American Immigration Council

APRIL 2026

FACT SHEET

Employment-Based Visa Categories in the United States: An Overview

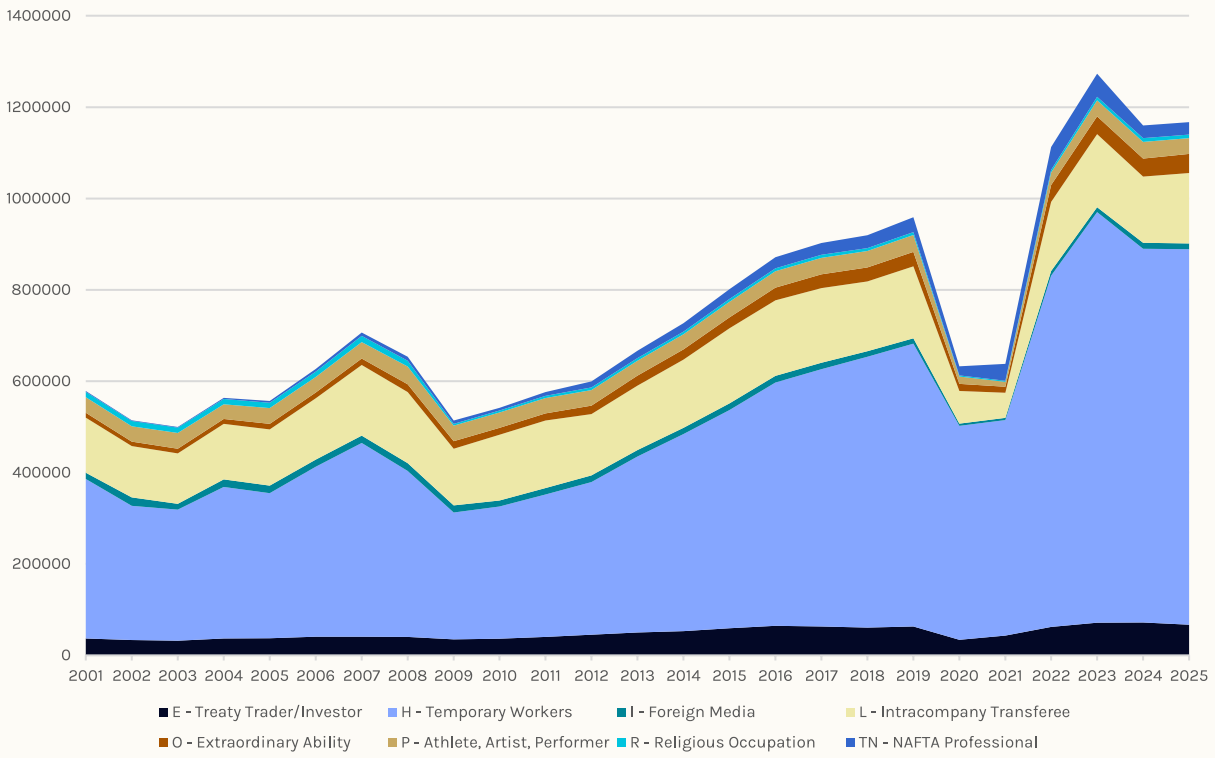
One of the key principles guiding the U.S. immigration system has been admitting foreign workers with skills that are valuable to the U.S. economy. Current U.S. immigration law provides several paths for foreign workers to enter the United States for employment purposes on a temporary or permanent basis. This fact sheet provides basic information about how the employment-based U.S. immigration system works.

Temporary Employment-Based Visa Classifications

There are many different temporary employment-based visa classifications.[1] Most of the classifications are defined in section 101(a)(15) of the Immigration and Nationality Act (INA), and the visa classifications are referred to by the letter and numeral that denotes their subsection of that law. Temporary employment-based visa classifications permit employers to hire and petition for foreign nationals for specific jobs for limited periods of time. Most temporary workers must work for the employer that petitioned for them and hold limited ability to change jobs.[2] In most cases, they must leave the United States if their status expires or if their employment is terminated.

