

IMMIGRATION NEWS

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GREEN CARDS

WHAT TO DO WHEN YOU CHANGE EMPLOYERS and you are in the middle of the 3-step Green Card process:

WHERE ARE YOU IN THE PROCESS?

Depending upon where your petition is located in the process, you may (or may not) take the petition with you to the next employer.

WHAT IS THE PROCESS?

The Green Card process with an employer sponsor is a 3-step process:

First Step: Labor Certification is filed with the local, then regional Department of Labor and may take up to a year depending upon the state and region where it is filed. It may be filed as a "regular" or "RIR" which is a fast track filing. In the Maryland, VA, DC and PA

Employment-based Timetables

	China	India
2 nd Preference	current	current
3 rd Preference	current	current

H-1B UPDATE

H-1Bs are taking about 8-10 weeks for approval.

Premium Processing is now offered for the H-1B. With an additional payment of \$1000, INS will process the H-1B within fifteen (15) days, however, my experience is that INS approves these Hs within one week.

Service Center Hotlines

VERMONT SERVICE CENTER: HOTLINE: (802)527-4913

NEBRASKA SERVICE CENTER: HOTLINE: (402)323-7830

TEXAS SERVICE CENTER: HOTLINE: (214)381-1423

CALIFORNIA SERVICE CENTER: HOTLINE: (949)831-8427

Marriage Visa

It is usually advisable to file your green card petition through your American spouse rather than through an employer-sponsor. Some reasons that make it preferable:

1. you may file for a Work Permit at the same time and be free to work for any employer;
2. the process is faster;
3. it costs less money \$\$;
4. you are not dependent upon a particular employer; and
5. you are in control of the filing process.

NOTE: This newsletter is meant for your information. The contents may not be used as legal advice or relied upon as legal advice. The INS and DOL have complex and confusing rules. It is advisable to consult with an Immigration specialist to determine how the rules apply to your particular case.

area, the Labor Certifications take about 2-3 months for an approval. If you change employers during this first step then you may not take the petition with you because it belongs to the employer who may use it for another employee after it is approved.

Second Step: Immigrant Petition is filed with INS and takes from 6-8 months for an approval. If you change employers during this second step then you may not take the I-140 with you.

Third Step: Adjustment offers a choice to adjust in the USA or with Consular Processing. If you change employers during this third step then you may continue the process after your petition has been pending 180 days.

Boarding an airline

If a non-immigrant plans to fly within the United States, be sure to carry your passport with you. It is also advisable to carry a letter from your employer on company letterhead stating that you are currently employed. It should have the employer's signature and telephone number on the page. These are valuable items to present if there is ever a question.

EMPLOYER'S CORNER

I-9s

Be sure to attach the H-1B Transfer's receipt to the I-9 until the actual H approval is received. If you need assistance with the I-9 procedure, call my office at (202)518-7855.

H-1B Dependency

The Department of Labor wants to know if you are an H-1B Dependent employer? The DOL has provided a formula to calculate your dependency status:

Less than 25 employees: 7 H-1Bs
Between 26-50 employees: 12 H-1Bs
More than 50 employees: 15% of staff

Exempt H-1Bs: if the H-1B has a Master's degree in a specialty related to the employment or who earn wages of \$60K or more. However, please note that the calculation for a dependent employer includes the exempt H-1Bs....

Work Permits

Be sure to make a copy of the employee's Work Permit and attach it to the I-9, marking the EXPIRATION DATE. Be sure to follow-up with the employee about 2 months prior to expiration and find out if he/she has applied for a new Work Permit. The Work Permit must be valid for the individual to work.

WHO HAS A WORK PERMIT?

Foreign students
Foreign workers who marry Americans and are waiting for their green card
Foreign workers who have applied for Adjustment and are waiting for their green card
Asylum petitioners waiting for their green card
Anyone who is NOT an American, MUST have proof that they are allowed to work. A social security number is NOT ENOUGH to protect the employer.

Employer Sanctions can cost up to \$10,000 per day per worker. Be sure that your I-9s are up-to-date and correct.

For an accurate Education Credentials Evaluation, email: eliz@calderonlaw.com