification (see Item 1 in the General Evidence section of these Instructions);
 - B. Proof that the foreign national holds a U.S. bachelor's degree or an equivalent foreign degree; and
 - C. Proof that a bachelor's degree is required for entry into the occupation.
- 6. **Employer in the U.S. applying for a skilled worker** (Part 2, Item Number 1.f. on Form I-140) must include:
 - A. A labor certification (see Item 1 in the General Evidence section of these Instructions); and
 - B. Proof that the foreign national meets the educational, training or experience requirements, and any other requirements of the labor certification. (The minimum requirement is two years of training or experience).
- 7. **Employer in the U.S. applying for an unskilled worker** (Part 2, Item Number 1.g. on Form I-140) must include:
 - A. A labor certification (see Item 1 in the General Evidence section of these Instructions); and
 - B. Proof that the foreign national meets any education, training, or experience requirements required by the labor certification.

Amended Petitions

If you are filing this petition to amend a previously filed Form I-140, select Part 2, Item Number 2.a. and provide the receipt number of the previously filed Form I-140 in the space provided. This information will help USCIS determine if we can accept the petition and locate the petition previously filed for case matching purposes.

Information About the Alien's Spouse and All Children You Are Introducing To

Form I-140 requires information about the alien's dependent spouse and children (petition beneficiary) in Part 7, **Information About the Alien's Spouse and All Children You Are Filing For**. This information will assist with visa processing and assist USCIS in better determining the demand for employment-based immigration visas at the time of filing Form I-140.

NOTE: A note about a dependent's intent to apply for adjustment of status or foreign immigration visa on Part 7 of Form I-140 is not binding, but must reflect the dependent's intent at the time of filing Form I-140.

IRS Tax Identification Numbers or Social Security Number

With the exception of the categories for aliens with extraordinary ability (Part 2, Item Number 1.a. on Form I-140) and NIW (Part 2, Item Number 1.h. on Form I-140), all visa preference categories on Form I-140 require an offer of permanent employment from a U.S. employer, and the U.S. employer must file Form I-140.

NOTE: All employers in the U.S. who file petitions with a required permanent job offer must possess and provide an IRS Employer Identification Number (EIN) or a Social Security Number on Part 1 of Form I-140. If this information is not provided, USCIS will reject the Form I-140 with a notice that it is incomplete.

General Evidence

You must submit all of the evidence requested in these instructions with your petition. If you do not provide the required evidence, USCIS may reject or deny your petition pursuant to [8 CFR 103.2\(b\)\(1\)](#) and these instructions.

1. Labor Certification

You must file petitions for certain classifications with an original U.S. Department of Labor (DOL) individual labor certification or with documentation to establish that the alien qualifies for one of the missing occupations designated in DOL Schedule A Group I or II.

If an individual labor certification is required, you must submit the original certification with Form I-140, unless the original certification has already been submitted to USCIS in support of a different petition. Alternatively, you can select "**Yes**" in Part 4, Item Number 10 and ask USCIS to ask the DOL for a copy of the original certification.

A labor certification establishes that there are no workers in the U.S. who are able, willing, qualified, and available to fill the position offered to the foreign national at the place and time when he or she will work. It also establishes that the alien's employment, if qualified, will not adversely affect the wages and working conditions of similarly employed U.S. workers.

The application for labor certification is currently made on Form ETA-9089. Applications for labor certification made prior to March 28, 2005 were made on Form ETA-750. If the alien is in a Schedule A Group I or II missing occupation, you can file a completely filled and uncertified Form ETA-9089 with your Form I-140 for USCIS to determine if the alien's occupation belongs to the missing occupation.

See 20 CFR 656 or the DOL website at www.foreignlaborcert.doleta.gov for more information on how to obtain an individual labor certification or on Schedule A, Group I, or II missing occupations.

Note: As of July 16, 2007, all labor certifications expire 180 days after the certification date. USCIS must receive any Form I-140 based on approved labor certifications before the 180-day validity period has expired. If the end date of the labor certification validity period falls on a Saturday, Sunday, or holiday, USCIS will accept petitions with the labor certification on the next business day. USCIS will reject petitions with expired labor certifications filed after the next business day.

2. Ability to Pay Salary

You must present evidence with petitions that require job offers that the potential employer in the U.S. has the capacity to pay the offered wage. You can provide evidence in the form of copies of annual reports, federal tax returns, or audited financial statements. If the potential employer in the U.S. employs 100 or more workers, you can submit a statement from the organization's financial officer establishing your ability to pay the salary. In certain circumstances, you may be able to submit additional evidence, such as profit/loss statements, bank records, or personnel records.

Note: The U.S. employer must demonstrate the ability to pay the wage offered from the date of filing the labor certification until the alien becomes a lawful permanent resident. If no labor certification is required in the petition, the employer must demonstrate the ability to pay the wage offered from the date of filing Form I-140 (priority date) until the alien becomes a lawful permanent resident.

3. Form I-94, Arrival/Departure Registration

If the alien is in the United States, provide the information requested in Part 3, Items 10-15 of Form I-140, as applicable. If U.S. Customs and Border Protection (CBP) or USCIS has issued a Form I-94 to the foreign national, provide the Form I-94 number and the expiration or expired date of the authorized period of stay (as shown on the Form I-94). The Form I-94 number is also known as the Departure Number on some versions of Form I-94.

Note: If CBP admitted you to the United States at an airport or port after April 30, 2013, you may have issued an electronic Form I-94 instead of a paper Form I-94. You can visit the CBP website at www.cbp.gov/i94 to get a paper version of your electronic Form I-94. CBP does not charge a fee for this service. Some travelers can also obtain a substitute Form I-94 for free on the CBP website if they were admitted to the U.S. after April 30, 2013 with a passport or travel document and received a paper Form I-94 from CBP. If you cannot obtain your Form I-94 from the CBP website, you can obtain it by submitting Form I-102, Application for Substitution/Registration of Initial Nonimmigrant Arrival-Departure, to USCIS. USCIS charges a fee for this service. See the USCIS website at www.uscis.gov/i-102 for more information.

Passport and Travel Document Numbers

If you used a passport or travel document to travel to the United States, enter the passport or travel document information in the appropriate space on the petition, even if the passport or travel document is currently expired.

Information about the Processing

USCIS will reject any Form I-140 that is not signed or that is not accompanied by the correct fee, with a notice that the Form I-140 is incomplete. You will be able to correct the deficiency and resubmit Form I-140. A petition is not considered properly filed until it is accepted by USCIS.

Initial Processing

Once USCIS accepts your petition, we will verify its completeness. If you do not correctly complete the petition, you will not establish a basis for your eligibility and we may reject or deny your petition.

Requests for More Information

USCIS may ask you to provide more information or evidence to support your petition. We may also ask you to send the originals of any copies you submit. If we request an original document, it will be returned to you after USCIS determines that it is no longer needed.

Interview Requests

We may ask you to appear at a USCIS office for an interview based on your petition. During the interview, USCIS may require you to provide your fingerprints (biometrics) to verify your identity and/or update background and security checks.

Decision

The decision on Form I-140 involves a determination of whether you have established eligibility for the immigration benefit you are applying for. USCIS will notify you in writing of our decision.

Meaning of Petition Approval

Approval of the petition means that you have demonstrated that the alien is eligible for the requested classification.