Overall, the total number of temporary employment-based visas issued increased after Fiscal Year (FY) 2000, with a slight peak in FYs 2007-2008.[3] There was a steady increase from FY 2009 up until FY 2019 during the first Trump administration.[4] In FY 2020, the Trump administration suspended the entry into the United States of many noncitizens on immigrant and nonimmigrant visas, purportedly as a response to the COVID-19 pandemic.[5] As a result, the number of nonimmigrant visas issued at foreign service posts abroad plummeted in FY 2020 and remained low during the first half of FY 2021.[6] The Biden administration later increased nonimmigrant visa issuances beyond pre-pandemic levels beginning in FY 2022 (Figure 1). Under the second Trump administration, several recent policies have increased barriers for noncitizens seeking employment-based nonimmigrant visas, including imposing a $100,000 fee on certain new applications for H-1B workers[7] and imposing travel restrictions on nationals from dozens of countries.[8] The full impact of these policies on visa issuance is yet to be seen.

FIGURE 1. NONIMMIGRANT VISAS ISSUED BY SELECT CLASSIFICATIONS, FY 2000-2025



Note: Totals include spouses and children of primary beneficiaries.

Source: U.S. Department of State, Report of the Visa Office, 2000-2024, "Classes of Nonimmigrants Issued Visas," https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/annual-reports.html; and U.S. Department of State, "Monthly Nonimmigrant Visa Issuance Statistics Fiscal Year 2025," https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/nonimmigrant-visa-statistics/monthly-nonimmigrant-visa-issuances.html.

The visa classifications vary in terms of their eligibility requirements, duration, whether they permit workers to bring dependents, and other factors. Table 1 includes information on several of the most common temporary employment-based visa classifications.

TABLE 1: CHARACTERISTICS OF COMMON TEMPORARY EMPLOYMENT-BASED VISA CLASSIFICATIONS

	H-1B	H-2A	H-2B	L-1A & L-1B
Who is eligible?	Certain foreign professionals in "specialty occupations."[9]	Temporary agricultural workers from certain designated countries.[10]	Temporary non-agricultural temporary workers.[11]	Certain foreign workers employed by certain entities abroad that are related to U.S. employers, whose services are being sought by their employers in the United States.[12]
Are there any numerical annual limits?	65,000 per year, plus 20,000 more for foreign professionals with a U.S. master's or higher degree.[13]	No annual limit.[14]	66,000 per year.[15]	No annual limit.
Duration	Initially admitted for a period of up to three years; may be extended for a maximum of three additional years.[16]	Initially admitted for period of approved employment; may be renewed for qualifying employment in increments of one year each for a maximum stay of three years.[17]	Initially admitted for a period of up to one year; may be renewed twice for a maximum stay of three years.[18]	Initially admitted for a period of up to three years; may be extended for a maximum of two additional years for an L-1B and four additional years for an L-1A.[19]
Employer requirements	The employer must attest that employment of the H-1B worker will not adversely affect the wages and working conditions of similarly employed U.S. workers.[20] Employers must comply with wage requirements.[21]	The employer must attest that no qualified U.S. workers who can fill the position are available.[22] Employers must comply with recruitment, wage, benefits, housing, transportation, and other requirements.[23]	The employer must attest that no qualified U.S. workers who can fill the position are available.[24] Employers must comply with wage, housing, transportation, and other requirements.[25]	No requirements regarding adverse effects, wages, housing, etc.
May the foreign workers bring their spouses and children under 21?	Yes, spouses and children under 21 may enter on an H-4 visa, and certain spouses are allowed to work.[26]	Yes, spouses and children under 21 may enter on an H-4 visa but may not work.[27]	Yes, spouses and children under 21 may enter on an H-4 visa but may not work.[28]	Yes, spouses and children under 21 may enter on an L-2 visa, and spouses are allowed to work.[29]

