

Looking for Jobs in the USA

Dual Career Spouses

International Scholar Services

<https://www.purdue.edu/IPPU/ISS/Scholar>

Overview

The Immigration Options generally available to Spouses

US Immigration Structure

“Work Visa”

- Admission to the US in a work-authorizing immigration classification
 - H-1B
 - O-1
 - TN (Canadian and Mexicans only)
 - E-3 (Australians only)
 - H-1B1 (Chilean and Singaporeans only)
 - J-1 Exchange Visitor (certain sub-categories only)
 - Strictly nonimmigrant (Temporary) – intention to reside indefinitely in the US is barred by law
 - Depending on circumstances, might give rise to an obligation to return to the home country for 2 years
 - May be complicated for individuals married to faculty with “permanent” employment at Purdue
- Spouse’s employer submits the paperwork to the government

“Work Permit”

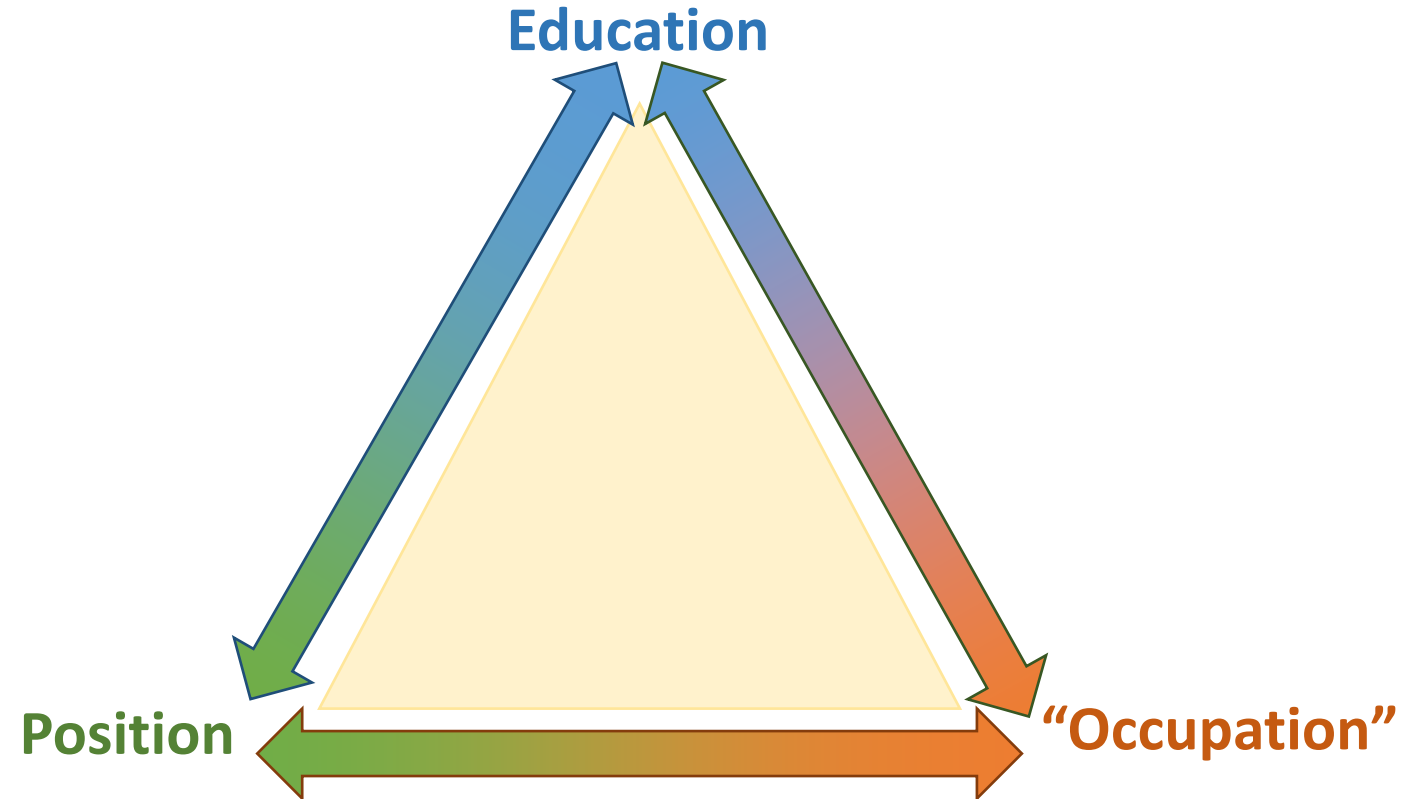
- Employment Authorization Document (EAD)
- 18+ ways to obtain; relevant paths for most Dual Career Spouses are:
 - Spouse of a “primary” H-1B worker
 - H-4 EAD*
 - H-4 spouses normally are not work authorized
 - EXCEPTION when H-1B primary reaches I-140 approval
 - Applicant for I-485 Adjustment of Status (final step in permanent residence process)
- Spouse submits the paperwork to the government