Note: Approval of the petition is the first step toward permanent residency. However, approval alone does not grant permanent residency or a work permit. USCIS will provide information on the requirements for the alien to receive an immigration visa or adjust status after Form I-140 is approved.

Penalties

If you intentionally falsify or conceal a material fact or submit a false document with your Form I-140, we will deny your petition and may deny you any other immigration benefits. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

HEADER

This part of the form only needs to be filled out if you have an attorney representing you legally.

		Immigrant Petition for Alien Workers		USCIS Form I-140	
		Department of Homeland Security U.S. Citizenship and Immigration Services		OMB No. 1615-0015 Expires 02/28/2027	
For USCIS Use Only	Fee Stamp	Priority Date	Consulate	Action Block	
	Classification <input type="checkbox"/> 203(b)(1)(A) Alien of Extraordinary Ability <input type="checkbox"/> 203(b)(1)(B) Outstanding Professor or Researcher <input type="checkbox"/> 203(b)(1)(C) Multinational Executive or Manager	Certification <input type="checkbox"/> 203(b)(2) Member of Professions with Advanced Degree/Exceptional Ability <input type="checkbox"/> 203(b)(3)(A)(i) Skilled Worker <input type="checkbox"/> 203(b)(3)(A)(ii) Professional <input type="checkbox"/> 203(b)(3)(A)(iii) Other Worker		<input type="checkbox"/> National Interest Waiver (NIW) <input type="checkbox"/> Schedule A, Group I <input type="checkbox"/> Schedule A, Group II	
	Remarks				
To be completed by an Attorney or Accredited Representative (if any).	<input type="checkbox"/> Select this box if Form G-28 or Form G-28I is attached.	Attorney State Bar Number (if applicable) <input type="text"/>		Attorney or Accredited Representative USCIS Online Account Number (if any) <input type="text"/>	

 **Learn more in the full version of the book**

Chapter 2: Application for Permanent Residence Registration or Adjustment of Status (I-485)

This form is used if you are present in the United States and wish to adjust your status from nonimmigrant to permanent resident upon or prior to your approval of Form I-140, provided you file in the same act, if so permitted by the Visa Bulletin (<https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>).

You will also need to pay the Form I-485 filing fee.

Keep in mind that these instructions may be out of date after the publication/revision date of this ebook (specified in the table of contents), so always check the official USCIS website for the latest versions of the form and instructions. Here are the general steps for filing Form I-485:

Access the Form and Instructions:

- Visit the official USCIS website (<https://www.uscis.gov/i-485>) and download the latest I-485 form as well as read the corresponding instructions.

To fill out the form, you can do it digitally, by directly typing the information in their respective fields, or by printing it and filling in these fields manually, in letters, using a common black ink pen.

Answer all questions completely and accurately. If a question doesn't apply to you (for example, if you've never been married and the question asks, "Please provide the name of your current spouse"), type or print "**N/A**" unless otherwise noted. If your answer to a question that requires a numeric answer is zero or none (for example, "How many children do you have" or "How many times have you left the United States"), type or print "**N/A**" unless otherwise prompted.

Insufficient Space

If you need extra space to complete any item inside the I-485, use the space provided in Part 14. Additional Information , where you must inform the Page Number , Part Number and the Item Number number of the form item, as references of what the additional information is about, which must be informed in the subsequent fields.

If this space is not enough, you must attach as many sheets of paper as necessary, always informing, in the header, the references established above, your full name and foreigner registration number, if you have an (A-Number), or Alien Number, signing and dating each sheet.

Validity of signatures

USCIS will consider a photocopied, faxed, or scanned copy of the original handwritten signature valid for archival purposes. The photocopy, fax or scan must be of the original document containing the manuscript in black ink of the signature.

Copies

You must submit legible photocopies of the requested documents, unless the Instructions specifically state that you must submit an original document. USCIS may request an original document at the time of filling out any form or at any time during the processing of an application or petition. If USCIS requests an original document, it will be returned to you after USCIS determines that it no longer needs your original.

ATTENTION! If you submit original documents when not required or requested by USCIS, your original documents may be immediately destroyed after receiving them.

Translations

If you submit a document with information in a foreign language, you must also submit an English version of the entire content. The translator must sign a certification that the English translation is complete and accurate, and that he or she is competent to translate from the foreign language into English. The certification must include a signature of the translator. The Department of Homeland Security (DHS) recommends that the certification contain the translator's name, date, signature, and contact information (email and phone).

Applicants

You can apply as the person who qualifies directly for an immigrant category ("principal applicant") or, in some cases, as a family member of the principal applicant ("derivative applicant"). Whether you are a principal or derivative applicant, you must file your own Form I-485.

Principal Applicant and Derivative Applicant in the Adjustment of Status Process

The adjustment of status process in the United States, through Form I-485, distinguishes two main types of applicants: the **Principal Applicant** and the **Derivative Applicant**.

Below, we explain the differences between these categories, the requirements for each, and how they apply in the context of adjustment of status.

Principal Applicant

The **Principal Applicant** is the individual seeking to adjust their status based on their own direct eligibility for an immigrant visa. He is the primary beneficiary of the immigrant visa petition, such as:

- **Form I-130:** Petition for Alien Relative (e.g., spouse or child of a citizen or permanent resident);
- **Form I-140:** Immigrant Worker Petition (employment-based);
- **Form I-360:** Petition for Amerasian, Widower, or Special Immigrant.

General Requirements for the Principal Applicant

1. Petition Approved or Simultaneous Filing:

- In general, the principal applicant can only file Form I-485 after the underlying immigrant visa petition has been approved and when a visa number is available.
- In some categories (such as immediate relatives of U.S. citizens), *concurrent filing* is permitted, where Form I-485 is submitted along with the underlying petition.

2. Visa Availability:

- Adjustment of status depends on the immediate availability of a visa number in the applicant's category. This can be verified in the *Visa Bulletin* published monthly by the Department of State.

3. Admissibility and Eligibility:

- The applicant must meet the eligibility criteria and not be subject to grounds of inadmissibility under section 212(a) of the INA. If it is inadmissible, he can request a waiver, when applicable.

Concurrent Archiving Example

- A foreign spouse of a U.S. citizen can file Form I-130 and Form I-485 at the same time, as there are no numerical limits for visas in this category.

Derivative Applicant

The **Derivative Applicant** is a family member of the Principal Applicant who seeks to adjust their status based on the principal's eligibility. This usually includes:

- Spouses;
- Unmarried children under the age of 21.

Conditions for the Derivative Applicant

1. The Derivative Applicant can file their Form I-485 in the following situations:
 - Concurrently with the Principal Applicant;
 - After the Principal Applicant files their Form I-485, as long as it is still pending;
 - Upon approval of the Principal Applicant's adjustment, provided that the Principal Applicant is still a lawful permanent resident and that, at the time of approval, the derivative was a qualifying spouse or child;
 - After the Principal Applicant enters the U.S. on an immigrant visa as a lawful permanent resident.
2. Generally, approval of the Derivative Claimant's adjustment only occurs after the Lead Claimant's adjustment has been approved. However, there are exceptions in humanitarian cases (asylees or refugees).

Required Documentation

The Derivative Applicant must provide evidence demonstrating its relationship to the Lead Applicant, such as:

- Marriage certificate (for spouses);
- Birth certificate (for children).

