H–1B, F–1, J–1
Faculty and Staff Immigration Services
NOTE: The presentation is for informational purposes only and does not constitute legal advice.
Main Federal Agencies Involved in Immigration

- Department of Homeland Security (DHS)
  - U.S. Citizenship and Immigration Services (USCIS)
  - U.S. Customs and Border Protection (CBP)
  - U.S. Immigration and Customs Enforcement (ICE)
- U.S. Department of Labor (DOL)
- U.S. Department of State (DOS)
- U.S. Department of Justice
Visa is a travel document
- Canadian citizens are generally exempt of the U.S. visa requirement (with some exceptions)

Status is basis of
- Authorization to be in the U.S.
- Authorization to be employed in U.S.

Visa and status do not necessarily match
- Status can be obtained through a “change of status” within the US
- Visas can only be issued at U.S. consulates and embassies abroad
  - Visa sticker in passport may expire

Status is indicated on I–94 record
- I–94 record can come in multiple formats
Most Recent I-94

Admission (I-94) Record Number: [Redacted]
Most Recent Date of Entry: 2016 October 17
Class of Admission: TN
Admit Until Date: 06/28/2019

Details provided on the I-94 Information Form:

Last/Surname: [Redacted]
First (Given) Name: [Redacted]
Birth Date: [Redacted]
Passport Number: [Redacted]
Country of Issuance: Canada

For inquiries or questions regarding your I-94, please visit here

https://i94.cbp.dhs.gov/i94/

10/28/2016
General H–1B Info

- H–1B is a Non–Immigrant Status
  - “Dual Intent” recognized
- Authorizes temporary employment in a “Specialty Occupation”
- Position must require at least a Bachelor’s Degree or equivalent in a specific field
  - Degree requirements MUST be completed BEFORE filing H–1B petition
  - Position requirements MUST be met BEFORE filing H–1B petition
  - Field of study MUST be related to position
General H–1B Info

- Employer Sponsored
- Petition is:
  - Job Specific
  - Wage Specific
  - For a specific time period
- 6 year limit (max. 3 years per request)
- Extensions beyond 6 years – only in very limited situations
- Impact of 212(e) for J–status holders
- H–4 available for dependents
  - EAD in limited cases
H–1B Steps

- Offer and Acceptance of H–1B employment
  - Company (petitioner) files for H–1B on your (beneficiary) behalf
- The H–1B approval is valid ONLY for work with the employer that filed the petition and only for the position for which it was filed
  - To add employers/positions, a new petition may need to be filed
- Required employment information:
  - Specific duties
  - Exact requirements
  - Geographic location
  - Exact dates of employment
  - Information regarding the supervisors and co-workers of the beneficiary
  - Travel requirements, if any
H–1B Steps

- 2 wages must be determined
  - Prevailing Wage
    - External
    - Takes into consideration duties and requirements
  - Actual Wage
    - Internal
    - Takes into account “similarly employed” individuals
- Employer is required to pay the higher of these wages, or more
### H–1B Steps

- **Labor Condition Application (LCA)**
  - In LCA, sponsoring employer is attesting:
    - To pay the higher of the two wages (Prevailing vs. Actual)
    - That the employment of this individual will not adversely affect the conditions of other workers
    - That there is no strike for their occupation at the workplace
    - That notice was given to other employees

- **Dept. of Labor certifies LCA and returns it to employer**
  - A copy of LCA must be provided to you prior to start of H–1B employment
H–1B Steps

- H–1B Petition assembled & filed with USCIS
- The filing generally includes:
  - Required forms
  - LCA
  - Fees
  - Education & experience evaluation & documents
  - Training certificates, resume, employment agreement and letter of support
  - Immigration Documents (I–20, EAD, Passport, Visa stamps, previous J–documents, etc.)
Petitioner (Employer) required by law to:
- Pay all costs and fees
- Pay at least higher of Prevailing Wage or Actual Wage
- Pay the required wage rate for all nonproductive time caused by:
  - conditions related to employment
  - lack of work/shut-down
  - studying for licensing exam
  - employer required training
- Employer cannot “Bench” employee
Numerical Cap

- Cap Based Employers
  - Statutory numerical limitation of:
    - 65,000 per fiscal year
    - 20,000 U.S. master’s degree or higher
  - Can file on April 1st for work beginning on Oct. 1st
  - Most private sector employers
Cap Exempt

- Cap Exempt from numerical limitation:
  - Institutions of higher education or related/affiliated nonprofit entities
  - Nonprofit research organizations or governmental research organizations
  - Petitions filed on behalf of current H-1B workers who have been counted previously against the cap

- Can file anytime for work beginning anytime
H-1B Cap Data

- The filing period for Fiscal Year (FY) 2018 began on April 1, 2017
- Filing Period closed within 1 week
  - USCIS reached the statutory cap of 65,000 and 20,000 for advanced/masters degrees
  - Roughly 30% success rate
  - FY 2018 saw decline of petitions filed
- USCIS used a “lottery” to select a sufficient number of petitions needed to meet the caps
- If not selected in the “lottery,” USCIS rejects and returns petition including filing fees
- Extensions and amendment do not count toward cap
### Trend of H-1B Petitions FY 2007 Through 2017: Receipt Volume Overview

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**Note:** Unless noted otherwise, all data are based on petitions received during a fiscal year. Note: FY2017 data is as of June 30th, 2017. A large portion of the FY2017 petitions are still pending adjudication as of the date this report.

