

ELLIS PORTER

From Campus to Company

Staying, building and hiring in the US — a practical immigration playbook for students, founders and startup teams

SF TECH WEEK · OCTOBER 2026 · ON-DEMAND SESSION

Meet your guides



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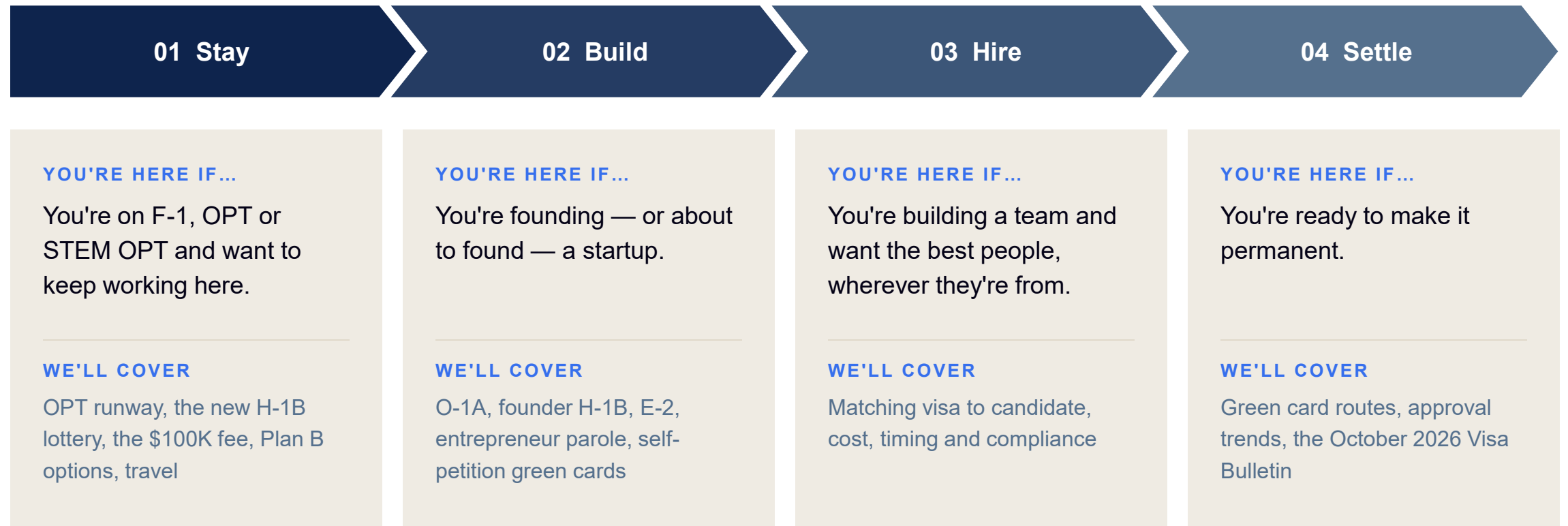
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EB-1A, EB-1B, NIW and O-1, including NIW for entrepreneurs

Our promise: plain English, current rules, and at least one thing you didn't know this morning.

Four stops, one journey — find where you fit



Plus: what changed in 2026, two real case studies, and a quick myth-or-fact round.

One firm for the whole journey

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Top 3

high-skilled immigration practice team
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Full service

A comprehensive set of US immigration services for individuals and companies — at every stage, from student to citizen.

High-skilled focus

OPT, H-1B, O-1, L-1, TN, E-2, PERM, EB-1 and EB-2 NIW — the visas this room actually needs.

Where we are

Offices in Metro Detroit (Troy and Ann Arbor, MI) and London, serving clients nationwide and worldwide.

The rules moved a lot this year — here's the scoreboard

CHANGE	STATUS · SEPT 29, 2026	WHAT IT MEANS FOR YOU
\$100K H-1B payment	Blocked by a court	Extended to Sept 2027, but not being collected while appeals play out.
Wage-weighted H-1B lottery	In effect	Higher offered wage level = more entries. Used for the FY2027 lottery.
\$103,265 cap-subject H-1B fee	Proposed only	Would also reach F-1 → H-1B changes of status. Not in effect.
Fixed stays for F-1 students	Blocked by a court	Final rule postponed Sept 14; "duration of status" continues for now.
Green cards filed inside the US	In effect	May 2026 USCIS memo treats adjustment as discretionary — expect scrutiny.
Visa vetting and travel ban	In effect	In-person interviews, public social media, 39 countries restricted.

Status as of September 29, 2026 — several of these are in active litigation and can change week to week. General information, not legal advice.

01

Stay: from campus to career

You've got the degree. Now let's keep you here.