Key Differences Between Principal and Derivative Applicants

Feature	Principal Applicant	Derivative Applicant
Eligibility Basis	Direct beneficiary of the immigration petition	Related to the principal by family bond
Example of Petitions	I-130, I-140, I-360	Based on approved petition of principal
When you can apply	After approval of the petition or simultaneously	Depends on the status of the principal
Required Documentation	Direct proof of eligibility	Proof of the relationship with the principal

Benefits and Risks of Concurrent Archiving

Benefits:

1. Reduction in total process time.
2. Possibility to apply for work permit (EAD) and permission to travel (*advance parole*) while the application is pending.
3. Keeps family members together during the process.

Risks:

1. If the underlying petition is denied, both the principal's and derivatives' Form I-485 will be denied.
2. Additional costs associated with concurrent archiving.

The roles of Principal Applicant and Derivative Applicant are critical in the adjustment of status process. The success of derivatives directly depends on the eligibility and approval of the principal. Therefore, it is crucial to ensure that all forms are filled out correctly and that the necessary documents are submitted. Consulting with an immigration attorney can help avoid mistakes and delays in the process.

Under U.S. immigration law, a "child" is an unmarried person under 21 years of age.

The important point is that the I-140 was filed before your children turned 21 years old. Your child may still be considered a child for immigration purposes even after they turn 21 years of age if they qualify under the provisions of the Child Status Protection Act (CSPA) – <https://www.uscis.gov/green-card/green-card-processes-and-procedures/child-status-protection-act-cspa>

As this is a point of many doubts for many investors, let's illustrate with some examples to facilitate the understanding of CSPA. It is worth noting that it is always important to consult official USCIS sources for the most up-to-date instructions and rules on any issues regarding your claim. It is always recommended to consult and/or support an immigration attorney to avoid misinterpretation, or filling out any forms, that could cause your application to be denied by USCIS.

Example 1

Richard filed his immigration petition Form I-140 (NIW) on September 1, 2020. Richard's son, Simon, is 21 years and one month old. Under the Concurrent Filing rule, which allows you to apply for the I-140 and I-485 at the same time, Richard filed his I-485 because Visa Bulletin was "current" at the time. However, Simon cannot file his I-485 with his father because he is already over 21 years old.

Example 2

Howard's daughter, Rachel, is 20 years and 10 months old. Howard filed his immigration petition Form I-140 (NIW) on September 1, 2020. Under the Concurrent Filing rule, which allows you to apply for the I-140 and I-485 at the same time, Howard and Rachel filed their I-485 Forms, as long as the Visa Bulletin was "current" at that time. Thus, under the Child Status Protection Act (CSPA), no matter how long Howard's I-140 is pending, Rachel remains eligible for I-485.

Example 3

Jenny filed her immigration petition Form I-140 (NIW) on August 10, 2011. Jenny has a son, Benny, who is 20 years and eleven months old. However, at this date the Visa Bulletin was not "current" for an I-485 to be filed. In addition, the Visa Bulletin will not be "current" until December 2011, when Benny will be 21 years and three months old. If Jenny's I-140 is pending for six months and is approved in February 2012, those six months will be reduced from Benny's age in December 2011, when he is 21 years and three months old. Thus, his age is set at 20 years and nine months. However, if Jenny's I-140 petition is pending for only two months and is approved in October 2011, Benny's age will be set at 21 years and one month. Thus, Benny cannot file his I-485 in this scenario and must wait until his priority date in the family-based immigration category 2B becomes current.

Example 4

Jason filed his immigration petition Form I-140 (NIW) on June 30, 2011. Jason has a son, Ken, who is 20 years and ten months old at the time. The Visa Bulletin went "current" for Jason on July 31, 2011. Ken was 20 years and eleven months old on July 31, and he was not in the U.S., but in his home country. Under the Concurrent Filing rule, which allows you to file the I-140 and I-485 at the same time, Jason filed his Form I-485 on August 10, 2011. If Jason's I-140 is pending for 6 months until December 31, 2011, one month must be subtracted from Ken's age. Thus, Ken's age is set at 20 years and 10 months. Ken can apply for his immigrant visa through Consular Processing at a U.S. Consulate in his home country.


Who cannot be eligible to adjust status?



Learn more in the full version of the book

HEADER

This part of the form only needs to be filled out if you have an attorney representing you legally.

Application to Register Permanent Residence or Adjust Status		USCIS Form I-485 OMB No. 1615-0023 Expires 10/31/2027	
			
Department of Homeland Security U.S. Citizenship and Immigration Services			
For USCIS Use Only			
Preference Category:		Receipt	Action Block
Country Chargeable:			
Priority Date:			
Date Form I-693 Signed By Civil Surgeon:			
<input type="checkbox"/> Applicant Interviewed <input type="checkbox"/> Interview Waived		Section of Law	
Date of Initial Interview:		<input type="checkbox"/> INA 209(a) <input type="checkbox"/> INA 245(m)	
Lawful Permanent Resident as of:		<input type="checkbox"/> INA 209(b) <input type="checkbox"/> INA 249	
		<input type="checkbox"/> INA 245(a) <input type="checkbox"/> Sec. 13, Act of 9/11/57	
		<input type="checkbox"/> INA 245(i) <input type="checkbox"/> Cuban Adjustment Act	
		<input type="checkbox"/> INA 245(j) <input type="checkbox"/> Other _____	
To be completed by an Attorney or Accredited Representative (if any).			
<input type="checkbox"/> Select this box if Form G-28 is attached.	Volag Number (if any)	Attorney State Bar Number (if applicable)	Attorney or Accredited Representative USCIS Online Account Number (if any)



Learn more in the full version of the book

Chapter 3: Work Authorization (I-765)

If you wish to work in the U.S. while awaiting a decision on your adjustment of status petition (Form I-485), you can apply for an employment authorization using Form I-765.

Keep in mind that these instructions may be out of date after the publication/revision date of this ebook (specified in the table of contents), so always check the official USCIS website for the latest versions of the form and instructions. Here are the general steps for filing Form I-765:

Access the Form and Instructions:

- Visit the official USCIS website (<https://www.uscis.gov/i-765>) and download the latest I-765 form as well as read the corresponding instructions.

To fill out the form, you can do it digitally, by directly typing the information in their respective fields, or by printing it and filling in these fields manually, in letters, using a common black ink pen.

What is the Purpose of Form I-765?

Form I-765, Application for Employment Authorization, serves several important purposes for foreign nationals in the United States:

1. Allows certain foreign nationals to apply for employment authorization and an Employment Authorization Document (EAD).
2. Allows foreign nationals whose immigration status already authorizes them to work without restrictions to apply for an EAD as proof of that authorization.
3. Gives you the option to apply for a Social Security number and card simultaneously, following the specific guidelines in Part 2 of the form, items 13.a. through 17.b.

Who Should Not Use Form I-765:

- Legal permanent residents
- Conditional permanent residents
- Nonimmigrants allowed to work only with a specific employer under 8 CFR 274a.12(b)

Important definitions:

1. **Employment Authorization Document (EAD):** Card issued as proof of authorization to work in the U.S. (also known as Form I-688A, I-688B, I-766, or successor document).
2. **Initial EAD:** First issued to an eligible applicant in a specific category.
3. **Renewal EAD:** Issued after the expiration of a previous EAD in the same category.
4. **Replacement EAD:** Issued when the previous EAD has been lost, stolen, damaged, or contains errors.