**Note:** Approvals are for petitions received in a given fiscal year. Actual approval dates may occur in a later fiscal year. Additionally, revocations may impact approvals counts depending on the time of data extraction.

### Trend of H-1B Petitions Filed FY 2007 Through 2017: Beneficiary Country of Birth (Top Twenty)

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<td>9,400</td>
<td>7,399</td>
<td>6,772</td>
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<td>3,704</td>
<td>3,461</td>
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<td>1,613</td>
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<td>1,490</td>
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<td>1,154</td>
<td>948</td>
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<td><strong>Venezuela</strong></td>
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<td>1,302</td>
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<td>973</td>
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<td>1,140</td>
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<td>1,110</td>
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<td><strong>All Other</strong></td>
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<td>30,075</td>
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</table>

**Notes:** Ranking is based on the total petitions received in the 10-year period with known country of birth.

Sum of the percentages may not add to 100 due to rounding.
### Trend of H1B Petitions Filed FY 2007 Through 2017: Beneficiary Age Ranges

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<td>Under 25</td>
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<td>18,127</td>
<td>18,076</td>
<td>16,412</td>
<td>16,316</td>
<td>17,565</td>
<td>200,916</td>
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<td>59,314</td>
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<td>56,716</td>
<td>60,084</td>
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<td>81,031</td>
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<td>94,159</td>
<td>737,151</td>
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<td>45 to 54</td>
<td>12,634</td>
<td>10,316</td>
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<td>8,767</td>
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<tr>
<td>Over 65</td>
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<td>230</td>
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<td>220</td>
<td>177</td>
<td>160</td>
<td>156</td>
<td>141</td>
<td>122</td>
<td>3,085</td>
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Notes: Age is calculated based on the date the petition was received. Sum of the percent may not add to 100 due to rounding.

### Trend of H1B Petitions Filed FY 2007 Through 2017: Beneficiary Occupation Category

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<td>Computer Related</td>
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<td>144,950</td>
<td>157,525</td>
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</table>

Note: Sum of the percent may not add to 100 due to rounding.

Perception? Young/entry-level, IT
### FY 2016 Top 8: 69,801 approved petitions → 20%
Increased Scrutiny

- Increased site visits
- IT positions
- “Entry level” positions
  - Do entry level positions qualify?
  - Is a position properly classified as entry level
- Degree completion/Educational equivalence
- No deference to previous decisions
- Intent, if traveling
Impact of International Travel

- No travel while Change of Status is Pending
- Travel after COS approval, but before effective date?
  - “Last Action” rule vis-à-vis intent
- Travel generally during OPT?
Other Options

- Canadian and Mexican citizens
- Profession-specific
  - Many teaching/research positions qualify
  - Management Consultants
- No wage requirement
- No maximum duration
- No immigrant intent
- No quota

- Australian citizens
- Same standard as H-1B
- No maximum duration
- No immigrant intent
- Quota of 10,500 has never been filled
- Dependent spouse may apply for EAD
Resources

- www.internationalcenter.umich.edu
- www.USCIS.gov
- Foreign Labor Certification Data Center is available at www.flcdatacenter.com
Employment Options for After Graduation

- **F–1**: Optional Practical Training (OPT)
- **J–1**: Academic Training (AT)

*Review International Center (IC) website first!*
A Note on F–1/J–1 Completion Date

- The end date of your I–20 or DS–2019 is based strictly on your final term of enrollment.

- Degree conferral date is not relevant to I–20 or DS–2019 completion date.

- Completion dates for Winter Term
  - Final term of enrollment Winter A: 02/28
  - Final term of enrollment Winter B: 04/30
OPT Strategy

1) When will you file your OPT app. with USCIS? 
   *Up to 90 days before I-20 completion date, or up to 60 days after I-20 completion date*

2) What requested OPT start date will you use? 
   *As early as 1 day after the I-20 completion date, or as late as 59 days after the I-20 completion date*

   Recommended practice: mid-April or later OPT start date
OBTAINING LETTERS USED TO APPLY FOR U.S. WORK AUTHORIZATION
BBA Soph / BBA Jr / MBA1 in F-1 Status

CURRICULAR PRACTICAL TRAINING (CPT)

• Register for BA 525 in Winter B (Tauber students- OMS 703)
• Upon accepting a U.S. internship, complete CPT Faculty Advisor Recommendation form available through Career Development Office
• Follow Int’l Center process to obtain CPT
MBA2 / BBA Sr / MAcc in F-1 Status*

*MSCM and PT-MBA upon request to Academic Services

- CDO will send instructions to request letter
- Ross Registrar will generate OPT letters
- Ross Registrar will generate degree completion letters (H-1B) on rolling basis upon completion of degree, once grades are posted

*Undergraduate degree holders may not need letter*
Students in J-1 Status

- Upon accepting a job or internship, email Academic Services (RossAcadServices@umich.edu) to obtain required letter for Academic Training application
- Graduating students: see previous slide for H-1B letter procedure
Questions?