Permanent Employment-Based Immigration

Lawful permanent residency allows a foreign national to work and live lawfully and permanently in the United States. Lawful permanent residents (LPRs) are eligible to apply for nearly all jobs (i.e., jobs not legitimately restricted to U.S. citizens) and can remain in the country even if they are unemployed. Immigrants who acquired lawful permanent resident status through employment may apply for U.S. citizenship after five years.[30]

The adjustment of status to permanent residency based on employment generally involves a three-step process:

- First, employers seeking to petition on behalf of foreign workers are commonly required to obtain certification from the Department of Labor (DOL)[31] establishing that there are no U.S. workers available, willing, and qualified to fill the position at a wage that is equal to or greater than the prevailing wage generally paid for that occupation in the geographic area where the position is located.[32]
- Second, the employer is required to petition U.S. Citizenship and Immigration Services (USCIS) for the foreign worker.[33] Immigrants can petition for themselves under limited circumstances.[34]
- Third, a foreign worker who is already in the United States in a temporary visa classification may apply for "adjustment of status" to permanent residence if there is an immigrant visa number available.[35] If the individual is outside the United States, or is in the United States but chooses to apply for an immigrant visa at a U.S. Embassy or Consulate abroad, then after USCIS approves the immigrant visa petition, the individual files an immigrant visa application with the Department of State (subject to immigrant visa availability), which is processed by a U.S. consular officer.[36]

Most foreign nationals who obtain permanent residency through employment are already in the United States. In FY 2023, approximately 75 percent adjusted their status within the country and 25 percent arrived from abroad.[37]

The overall numerical limit for permanent employment-based immigration is 140,000 per year, plus any unused family-based numbers from the immediately preceding fiscal year.[38] This number includes not only the immigrants themselves, but also their eligible spouses and minor children as well, meaning that the actual number of employment-based immigrants is less than the total number available each fiscal year. Moreover, the 140,000 visas are divided among five preference categories — each of which is subject to its own numerical cap (detailed in Table 2).[39]

TABLE 2: PERMANENT EMPLOYMENT-BASED PREFERENCE SYSTEM

Preference Category	Eligibility	Yearly Numerical Limit
1 Priority Workers.	"Persons of extraordinary ability" in the arts, science, education, business, or athletics; outstanding professors and researchers; multinational managers and executives.	40,040* or 28.6 percent.
2 Professionals with Advanced Degrees or Exceptional Ability.	Members of the professions holding advanced degrees, or persons of exceptional abilities in the arts, science, or business.	40,040** or 28.6 percent.
3 Skilled Workers, Professionals, and Unskilled Workers.	Skilled workers with at least two years of training or experience, professionals with college degrees, or "other" workers for unskilled labor that is not temporary or seasonal.	40,040*** or 28.6 percent. "Other" unskilled laborers restricted to 5,000
4 Certain Special Immigrants.	Certain "special immigrants" including religious workers, employees of U.S. foreign service posts, translators, former U.S. government employees, and other classes of noncitizens.	9,940 or 7.1 percent.
5 Immigrant Investors.	Persons who will invest $800,000 to $1,050,000 in a job-creating enterprise that employs at least 10 full-time U.S. workers, subject to automatic five-year adjustments to investment amounts based on a specific consumer price index for petitions filed on or after January 1, 2027.	9,940 or 7.1 percent.
	Total Employment-Based Immigrants:	140,000 for principals and their dependents.

***Plus any unused visas from the 4th and 5th preferences**

****Plus any unused visas from the 1st preference**

*****Plus any unused visas the 1st and 2nd preference.**

Source: William A. Kandel, Sarah A. Donovan, and Jill H. Wilson, *U.S. Employment-Based Immigration Policy* (Washington, DC: Congressional Research Service, November 19, 2024), 5, https://crsreports.congress.gov/product/pdf/R/R47164.

