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

Education

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

“Occupation”

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

Specific tasks associated with a potentially unique role

- Extremely broad, generic collection of “norms”
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
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
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/](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.