Form I-765 is crucial for many foreign nationals seeking to work legally in the United States, providing a means of obtaining employment authorization and necessary documentation. For more detailed information on employment authorization documents, [visit the official website of USCIS](#).

Who Can File Form I-765?

You can file Form I-765 if you fall into one of the eligibility categories below. For some categories, employment authorization is granted along with your underlying immigration status (called an "incidental to status" employment permit). For example, asylees and refugees have employment permits as soon as they obtain this status. In these cases, your EAD (Employment Authorization Document) is issued after your Form I-765 is approved, and the EAD serves as proof of your employment authorization.

For other categories, such as parole or deferred action individuals, USCIS (United States Citizenship and Immigration Services) must first approve your Form I-765 before you are eligible to accept employment in the United States. Once your Form I-765 is approved, USCIS will issue your EAD.

You must type or print your eligibility category in Part 2, Item Number 27, of Form I-765. Enter only one category number in the request. For example, if you are a refugee applying for an EAD, type or print "(a)(3)" in Item Number 27.

It is important to note that a person with a pending application for an immigration benefit or application may have a different category number than a person who has already been granted the benefit or application. For example, certain pending asylum seekers are in category "(c)(8)," but a person who has already been granted asylum is in category "(a)(5)."

Explanation:

1. Form I-765 is used by many groups of aliens in the U.S. to apply for work authorization.
2. Some categories, such as refugees and asylees, are already allowed to work as soon as they obtain this status. They use the I-765 only to obtain the physical document (EAD) that proves this authorization.
3. Other categories, such as people on probation or deferred action, must first have the I-765 approved before they can legally work.
4. It is crucial that the applicant correctly enters their eligibility category on the form, as this determines how USCIS will process the application.
5. The categories are represented by alphanumeric codes, such as "(a)(3)" for refugees or "(c)(8)" for asylum seekers with pending applications.
6. A person's immigration status can change over time, also changing their eligibility category for work authorization.

This category system helps USCIS process applications efficiently and ensures that each applicant receives the appropriate work authorization for their specific immigration status.

Note: If you are in the process of adjusting status based on an EB-3 visa and wish to apply for work authorization while waiting for the process to be completed, you will likely fall into **category (c)(9)** of Form I-765.

Signature.

Each request must be properly signed and submitted. For all signatures on this request, USCIS **will not accept** a name stamped or typed in place of a signature. If you are under 14 years of age, your parent or legal guardian can sign the application on your behalf. A legal guardian may also sign for a mentally incapacitated person.

Validity of Signatures.

USCIS will consider valid for mailing purposes a photocopied, faxed, or scanned copy of the original handwritten signature. The photocopy, fax or scan must be of the original document containing the handwritten signature in ink.

Fill Rate

For specific information on applicable **Form I-765** fees, see **Form G-1055**, available at www.uscis.gov/forms.

Evidence

When completing your application, you must submit all **evidence and supporting documents** listed in the **Required Documentation** and/or **Specific Instructions sections** of the instructions of the form.

These documents are essential for **USCIS** to process your application correctly. Be sure to carefully review the instructions and submit any required documents to avoid delays or rejection of the application.


Biometric Services Scheduling

USCIS may require you to attend an interview or provide **biometrics** (fingerprints, photograph, and/or signature) at any time to verify your identity, obtain additional information, and conduct background and security checks, including a criminal records check maintained by the **Federal Bureau of Investigation (FBI)**, before making a decision on your application or petition.

After **USCIS** receives your application and ensures that it is complete, you will be informed in writing if you need to attend a **biometric services appointment**. If an appointment is required, the notice will indicate the location of the **Application Support Center (ASC)** for your region and the date and time of your appointment. If you are outside the United States, the notice directs you to contact a **U.S. Embassy, U.S. Consulate, or USCIS office outside the United States** to schedule the appointment.


If you are asked to provide biometrics, when you attend your appointment, you will be required to sign an oath reaffirming that:

1. You have provided or authorized all of the information in your request;
2. You have reviewed and understood all of the information contained in your application and the documents submitted with it;
3. All this information was complete, true and correct at the time of filling out.

 **Important:** If you do not show up for your biometric services appointment, **USCIS may deny your application.**

Copies

You must submit **legible photocopies** of the requested documents, unless the instructions specify that you must submit an **original document**. **USCIS** may request an original document at the time of submission or at any time during the processing of your application or petition. If **USCIS** requests an original document, it will be returned to you after it has been determined that it is no longer needed.

 **Important Note:** If you submit original documents when **not requested or required** by **USCIS**, your original documents may be **immediately destroyed** upon receipt.

Translations

If you submit a document with information in a **foreign language**, you will also need to submit a **complete English translation**. The translator must sign a **certification** stating that the translation into English is **complete and accurate** and that he or she is **competent to translate** from the foreign language into English. The certification must include the **translator's signature**.

The **Department of Homeland Security (DHS)** recommends that the certification contains:


- **Printed name** of translator
- **Date of signature**
- **Translator's Contact Information**

How to Fill Out Form I-765

1. **Type or print legibly** with black ink.
2. If you need extra space to complete any items, use the space provided in **Part 6. Additional Information** or attach a separate sheet. **Type or print your name** and the **Alien Registration Number (A-Number)** (if any) at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and **sign and date** each sheet.
3. **Answer all questions completely and accurately.** If a question doesn't apply to you (for example, if you've never been married and the question asks "Provide the name of your current spouse"), type or print **"N/A"** (not applicable) unless otherwise noted. If your answer to a question that requires a numeric answer is zero or none (for example, "How many children do you have?" or "How many times have you left the United States?"), type or print **"None"** unless otherwise noted.

HEADER

This part of the form only needs to be filled out if you have an attorney representing you legally.

		Application For Employment Authorization		USCIS Form I-765	
		Department of Homeland Security		OMB No. 1615-0040	
		U.S. Citizenship and Immigration Services		Expires 09/30/2027	
For USCIS Use Only	<input type="checkbox"/> Authorization/Extension Valid From _____	Fee Stamp		Action Block	
	<input type="checkbox"/> Authorization/Extension Valid Through _____				
	Alien Registration Number A- <input type="text"/>				
	Remarks				
To be completed by an attorney or Board of Immigration Appeals (BIA)- accredited representative (if any).		<input type="checkbox"/> Select this box if Form G-28 is attached.		Attorney or Accredited Representative USCIS Online Account Number (if any) <input type="text"/>	

 **Learn more in the full version of the book**

Chapter 4: Travel Authorization (I-131)

If you plan to travel internationally while your petition for adjustment of status is pending, (Form I-485), you can apply for a Travel Document using Form I-131.

The "Parole", as the international travel authorization is called, allows a foreign national to physically enter the United States for a specific purpose. An individual who has been "parolate" has not been admitted to the United States and remains an "applicant for admission" even when parolate.

ATTENTION! The fact that the alien has an "Advanced Parole Document" does not guarantee re-entry into the United States. Please understand that this document is a grant and not a right, i.e., it may be revoked at any time at the discretion of the inspection agent. In addition, DHS may revoke or terminate your document at any time, including when you are outside the U.S., in which case you may be unable to return to the United States unless you have a valid visa or other document that allows you to travel to the United States and seek admission.