In addition to these caps on employment-based preference categories, the total number of visas (both employment-based and family-based) that any country can receive is capped at no more than seven percent of the worldwide limit on U.S. immigrant admissions (which is set at 675,000). In other words, no country can receive more than 47,250 employment-based and family-based visas combined (not counting uncapped categories like the immediate relatives of U.S. citizens).[40]

Given these overlapping sets of numerical limits, there are more people with approved petitions each year in some preference categories than there are visas available for certain countries. Some individuals therefore must wait a long time to apply for adjustment of status (if they are already in the United States) or to receive an immigrant visa (if they are applying at a U.S. embassy or consulate), even after USCIS approves the immigrant visa petition. As of March 2026, the largest backlogs in visa availability in certain employment-based categories were for individuals born in India.[41]

ENDNOTES

1 Currently there are 22 different types of temporary employment classifications. See U.S. Citizenship and Immigration Services, "Temporary (Nonimmigrant) Workers," last updated April 24, 2025, https://www.uscis.gov/working-united-states/temporary-nonimmigrant-workers.

2 Some nonimmigrant visa classifications permit foreign workers to work in the United States without an employer having first filed a petition on the foreign worker's behalf. These include such nonimmigrant classifications as the E-1, E-2, E-3, and TN classifications as well as, in certain instances, the F-1 and M-1 student and J-1 exchange visitor classifications. See USCIS, "Temporary (Nonimmigrant) Workers," last updated April 24, 2025, https://www.uscis.gov/working-united-states/temporary-nonimmigrant-workers.

3 U.S. Department of State, Report of the Visa Office, 2000-2024, "Classes of Nonimmigrants Issued Visas," last accessed March 23, 2026, https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/annual-reports.html.

4 Ibid.

5 Jorge Loweree and Aaron Reichlin-Melnick, *Tracking the Biden Agenda on Legal Immigration in the First 100 Days* (Washington, DC: American Immigration Council, April 2021), 10-13, https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/tracking_biden_agenda_legal_immigration_first_100_days_0.pdf.

6 Ibid.

7 See President Donald J. Trump, Proclamation 10973, "Restriction on Entry of Certain Nonimmigrant Workers," 90 Fed. Reg. 46207 (September 24, 2025) (effective September 21, 2025 at 12:01am, for at least a 12-month period, the entry of noncitizens based on an H-1B classification is restricted unless accompanied by a $100,000 payment and if not subject to certain narrow exceptions). Implementation guidance from U.S. Citizenship and Immigration Services confirmed that fee payment is not required for H-1B petitions filed before the effective date of Proclamation 10973 or for a noncitizen to be admitted to the United States based on a valid H-1B visa issued before the effective date (no matter when the H-1B petition was filed) or issued after but based on an approved petition filed before the effective date. The agency's guidance provides that fee payment or exception is required for H-1B petitions filed after the effective date of Proclamation 10973 when the noncitizen is outside the United States and does not have a valid H-1B visa or is inside the United States without a valid H-1B visa and the petition requests consular or other notification outside the United States. The agency guidance also provides that fee payment or exception is not required if it approves an H-1B petition request, filed after the effective date of Proclamation 10973, for an extension of stay, or a change of nonimmigrant status to, H-1B and the noncitizen later receives an H-1B visa based on that approval and seeks admission while that H-1B visa is valid. See H-1B Specialty Occupations, Presidential Proclamation on Restriction of Entry of Certain Nonimmigrant Workers, https://www.uscis.gov/working-in-the-united-states/h-1b-specialty-occupations (last reviewed/updated March 19, 2026).

8 President Donald J. Trump, Proclamation 10998, "Restricting and Limiting the Entry of Foreign Nationals to Protect the Security of the United States," 90 Fed. Reg. 59717 (December 19, 2025); and President Donald J. Trump, Proclamation 10949, "Restricting the Entry of Foreign Nationals to Protect the United States from Foreign Terrorists and Other National Security and Public Safety Threats," 90 Fed. Reg. 24497 (June 10, 2025).