Option 1: H-1B Employment

H-1B Specialty Occupation

- Eligibility for the H-1B Classification rests on three closely connected elements
 - Education
 - Occupation
 - Position
- The law's focus is on the "hard" (textbook) knowledge acquired during worker's formal degree (education)
 - Experience is irrelevant
 - Certifications outside of a formal degree are irrelevant
 - "Soft skills" acquired during degree programs are irrelevant
 - Communication skills
 - Skills at persuasion
 - Skill at navigating a higher education environment
 - Skill at interacting with researchers or faculty
- The law wants to see a linear relationship between
 - The courses taken during the degree program (and the underlying "hard" (textbook) knowledge of those courses), and
 - The duties and responsibilities of the employment

The formal degree held by the worker, at not less than the Bachelor's Degree level



The duties and tasks of the proposed employment position

Specific tasks associated with a potentially unique role

Federal government's classification system for all occupations in the universe.

Extremely broad, generic collection of "norms"

H-1B Specialty Occupation

Look for jobs where-

- The minimum requirements for the opportunity include
 - No less than a bachelor's degree requirement, and
 - List specific degree fields
 - “Or related” is fine
 - The absence of a degree field likely means the employment is not suited to H-1B sponsorship
 - Extremely generic degree fields (e.g. “engineering” or “science”) are too broad to support H-1B sponsorship in most cases
 - You have a degree that either meets the listed requirements or is “closely related” to the listed degree level and field(s)

and

- You are able to draw a connection between
 - The duties and responsibilities listed in the posting or ad, and
 - The courses taken during *your* degree program

Option 2: O-1 Employment

O-1 Extraordinary Ability

- Some spouses might qualify for O-1 “work visas” based on their accomplishments and impact to their field of specialty
 - O-1A: Extraordinary Ability in the sciences, education, business, or athletics
 - “one of the small percentage who have arisen to the very top of the field of endeavor.”
 - O-1B: Extraordinary Ability in the arts or Extraordinary Achievement in motion picture or television industry
 - Distinction = “a high level of achievement in the field of arts evidenced by a degree of skill and recognition substantially above that ordinarily encountered to the extent that a person described as prominent is renowned, leading, or well-known in the field of arts”
- The individual must generally show that they have
 - Accomplishment and impact in their field, as shown by
 - Receipt or nomination of major national or international award such as a Nobel Prize;
OR
 - Not less than 3 of the following:
 - Membership in associations in the field where eligibility is based on outstanding achievements
 - Published material *about* the individual or their work
 - Participation on a panel, or individually, as a judge of the work of others in the same or in an allied field
 - Original scientific, scholarly, or business-related contributions of major significance in the field
 - Authorship *by* the individual of scholarly articles in the field, in professional journals, or other major media
 - The individual's participation in a critical or essential capacity for distinguished organizations and establishments
 - The individual's receipt of a high salary
 - “Sustained” acclaim
 - Accomplishments and impacts should begin in the past be continuing to the present
- The job does not need to “require” a person of extraordinary ability
 - But the US employment opportunity should “require” someone with a background (education, experience, etc.) that is comparable to that which is held by the spouse
- The USCIS does not evaluate “truth”
 - It evaluates documents, and hopes that the documents correlate to truth
 - The fact that you “really are” accomplished is less relevant than having *documents* that support a conclusion of accomplishments