DHS, as a matter of discretion, may issue an " **Advanced Parole Document**" to authorize an alien to appear at a point of entry to seek a parole in the United States. The document may be accepted by a transportation company instead of a visa as an authorization for the holder to travel to the United States. An Advanced Parole Document is not issued to serve in place of any required passport.

Keep in mind that these instructions may be out of date after the publication/revision date of this eBook (specified in the table of contents), so always check the official USCIS website for the latest versions of the form and instructions. Here are the general steps for filing Form I-131:

Access the Form and Instructions:

- Visit the official USCIS website (<https://www.uscis.gov/i-131>) and download the latest I-131 form as well as read the corresponding instructions.

To fill out the form, you can do it digitally, by directly typing the information in their respective fields, or by printing it and filling in these fields manually, in letters, using a common black ink pen.

Each applicant must submit a separate application for a travel document.

Notices for Advance Parole Documents

An Advance Parole Document is not issued to replace any required passport. It cannot be used exclusively to circumvent normal visa issuance procedures and is not a means of avoiding visa issuance delays¹.

An Advance Parole Document issued to a non-citizen while within the United States does not guarantee that such non-citizen will be allowed to enter the United States upon returning from a trip abroad. A separate discretionary decision on your application for entry into the United States under section 212(d)(5)(A) of the INA will be made when you arrive at a Port of Entry and apply for admission to the United States upon return.

DHS may revoke or terminate an Advance Parole Document at any time, including while the noncitizen is outside the United States. In this case, the non-citizen may not be able to return to the United States unless they have a valid visa or other document that allows them to travel to the United States and apply for admission.

If the noncitizen is applying for an Advance Parole Document based on their immigration status, having received deferred action, or being covered by Deferred Enforced Departure (DED), and leaves the United States without first obtaining an Advance Parole Document, they may no longer be eligible for that immigration status, deferred action, or coverage by DED, and may not be allowed to return to the United States.

If the noncitizen is applying for an Advance Parole Document on the basis of being a parole under INA section [212\(d\)\(5\)\(A\)](#), even if they obtain an Advance Parole Document before leaving the United States, their parole will automatically terminate when they leave the United States.

Consequences of Not Obtaining the Advance Parole Document for Certain Non-Citizens Who Are Currently Inside the United States

If a noncitizen is within the United States and has submitted Form I-485, Application to Register Permanent Residence or Adjust Status, we will generally consider Form I-485 abandoned if they leave the United States without first obtaining an Advance Parole Document.

However, we will not consider Form I-485 to be abandoned, even if the noncitizen does not obtain an Advance Parole Document before traveling abroad while the application is pending, if they are in one of the following classifications and remain eligible and are admissible in one of the following categories when applying for admission to a Port of Entry:

1. An H-1 nonimmigrant (temporary worker) or H-4 spouse/child of an H-1;
2. An L-1 nonimmigrant (intracompany transferee) or L-2 spouse/child of an L-1;
3. A K-3 (spouse) or K-4 (child) nonimmigrant of a U.S. citizen; or
4. A V-1 (spouse) or V-2/V-3 (child) nonimmigrant of a lawful permanent resident.

NOTE: Upon returning to the United States, these non-citizens must present a valid H, L, K, or V nonimmigrant visa and must be admissible to avoid the adjustment of status application being considered abandoned. If the noncitizen does not have an approved Advance Parole Document nor a valid, unexpired H, L, K, or V nonimmigrant visa, they will usually need to obtain an H, L, K, or V nonimmigrant visa from a U.S. Department of State (DOS) visa issuing office or obtain an Advance Parole Document to avoid the adjustment of status application being considered abandoned.

WARNING: An **Advance Parole Document** issued to a non-citizen **does not guarantee** that he or she will be paroled (allowed to enter) the United States. A **separate discretionary decision** on the application for entry into the United States under **Section 212(d)(5)(A) of the INA** (Immigration and Nationality Act) will be made when the noncitizen arrives at a **Port of Entry**.

Duplicate Form I-131 Applications

Do not submit **duplicate Form I-131 applications** of the same application type to the same beneficiary. USCIS may **reject, deny, administratively terminate, or cancel** a duplicate Form I-131 if there is a previous application for the **same type of application**, with the **same applicant or petitioner** and the **same beneficiary**, still **pending review**.

☒ **Important:** Before submitting a new order, make sure that the previous one has already been processed to avoid delays or complications.

Signature

Each form must be properly completed and signed. For all signatures, USCIS will not accept a stamped or typewritten name in place of a signature. If you are under 14 years of age, your parent or guardian may sign the application on your behalf. A legal guardian may also sign for a mentally incompetent person.

Validity of signatures

USCIS will consider a photocopied, faxed, or scanned copy of the original handwritten signature valid for archival purposes. The photocopy, fax or scan must be of the original document containing the manuscript in black ink of the signature.

Rate

Please refer to **Form G-1055**, available at www.uscis.gov/forms, for specific information about the **fees applicable** to this form.

Evidence

At the time of filing, you must submit all evidence and supporting documents listed in the [Required Documents](#) section. If you do not have and cannot obtain a necessary document, you must demonstrate this and provide secondary evidence. If secondary evidence does not exist or is not available, you must demonstrate both the unavailability of the required document and the relevant secondary evidence and submit two or more affidavits by persons not mentioned in this application who have direct knowledge of the event and circumstances.

Biometric Services Scheduling

USCIS may require you to attend an interview or provide biometrics (fingerprints, photograph, and/or signature) at any time to verify your identity, obtain additional information, and conduct background and security checks, including a check of criminal records maintained by the Federal Bureau of Investigation (FBI), before making a decision on your application or petition. After USCIS receives your application and ensures that it is complete, you will be informed in writing if you need to meet an appointment for biometric services. If an appointment is required, the notice will provide the location of your local support or be assigned to a USCIS Investor Support Center (ASC) and the date and time of your appointment or, if you are currently abroad, instruct you to contact a U.S. embassy or consulate, or USCIS office outside of the United States to make an appointment.

If you are required to provide biometrics, you must sign an oath reaffirming that:

1. You have provided or authorized all information in the application;
2. Analyzed and understood all the information contained in its application and presented it with it; and
3. All this information was complete, true and correct at the time of application.

If you do not show up for your biometric services appointment, USCIS may deny your application.

Copies

You must submit legible photocopies of the requested documents, unless the Instructions specifically state that you must submit an original document. USCIS may request an original document at the time of filling out any form or at any time during the processing of an application or petition. If USCIS requests an original document, it will be returned to you after USCIS determines that it no longer needs your original.

ATTENTION! If you submit original documents when not required or requested by USCIS, your original documents may be immediately destroyed after receiving them.

Translations

If you submit a document with information in a foreign language, you must also submit an English version of the entire content. The translator must sign a certification that the English translation is complete and accurate, and that he or she is competent to translate from the foreign language into English. The certification must include a signature of the translator. The Department of Homeland Security (DHS) recommends that the certification contain the translator's name, date, signature, and contact information (email and phone).