9 8 U.S.C. §§ 1101(a)(15)(H)(i)(b), 1184(i).

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10 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1188. See also Andorra Bruno, *H-2A and H-2B Temporary Worker Visas: Policy and Related Issues* (Washington, DC: Congressional Research Service, May 11, 2023), 7, https://crsreports.congress.gov/product/pdf/R/R44849. See also U.S. Citizenship and Immigration Services, "H-2A Temporary Agricultural Workers," last updated February 24, 2026, https://www.uscis.gov/working-united-states/temporary-workers/h-2a-temporary-agricultural-workers.

11 8 C.F.R. § 214.2(h). See also U.S. Citizenship and Immigration Services, "H-2B Temporary Non-Agricultural Workers," last updated January 30, 2026, https://www.uscis.gov/working-united-states/temporary-workers/h-2b-temporary-non-agricultural-workers.

12 8 U.S.C. § 1101(a)(15)(L); see also U.S. Citizenship and Immigration Services, "L-1A Intracompany Transferee Executive or Manager," last updated July 29, 2024, https://www.uscis.gov/working-united-states/temporary-workers/l-1a-intracompany-transferee-executive-or-manager; U.S. Citizenship and Immigration Services, "L-1B Intracompany Transferee Specialized Knowledge," last updated July 30, 2024, https://www.uscis.gov/working-united-states/temporary-workers/l-1b-intracompany-transferee-specialized-knowledge.

13 8 U.S.C. § 1184(g)(1)(A), (g)(5)(C). USCIS also must separately allocate H-1B1 visa numbers under the U.S.-Chile and U.S.-Singapore free trade agreements and subtract that allocation from the 65,000 H-1B annual limit. 8 U.S.C. § 1184(g)(8). Not all H-1B visa numbers are subject to the 65,000 numerical limit. 8 U.S.C. § 1184(g)(5).

14 8 U.S.C. § 1188. See also Andorra Bruno, *H-2A and H-2B Temporary Worker Visas: Policy and Related Issues* (Washington, DC: Congressional Research Service, May 11, 2023), 4, https://crsreports.congress.gov/product/pdf/R/R44849.

15 8 U.S.C. § 1184(g)(i)(B). 33,000 of the H-2B visas are allocated for the first half of the fiscal year (October–March) and 33,000 for the second half (April–September). 8 U.S.C. § 1184(g)(10). See U.S. Citizenship and Immigration Services, "H-2B Temporary Non-Agricultural Workers," last updated January 30, 2026, https://www.uscis.gov/working-united-states/temporary-workers/h-2b-temporary-non-agricultural-workers.

16 8 U.S.C. § 1184(g)(4); 8 C.F.R. § 214.2(h)(15)(ii)(B)(1). Extensions beyond the sixth year are available if certain requirements are met when the H-1B worker is in the process of becoming a permanent resident (for a green card). See 8 C.F.R. § 214.2(h)(13)(iii)(D)-(E).

17 8 C.F.R. §§ 214.2 (h)(5)(viii)(B), (h)(15)(ii)(C); U.S. Citizenship and Immigration Services, "H-2A Temporary Agricultural Workers," last updated February 24, 2026, https://www.uscis.gov/working-united-states/temporary-workers/h-2a-temporary-agricultural-workers.

18 8 C.F.R. §§ 214.2(h)(6)(ii)(B), (h)(15)(ii)(C); U.S. Citizenship and Immigration Services, "H-2B Temporary Non-Agricultural Workers," last updated January 30, 2026, https://www.uscis.gov/working-united-states/temporary-workers/h-2b-temporary-non-agricultural-workers.