01 Stay

02 Build

03 Hire

04 Settle

After graduation: up to three years of runway on OPT



OPT

- 12 months of work in your field of study
- File from 90 days before to 60 days after your program end date
- No more than 90 days of unemployment

STEM OPT

- +24 months for STEM degrees
- Employer must use E-Verify and sign a Form I-983 training plan
- No more than 150 days of unemployment in total

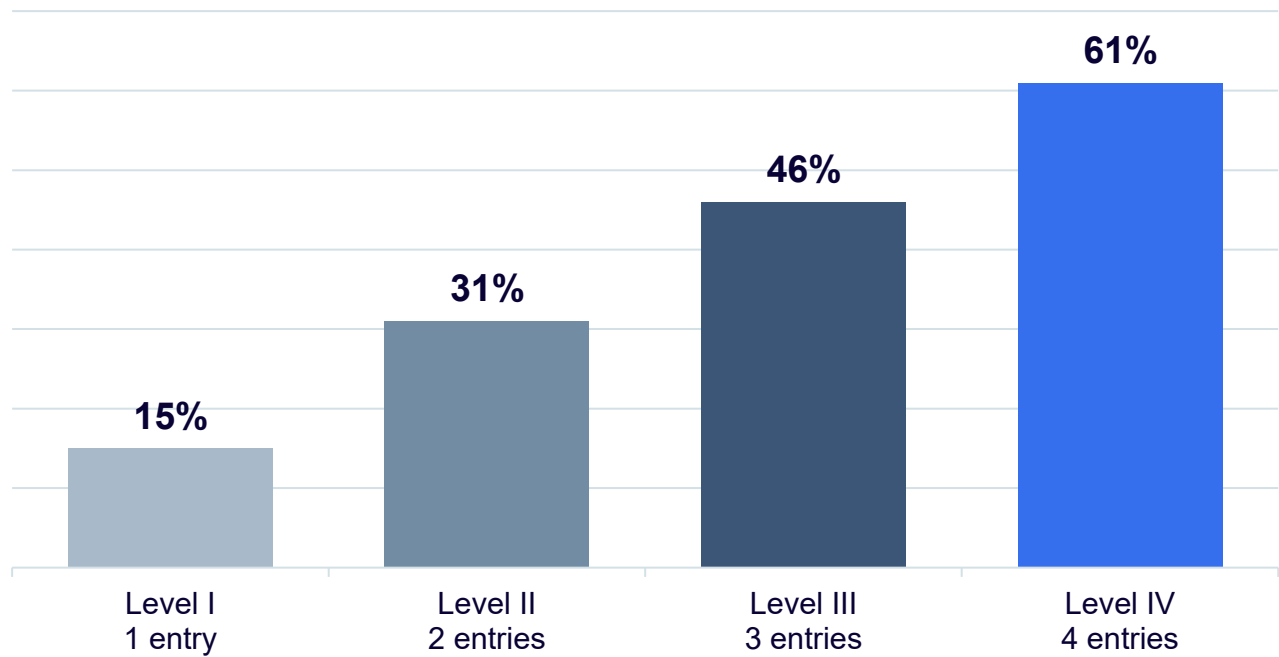
Cap-gap → H-1B

- If your H-1B petition is filed on time, status and work permission continue to April 1
- H-1B employment starts October 1
- Up to three lottery tries during OPT + STEM OPT

A DHS proposed rule on OPT fees cleared White House review Sept 11, 2026 but has not been published; OPT rules and fees are unchanged as of Sept 29, 2026. Premium processing for OPT and STEM OPT work permits: \$1,780. The April 1 cap-gap date comes from the 2025 modernization rule. Source: [Fragomen](#)

The H-1B lottery now rewards higher salaries

DHS-projected chance of selection, by offered wage level



211,600

FY2027 registrations — down 38.5% in a year

71.5%

of FY2027 selections hold a US advanced degree (vs. 57%)

17.7%

of selections were at the lowest (Level I) wage

So what: ask employers early whether they register — and which wage level your offer maps to.

Sources: DHS weighted selection final rule, 90 FR 60864 (Dec 29, 2025; effective Feb 27, 2026) — odds are DHS projections. FY2027 data: USCIS via Fragomen (July 2026). Cap reached July 17, 2026; no second round. Registration fee \$215.

The \$100K H-1B fee: extended, but not being collected

As of September 2026: blocked by a federal court.



Even when it was collected, the fee applied mainly to new petitions for people outside the US. Approved F-1 → H-1B changes of status inside the US were exempt.