How to Fill Out Form I-131

1. To fill out the form, you can do it digitally, by directly typing the information in their respective fields, or by printing it and filling in these fields manually, in letters, using a common pen with black ink.
2. If you need extra space to complete any item inside the I-131, you must attach as many sheets of paper as necessary, always stating in the header the references indicating the "Part" and "Item Number", your full name and alien registration number, if you have an (A-Number), or Alien Number, signing and dating each sheet.

3. Answer all questions completely and accurately. If a question doesn't apply to you (for example, if you've never been married and the question asks, "Please provide the name of your current spouse"), type or print "**N/A**" unless otherwise noted. If your answer to a question that requires a numeric answer is **0** (ZERO) or "**None**" (for example, "How many children do you have" or "How many times have you left the United States"), type or print "**N/A**" unless otherwise prompted.

HEADER

This part of the form only needs to be filled out if you have an attorney representing you legally.

		Application for Travel Documents, Parole Documents, and Arrival/Departure Records		USCIS Form I-131 <small>OMB No. 1615-0013 Expires 06/30/2027</small>	
		Department of Homeland Security U.S. Citizenship and Immigration Services			
For USCIS Use Only	Receipt	Action Block		To Be Completed by an Attorney/ Representative, if any. <input type="checkbox"/> Fill in box if G-28 is attached to represent the applicant.	
	<input type="checkbox"/> Document Hand Delivered By: _____ Date: ____/____/____				
	Document Issued <input type="checkbox"/> Re-entry Permit (<i>Update "Mail To" Section</i>) <input type="checkbox"/> Refugee Travel Document (<i>Update "Mail To" Section</i>) <input type="checkbox"/> Single Advance Parole <input type="checkbox"/> Multiple Advance Parole <input type="checkbox"/> TPS Travel Authorization Documentation Valid Until: ____/____/____	Mail To (<i>Reentry Permit and Refugee Travel Document Only</i>) <input type="checkbox"/> Address in Part 2 . <input type="checkbox"/> U.S. Embassy, U.S. Consulate, or USCIS international field office at: _____			



Learn more in the full version of the book

Chapter 5: Immigrant Visa Application (DS-260)

If you are outside of the United States and plan to apply for an EB3 immigrant visa through the consular process, you will need to fill out Form DS-260. This form is used to apply for an immigrant visa and must be completed with accurate and complete information.

Consular processing requires the applicant to travel to their home country for an immigrant visa interview, while adjustment of status allows all processing to take place in the United States. Typically, adjustment of status is the preferred option, both due to the lack of a travel requirement and because the applicant is given an appeal in the event of a refusal. However, in some cases, consular processing may be a better option.

An employment-based Consular Processing application begins when the prospective (or current) U.S. employer files an I-140 petition with USCIS requesting that, when the petition is approved, it be forwarded to the National Visa Center. Similarly, a family-based Consular Processing application begins when the requesting family member files an I-130 petition with USCIS so that when the petition is approved, it will be forwarded to the National Visa Center.

USCIS sends a notice of approval to the petitioner or attorney of record after the I-140 or I-130 is approved. USCIS submits its approved petition and notification of its approval to the National Visa Center ("NVC").

If Consular Processing is not selected in the I-140 or I-130 petition, and the applicant subsequently decides on Consular Proceedings, he or she must file an I-824 application, with fee, requesting that the previously approved petition be forwarded to the NVC to begin processing. I-824 processing procedures vary depending on the Consulate at which the applicant will apply for the immigrant visa.

Processing through the National Visa Center (NVC)

The NVC is situated in Portsmouth, New Hampshire. Upon receipt of the approved petition, the NVC sends a fee invoice to the applicant or the applicant's attorney. The fee is usually sent approximately 6-8 weeks after the petition is approved. Once the fees have been paid, the applicant completes and submits an online form, the DS-260. The applicant or the lawyer also sends the applicant's supporting documentation to the NVC by mail or email, depending on the consulate through which the case is being processed. The NVC usually takes about 6-8 weeks to review the materials. If all the required documents are present, the NVC forwards the case to the appropriate consulate for further processing. At this point, your petition is "Documentarily Qualified" (DQ), which is a classification given to cases where the National Visa Center (NVC) has received all the necessary information. This is an essential step in your immigration process, as it is from this point that your interview at the destination consulate can be scheduled.

Working with the Consulate

Once the Consulate receives the application from the NVC, it conducts an additional review and then schedules an interview. The appointment notice is usually sent approximately 2-4 weeks after the case has been transferred to the consulate abroad. The interview itself usually falls approximately 4-6 weeks after the date the applicant receives the appointment notice. The applicant must attend the interview on the date and time specified by the consulate or submit a request to reschedule the interview. If the interview must be rescheduled, the new date may be in a month or not until several months later, as consulates are very unpredictable about rescheduling.

Mandatory medical examination

Before the interview, all immigrant visa applicants, including dependent family members, are required to undergo a medical examination. The medical examination must be performed by a panel physician approved by the Department of State and located in the country where the consulate of interview is located. The applicant must bring the interview notice, their passport, any previous chest X-rays, passport-style photographs, and copies of their vaccination and medical records to the exam. If vaccination records are

not available, the applicant can ask their doctor to perform an antibody titer test to use as evidence of immunities.

The interview at the consulate

The applicant and his/her dependent family members must bring their passports, photographs of themselves, evidence of the main applicant's employment in the case of employment-based petitions that are sponsored by an employer (sponsor), and any original documents required for the interview. The interview officer will ask questions about the principal applicant's employment, job duties, and previous immigration history. Each applicant must sign their DS-260 by providing a biometric signature, i.e. their fingerprint, in order to certify that they have read and understood the questions on the form and that all statements that appear in their application are true and complete to the best of their knowledge.

After the interview

If the applicant's immigrant visa is approved, they must leave their passport at the consulate to be stamped with the visa. The passport containing the visa will be mailed to the applicant several working days later. At this time, the applicant must pay an additional fee, pertaining to the issuance of the Green Card, for himself and each dependent family member. After paying this fee, the applicant can enter the U.S. as a permanent resident.

Disadvantages of changing an adjustment of status process to a consular process.

1. Cost

Consular processing can be very expensive. If the country in which the applicant will apply for the immigrant visa is abroad, the cost of the plane fare will be a factor. The applicant must also be able to leave work, if working on a work permit, or even interrupt his/her studies, for at least one week with a month's notice so that he or she can undergo the medical examination in his/her home country, wait for the results of the exam and attend the interview.

In addition, the applicant must maintain their status in the US. Until the immigrant visa is issued. This means that he or she must continue to file petitions to extend his or her stay, which requires the payment of filing fees, or to be able to maintain his or her active student status.

2. Maintaining Status

The applicant and his/her family members must maintain nonimmigrant status for the duration of pending applications for consular treatment. Most nonimmigrant status has a limit on the duration of status. For example, L-1Bs can only hold status for 5 years, L-1As for 7 years, and H-1Bs for 6 years. An exception is that an H-1B beneficiary who has completed his or her sixth year may extend H-1B status indefinitely in annual increments if a Labor Certification or I-140 petition that has been filed on his or her behalf is pending for one year or more; or in 3-year increments if the I-140 has been approved and the priority date is not current.

If an applicant's nonimmigrant status does not allow him or her to remain in the United States for the duration of the Consular Processing application, he or she will have to leave the country and not re-enter until the Consulate issues him or her an immigrant visa. Applicants for whom maintaining status is an issue may wish to adjust status so that they continue to reside and work in the United States using a work permit while their applications are adjudicated.