19 8 U.S.C. § 1184(c)(2)(D); 8 C.F.R. §§ 214.2(l)(11)-(12). U.S. Citizenship and Immigration Services, "L-1A Intracompany Transferee Executive or Manager," last updated July 29, 2024; https://www.uscis.gov/working-united-states/temporary-workers/l-1a-intracompany-transferee-executive-or-manager. See also U.S. and Immigration Services, "L-1B Intracompany Transferee Specialized Knowledge," last updated July 30, 2024, https://www.uscis.gov/working-united-states/temporary-workers/l-1b-intracompany-transferee-specialized-knowledge.

20 8 U.S.C. § 1182(n)(1)(A)(i)-(ii).

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21 8 U.S.C. § 1182(n)(1)(A)(i). Employers must pay the foreign worker the higher of the prevailing wage level for the occupational classification in the area of employment, or the actual wage level paid by the employer to all other individuals with similar experience and qualifications to the specific employment. See also U.S. Department of Labor, "Fact Sheet #62G: Must an H-1B worker be paid a guaranteed wage?," last accessed March 16, 2026, https://www.dol.gov/whd/regs/compliance/FactSheet62/whdfs62G.pdf.

22 8 U.S.C. § 1188(a). U.S. Citizenship and Immigration Services, "H-2A Temporary Agricultural Workers," last updated February 24, 2026, https://www.uscis.gov/working-united-states/temporary-workers/h-2a-temporary-agricultural-workers.

23 8 U.S.C. § 1188(a). To demonstrate that no U.S. workers are available, the employer must, at a minimum, (1) advertise the position in a newspaper on two separate days, (2) contact any U.S. workers from the previous year and solicit their return, and (3) conduct additional recruitment. The employer is required to provide or pay for housing, meals or facilities that allow the foreign worker to prepare meals, and transportation. The employer must also provide tools, equipment, and supplies. Upon the completion of 50 percent of the work contract, the employer is required to reimburse the worker for travel expenses, including meals, and lodging expenses where it is necessary. See U.S. Department of Labor, "Employer Guide to Participation in the H-2A Temporary Agricultural Program," January 1, 2012, https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/h-2a_employer_handbook.pdf.

24 U.S. Citizenship and Immigration Services, "H-2B Temporary Non-Agricultural Workers," last updated January 30, 2026, https://www.uscis.gov/working-united-states/temporary-workers/h-2b-temporary-non-agricultural-workers.

25 The employer may also have to provide tools, equipment, and supplies. The employer may be required to pay for the foreign worker's lodging expenses. Upon the completion of 50 percent of the work contract, the employer is required to reimburse the worker for travel expenses, including meals, and lodging expenses where it is necessary. U.S. Department of Labor, "H-2B Program Pre-Final Determination Recruitment Report Content Checklist and Best Practices Guide," November 18, 2022, https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/H-2B%20Recruitment%20Report%20Checklist%20and%20Best%20Practices%20Guide%2011.18.22.pdf; see also 20 C.F.R. § 655.20.

26 U.S. Citizenship and Immigration Services, "Employment Authorization for Certain H-4 Dependent Spouses," last updated August 2, 2024, https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/employment-authorization-for-certain-h-4-dependent-spouses.

27 U.S. Citizenship and Immigration Services, "H-2A Temporary Agricultural Workers," last updated February 24, 2026, https://www.uscis.gov/working-united-states/temporary-workers/h-2a-temporary-agricultural-workers.

28 U.S. Citizenship and Immigration Services, "H-2B Temporary Non-Agricultural Workers," last updated January 30, 2026, https://www.uscis.gov/working-united-states/temporary-workers/h-2b-temporary-non-agricultural-workers.

29 U.S. Citizenship and Immigration Services, "L-1A Intracompany Transferee Executive or Manager," last updated July 29, 2026, https://www.uscis.gov/working-united-states/temporary-workers/l-1a-intracompany-transferee-executive-or-manager; see also U.S. Citizenship and Immigration Services, "L-1B Intracompany Transferee Specialized Knowledge," last updated July 30, 2026, https://www.uscis.gov/working-united-states/temporary-workers/l-1b-intracompany-transferee-specialized-knowledge.