O-1 Extraordinary Ability

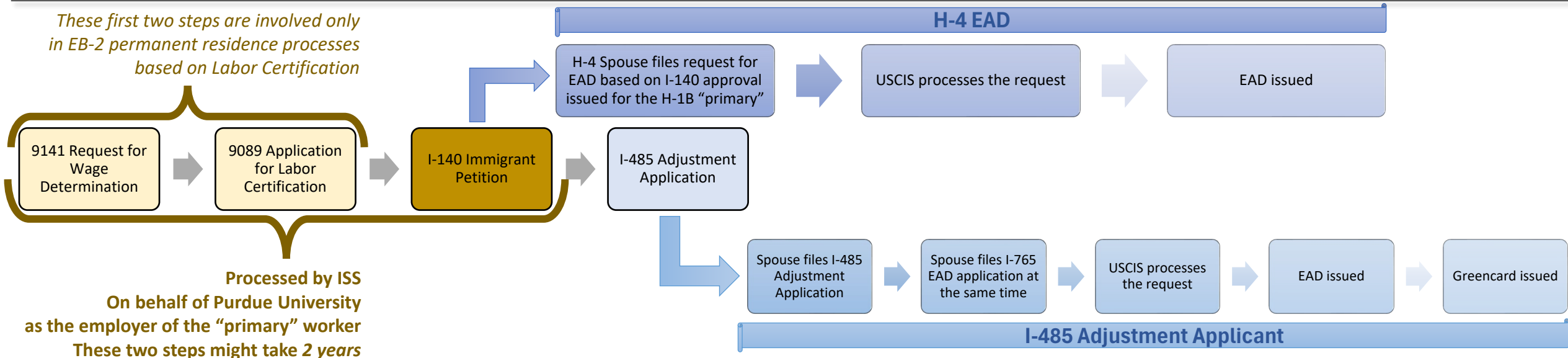
Look for jobs by-

- First ascertaining whether you (the spouse) have enough documentation to “prove” sustained accomplishment and impact in a field of specialty
 - Review your career to date and compile documentation about
 - Publications
 - Citations
 - Impact factors and other indications that the journals where you were published were ‘significant’
 - Invited talks
 - Conference chairing or organizing
 - Peer review
 - Articles written by others about you (e.g. extended discussions about your work in their scholarly papers, blog articles, interviews, etc.)
 - And similar documents
 - A career that drifts from one field to another field is problematic because then there is insufficient documentation in any “one” single field to satisfy the rules
- THEN look for jobs that draw on the skills, abilities, education, training or experience that you can document

Option 3: Employment Authorization Document (EAD)

Work Permits

- A “Dual Career” Spouse will (eventually) have two possible bases on which to apply for an EAD
 - **As an “H-4 EAD” applicant**
 - Once the primary Purdue worker’s permanent residence process has reached the point that the Form I-140 petition is approved
 - If Spouse does not hold H-4 status, the application can be a combination of an I-539 request to change to H-4 status, plus an I-765 request for the EAD
- OR**
- **As an applicant for I-485 Adjustment of Status**
 - The request for the EAD is filed either at the same time, or at any time following, the filing by the primary and each accompanying family member of their individual I-485 Adjustment of Status application.
- USCIS will process the two different kinds of EAD applications at different speeds
 - Check USCIS website to understand how different those processing times might be (<https://egov.uscis.gov/processing-times/>)
 - Sometimes one path is faster, sometimes the other – these constantly change. You must verify relative processing times prior to filing.
- In either case, eligibility for an EAD arises only toward the *end* of the permanent residence processing (2+ years after hire)



Questions?

Purdue University can provide only very limited general guidance to spouses.

ISS is able to provide guidance to Purdue employees *because* they have a relationship with Purdue; ISS is acting in the capacity of the “employer” in the employment-based immigration processes, with respect to “our” employee.

No such relationship exists between Purdue (ISS) and a spouse. Moreover, we are not lawyers retained by the spouse. We therefore must take care not to provide “legal advice” where we interpret a person’s individual circumstances within the context of US law, because this could constitute “the unauthorized practice of law”.

ISS can provide instructions for how to find and hire a qualified immigration attorney to assist, should there be further questions. Please email intlscholars@purdue.edu to request the immigration attorney referral instructions.