Candidates cannot obtain distance learning

All family members of working age can obtain an Employment Authorization Document (EAD) while their application for adjustment of status is pending. This option is not available to dependents of Consular Processing applicants. Note that dependent spouses L-2 and E-1/E-2 are allowed to work. H-4 spouses may be eligible to apply for work authorization under certain circumstances. Family members of Consular Processing applicants may therefore experience significant delays in obtaining eligibility to work in the United States.

The lead applicant in a Consular Processing application is also ineligible for EAD, which means that if they file a new H-1B petition and use the portability provisions of AC21 to work for a new employer, they will lose eligibility for Consular Process based on the I-140 filed by their previous employer. In Consular Processing cases, the employer who filed the I-140 petition must

provide a letter for the applicant to present at the immigrant visa interview stating that they intend to employ the applicant after obtaining permanent residency. If, at the time of the interview, that same employer does not intend to continue employing the applicant, the immigrant visa cannot be issued.

Original documents required

Applicants for consular treatment are required to submit original documents at the time of the interview. Documents include birth certificates, marriage certificates, military records, divorce decrees, etc. For an application for adjustment of status, on the other hand, the applicant is only required to submit copies of supporting documents, unless original documents are requested, which is rare.

No Administrative Resources

If a consular officer denies a case, there is virtually no recourse for the applicant. A senior consular officer can review the application, but if he affirms the denial, there is no way to appeal the decision. The applicant must start the entire process again by filing a new I-140 petition.

I., personally and personally, recommend whenever possible, being in your country of origin, to opt for consular processing. And why do I say that? Because I believe that it is much easier for you and your family to stay in your country of origin, following your life, working, studying, etc., while waiting for the result of your process. If it is not approved, for example, something that I hope will never be your case, you can always reapply. And the obligation of having to maintain a legal status while all this is resolved is much "heavier" than staying in your country, as it already did before venture into a work-based visa process.

The cost of living in the U.S. increases every day, even though it is the largest economy in the world. As a student, you cannot work and you need to prove that you have sufficient financial resources to stay within the U.S. while studying. Perhaps, for some, this reality may be viable. But for the vast majority it is not.

Life in the USA offers numerous advantages, such as: security (logically depending on some factors, such as location, among others), greater

purchasing power, and so on. But it also requires sacrifices, such as: personal adaptation, distance from friends and family (which for some may not be relevant, but for others it is), among others.

Having a legal work permit, the reality may be a little better, but it will still require a lot of dedication and resilience to be able to reconcile work, family, and maintaining legal status.

Enfim, o objetivo deste guia não é dar aconselhamento algum, nem mesmo pessoal. Então considerem as palavras acima meramente como a expressão da minha opinião exclusivamente pessoal. Cada um sabe o que é melhor para si e sua família e como dizem: “cada caso é um caso”.

Before we begin, the applicant needs to have:

- Internet access
- Your NVC case number (see the message you received from the NVC)
- Your invoice I.D. number (refer to the message you received from the NVC)

The first thing you need to do after receiving your Welcome Letter from the NVC is to pay your processing fees. There are two processing fees:

1. Immigrant Visa Application Processing Fee.
2. Support Fee Statement.

You'll need a routing number from a U.S.-based bank checking or savings account.

To pay your fee, log in to your case at [CEAC](#) and click on the "**Pay Selected Fees**" button under "**Affidavit of Support Fee**" and/or "**IV Application Processing Fees**" on your summary page.

U.S. DEPARTMENT of STATE
CONSULAR ELECTRONIC APPLICATION CENTER

HOME FEES RECEIPT

Fee Invoice for IV Case LND2018813006

- The payment statuses of the AOS and IV fees for this case are given below.
- To pay fees click the **Select** box of each fee to be paid and then click the **Pay Selected Fees** button.
- IMPORTANT:** Any payment you make now requires 2-3 business days to complete and will have IN PROCESS status until then.
- Sign into this case again after 2-3 business days to verify that the payment status has become PAID.
- NEXT STEPS:** To view, print and/or email a payment receipt and learn what to do next click the **Payment Receipts** button below, or the **RECEIPT** tab above and to the right.

Affidavit of Support (AOS) Fees

Petitioner	Fee Amount	Payment Status	Select
WASHINGTON, GEORGE	\$120.00	PAID	<input type="checkbox"/>

IV Application Processing Fees

Applicant Name	Birth Year	Relation	Fee Amount	Payment Status	Select
WASHINGTON, MARTHA	1995	PRINCIPAL	\$325.00	PAID	<input type="checkbox"/>

Total Amount Selected: \$0.00

Payment Receipts Pay Selected Fees

After following steps 4 and 5, which are outlined in the section titled "Form I-864 (Affidavit of Financial Support)," and paying your fees and your status is upgraded to "**PAID**," you and each eligible family member who immigrates with you must complete the Application for Immigrant Visa and Alien Registration (Form DS-260).

To complete your Immigrant Visa and Alien Registration Application, log in to your case at [CEAC](#) and click "**START NOW**" under "**IV Application**" on your summary page.

 **Learn more in the full version of the book**

Chapter 6: Questions & Answers

The EB-3 visa is one of the main categories of employment-based immigration in the United States, with three subcategories: **Skilled Workers**, **Professionals**, and **Other Workers**. Below, we address the main questions about the process, differences and similarities between the subcategories.

1. What is the EB-3 Visa?

The EB-3 visa is an employment-based immigration category that allows foreign workers to obtain permanent residency in the U.S. It is divided into three subcategories:

- **Skilled Workers:** Requires at least two years of experience or training in the specific field.
- **Professionals:** Requires a bachelor's degree or equivalent.
- **Other Workers:** For roles that require less than two years of experience or training and are not temporary or seasonal.

2. What are the general requirements for EB-3?

- A permanent, full-time job offer in the U.S.
- U.S. Department of Labor-approved labor certification (PERM) proving that there are no U.S. skilled workers available for the position.
- Fulfilment of the specific requirements of the chosen subcategory.

3. What are the main differences between EB-3 subcategories?

Subcategory	Key Requirements	Examples of Occupations
Professionals	Bachelor's degree or equivalent	Engineers, teachers, accountants
Skilled Workers	At least 2 years of experience or training	Technicians, electricians, chefs
Other Workers	Less than 2 years of experience or training	Farm workers, house cleanings

4. What are the similarities between the subcategories?

- All require a permanent, full-time job offer.
- All require labor certification (PERM) approved by the Department of Labor.
- In all categories, the employer must demonstrate that there are no U.S. workers available to fill the vacancy.

5. What is PERM certification and why is it necessary?

PERM certification is a process in which an employer proves to the U.S. Department of Labor that they tried to hire qualified U.S. workers for the position but failed. It is mandatory for all EB-3 subcategories.

6. Is it possible to include dependents in the EB-3 process?

Yes, spouses and unmarried children under the age of 21 can be included as dependents in the EB-3 visa application. After approval, they can also obtain permanent residency in the U.S.

7. How long does the EB-3 visa process take?

The time varies depending on the applicant's nationality and the demand for visas in the EB-3 category. In general, it can take several years due to the annual limits on available visas and queues per country.