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30 Holly Straut-Eppsteiner, *U.S. Naturalization Policy* (Washington, DC: Congressional Research Service, April 15, 2024), 1-3, https://www.congress.gov/crs-product/R43366 (citing 8 U.S.C. §§ 1423, 1427). A worker may be able to apply earlier than 5 years if he or she qualifies under a different naturalization provision.

31 See 8 U.S.C. § 1153(b)(3)(C).

32 See 8 U.S.C. § 1182(a)(5)(A).

33 See 8 C.F.R. § 204.5(a). If a labor certification is required, the petition must be filed within 180 days of the certification. 20 C.F.R. § 656.30(b).

34 Persons of extraordinary ability and persons of exceptional ability seeking a national interest waiver may self-petition. 8 C.F.R. §§ 204.5(h)(1); 204.5(k)(1).

35 William A. Kandel, Sarah A. Donovan, and Jill H. Wilson, *U.S. Employment-Based Immigration Policy* (Washington, DC: Congressional Research Service, November 19, 2024), 6, https://crsreports.congress.gov/product/pdf/R/R47164. Depending on the immigrant visa category, the date an immigrant visa number will be available is established either by the date a labor certification application was filed with the Department of Labor (DOL), or an immigrant visa petition was filed with U.S. Citizenship and Immigration Services (USCIS). But the date is not operable until USCIS approves the immigrant visa petition (and if labor certification was required, DOL approval is a prerequisite to USCIS petition approval). 8 C.F.R. §§ 204.5(d), (e)(3). However, if the immigrant visa number is available in the month the immigrant visa petition is filed (which generally is established by the applicant's country of birth and the employment-based immigrant visa category), then the individual (and their spouse and children) may file their application(s) to adjust status even though the immigrant visa petition has not yet been approved. See 8 C.F.R. §245.1(a). USCIS will not adjudicate the adjustment of status application(s) unless it approves the immigrant visa petition. See the Visa Bulletin, published monthly by the Department of State, for immigrant visa availability.

36 Ibid.

37 U.S. Department of Homeland Security, 2023 Yearbook of Immigration Statistics, Table 6, https://ohss.dhs.gov/topics/immigration/yearbook/2023/table6 (comparing total employment-based admissions for FY 2023 (196,760) [under "Totals: Adjustments of Status and New Arrivals" dropdown] and employment-based adjustment of status for FY 2023 (146,880) [under "Adjustments of Status" dropdown] and employment-based new arrivals in FY 2023 (49,890) [under "New Arrivals" dropdown]).

38 William A. Kandel, Sarah A. Donovan, and Jill H. Wilson, *U.S. Employment-Based Immigration Policy* (Washington, DC: Congressional Research Service, November 19, 2024), 5, https://crsreports.congress.gov/product/pdf/R/R47164.

39 William A. Kandel, Sarah A. Donovan, and Jill H. Wilson, *U.S. Employment-Based Immigration Policy* (Washington, DC: Congressional Research Service, November 19, 2024), 3-4, https://crsreports.congress.gov/product/pdf/R/R47164. Additional employment-based visa numbers may be available in a particular fiscal year because the difference between the maximum number allotted for family-based visas and the number issued in a fiscal year is added to the total available for employment-based visas for the next fiscal year. 8 U.S.C. § 1151(d)(2)(C).

40 William A. Kandel, Sarah A. Donovan, and Jill H. Wilson, *U.S. Employment-Based Immigration Policy* (Washington, DC: Congressional Research Service, November 19, 2024), 1-2, https://crsreports.congress.gov/product/pdf/R/R47164.

41 U.S. Department of State, "Visa Bulletin For March 2026," February 4, 2026, https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2026/visa-bulletin-for-march-2026.html.