8. Can I change employers after obtaining an EB-3 Green Card?

Yes, once you get the Green Card, you are no longer bound to the sponsoring employer. However, it is recommended to stay in employment for a reasonable period of time after approval to avoid problems with immigration.

9. How does EB-3 compare to EB-2?

The main difference is in the requirements:

- EB-2 requires an advanced degree (such as a master's degree) or exceptional skills.
- EB-3 has more affordable requirements: bachelor's degree (for professionals) or minor experience/training (for skilled and unskilled workers).

10. What are the most common reasons for EB-3 visa denial?

Among the most frequent reasons are:

- Failures in the documentation presented by the employer.
- Lack of a genuine job offer.
- Failure to meet the minimum requirements of the chosen subcategory.

11. Is the EB-3 Visa a good option for those who are starting their career?

Yes! The "Professionals" subcategory allows recent graduates with a bachelor's degree to apply, as long as they have a job offer in their field of training.

12. Which sectors use the EB-3 visa the most?

The most common industries include:

- Health (nurses, physiotherapists).
- Civil construction (bricklayers, carpenters).
- Information Technology.
- Agriculture and general services.

13. Is it possible to change my classification within the EB-3 process?

Yes, in some situations it is possible to adjust your classification among the EB-3 subcategories or even change to another category such as EB-2, depending on the qualifications and requirements of the position offered.

14. What are the specific requirements for each EB-3 subcategory?

- **Professionals:** Requires a bachelor's degree or foreign equivalent, and the occupation should normally require such training. Examples include engineers, teachers, and accountants.
- **Skilled Workers:** It is necessary to have at least two years of experience or training in the specific area. Examples include technicians, chefs, and electricians.
- **Other Workers:** For roles that require less than two years of experience/training, or even no previous experience/training, such as agricultural, domestic, or cleaning workers.

15. Is it necessary to speak English to apply for EB-3?

It is not mandatory to be fluent in English for the EB-3 visa, especially in the "**Other Workers**" subcategory. However, fluency can be a differential depending on the position offered.

16. What are the main advantages of the EB-3 visa?

- Allows permanent residency in the USA (Green Card).
- Includes spouses and unmarried children under the age of 21 as dependents.
- Offers the opportunity to work legally in the U.S. in a variety of professional fields.
- Does not require extremely stringent qualifications in some subcategories.

17. Is there a minimum age to apply for EB-3?

Yes, the minimum age is usually 18 years old, as it is necessary to be legally able to work in the United States

18. Can the spouse and children work or study in the U.S. on the EB-3 visa?

Yes. The spouse can apply for a work authorization (EAD) and the children can legally study in the U.S. while waiting for the Green Card.

19. What are the annual limits for EB-3 visas?

About 40,000 visas are allocated annually to EB-3 within the global quota of 140,000 employment-based visas. Each country has a maximum limit of 7%, which can lead to delays depending on the nationality of the applicant.

20. Can I change employers before obtaining a Green Card, after I-140 approval, and with I-485 pending or without I-485 filed?

With the I-485 pending:

Yes, it is possible to change employers while Form I-485 (Adjustment of Status) is pending, as long as the conditions set forth by the *American Competitiveness in the Twenty-First Century Act (AC21)* are met. The main conditions are:

- Form I-485 must be pending for **at least 180 days**.
- The new job must be in the same area or in a "similar" occupation to the one described on the original Form I-140.
- It is necessary to file Form I-485 Supplement J to confirm the new job offer and demonstrate that it meets the requirements for "same or similar occupation" as required by law.

If these conditions are met, you can "port" your process to the new employer without needing to restart the Green Card process. This allows you to maintain the priority of your original petition (I-140) and continue with the Adjustment of Status.

Without the I-485 filed:

If the I-485 has not yet been filed, changing employers will be more complicated. In that case:

- You will need the new employer to initiate a new labor certification process (PERM) and file a new Form I-140 on your behalf.
- While it is possible to keep the priority date of the previous I-140 (if already approved), the entire process will be restarted based on the new employer.

Therefore, changing employers before the I-485 filing usually entails starting the steps of the EB-3 process again.

Important Considerations:

- If you change jobs without meeting the requirements of AC21 (for example, if the I-485 is pending for less than 180 days), your petition may be invalidated, and you will need to restart the entire process with a new employer.
- Even after the move, it is essential that the new offer is genuine and meets legal requirements to avoid issues with USCIS during the case review.

If you are considering changing employers in any of these situations, it is highly recommended to consult with an experienced immigration attorney licensed in the U.S. to ensure that all rules are followed correctly.

These questions cover key aspects of the EB-3 process and its subcategories, helping applicants better understand the requirements and steps involved in the path to permanent residency in the United States.

Chapter 7: Final Message

The end of this guide highlights the ongoing commitment to the applicant's journey towards the EB-3 visa. This process can be challenging, but with dedication, a thorough understanding of the requirements and the right guidance, it becomes an achievable journey. Pursuing EB-3 is not only a pathway to permanent residency in the United States, but also an opportunity to contribute significantly to the country through in-demand occupations.

As we conclude this guide, we reinforce the importance of seeking specialized legal advice to ensure that each step is taken in accordance with specific regulations and requirements. Each case is unique, and the assistance of experienced professionals can be a key differentiator in the success of the process.

We encourage readers to explore more resources, deepen their understanding of EB-3 and, if any questions arise, seek clarification from qualified professionals. This is a crucial chapter in your lives, and I am confident that, with perseverance and knowledge, you will achieve your goals.

Don't trust "professionals" who give you guarantees of approval, even for a category whose approval rate is quite high, a lot can happen during the process and no one is free of problems! Be wary of promises of "unrealistic" deadlines. These should be the first warning signs that something might be wrong. This guide was created precisely for this purpose, i.e. to provide you with comprehensive information so that you can study the process, analyze the requirements for approval, compare them with your reality and possibilities and make the best decision.

Being eligible for EB-3 alone doesn't guarantee you anything! You need much more than that: you need to present a solid, well-founded petition that meets the criteria established by the US immigration authorities.

Remember that EB-3 has specific and objective requirements, but it still requires attention to detail. The process involves steps such as labor certification and proving that you meet the qualifications required for the sponsored occupation. That's why it's essential to understand the process, its requirements and to work together with your employer and specialized consultants to ensure a robust application.

Another important point! If you are applying from inside the USA, never abandon your immigration status. No matter how much they tell you to do so, believe me: you may regret it bitterly if you encounter barriers to the approval of your application. In very rare cases, a lost status is reversed. Don't be overconfident and always take care of your status! Remember: applying for an adjustment of status does NOT guarantee you legal status, but only authorized permanence while it is pending. Therefore, if you need to reapply for a new process and you have previously abandoned your status, you will be ineligible for a new adjustment of status.

Always seek out a reliable immigration attorney licensed in the US (always require a BAR) for further information or questions about your immigration status.

Thank you for choosing this guide as part of your journey and I wish all applicants success in their efforts to achieve the EB-3 visa and, consequently, a new phase in their lives in the United States.

Good luck!

Ramon Rocha

**GET YOUR FULL BOOK NOW AND GET ALL
THE INFORMATION ABOUT THE EB3 PROCESS IN YOUR HANDS.**

MODULE II - Immigration Petition and Related Forms

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