TIMELINE

Sept 19, 2025	Proclamation imposes a \$100,000 payment on certain new H-1B petitions
Dec 23, 2025	D.C. federal court upholds the fee — appeal still pending
June 8, 2026	Massachusetts federal court vacates USCIS's implementing policy (briefly paused June 12)
July 24, 2026	First Circuit refuses to pause that ruling — USCIS stops collecting
Aug 25, 2026	DHS proposes a separate \$103,265 fee on cap-subject petitions (proposed only)
Sept 18, 2026	Proclamation extended to Sept 21, 2027

Sources: Proclamations of Sept 19, 2025 and Sept 18, 2026; State of California v. Mullin (D. Mass. June 8, 2026; 1st Cir. July 24, 2026); Chamber of Commerce v. DHS (D.D.C. Dec 23, 2025); 91 FR 54817 (Aug 25, 2026). Status as of Sept 29, 2026.

Didn't win the lottery? You still have options

Cap-exempt H-1B

Universities, their affiliated nonprofits and nonprofit research organizations can file any time — no lottery.

O-1A

Extraordinary ability in science, business or tech. No cap, no lottery; initial approval of up to 3 years.

TN · E-3 · H-1B1

Treaty options for Canadians and Mexicans (TN), Australians (E-3), and Chileans and Singaporeans (H-1B1).

L-1

Worked a year abroad for your company's foreign parent or affiliate? Transfer in as a manager or specialist.

Concurrent H-1B

Already H-1B at a cap-exempt employer? A startup can add a part-time H-1B — while the cap-exempt job continues.

Try again next March

STEM OPT gives most STEM grads up to three lottery tries. Keep your status clean in between.

Most of these can be combined or sequenced — the right order depends on your degree, your country and your goals.

Traveling in 2026: plan the trip like a product launch

- ✓ Expect an in-person visa interview — interview waivers are now rare
- ✓ Apply in your country of nationality or residence
- ✓ Set social media to public — required for F, M, J, H-1B, H-4 and (from Oct 1) TN visa applicants
- ✓ Build in buffer time — H-1B visa appointments in India have faced long delays
- ✓ Carry the kit: I-20 signed within 6 months, work permit, job letter, recent pay stubs
- ✓ Check the 39-country travel restrictions before you go

THE GOLDEN RULE

Don't leave the US while
your change of status to H-
1B is pending.



Traveling can abandon it. Talk to us before you
book.

Online-presence review: F/M/J since June 2025; H-1B/H-4 since Dec 15, 2025; TN/TD visa applicants from Oct 1, 2026 (not Canadians admitted at the border without a visa). Travel restrictions: Proclamation 10998 (effective Jan 1, 2026). Country-of-residence interviews since Sept 6, 2025.

02

Build: from employee to founder

Your co-founder is ready. Is your visa?

01 Stay

02 Build

03 Hire

04 Settle

Yes, you can build a company on a visa — five ways founders do it

Pathway	Best for	What you need	Watch-outs
O-1A	Founders with traction, press or funding	3 of 8 criteria; your own startup can be the petitioner	Evidence-heavy — build the file early
H-1B (founder)	Majority-owner founders in a specialty role	Lottery selection (unless cap-exempt); >50% owners allowed	18-month validity for the first petition and first extension
E-2	Nationals of treaty countries investing in their own company	A substantial, at-risk investment; 50%+ ownership or control	Not available to every nationality (e.g., India, mainland China)
Entrepreneur parole	Early-stage founders with qualified US investors	\$311,071+ from qualified investors (or \$124,429 in grants); 10%+ ownership	Parole, not a visa; 30-month initial period
EB-2 NIW / EB-1A	Founders ready for a green card without a sponsor	Self-petition: national importance (NIW) or extraordinary ability (EB-1A)	Much tougher scrutiny — evidence strategy matters

H-1B founder rules: modernization rule effective Jan 17, 2025. Entrepreneur parole thresholds effective Oct 1, 2024. E-2 depends on a treaty with your country of nationality.

O-1A: meet 3 of 8 criteria — here's what they look like for founders

01

Awards

Accelerator selection, pitch competitions, national innovation prizes

02

Selective memberships

Invitation-only bodies that judge members on achievement

03

Press about you

Coverage of you and your company in major or trade media

04

Judging

Hackathon judge, accelerator selection panel, peer reviewer

05

Original contributions

Products, patents or research others adopted — backed by expert letters

06

Scholarly articles

Papers and technical publications in your field

07

Critical role

Leading a company with a distinguished reputation — VC backing helps show it

08

High pay

Salary or equity well above peers — startup equity can count

91%

O-1 approval rate, FY2026 Q3
(USCIS data)

Since Jan 2025, USCIS guidance confirms your own startup can petition for you — and venture funding and equity can help prove your role and your pay.

03

Hire: building a team with global talent

The best engineer you interview this year may need a visa.

01 Stay

02 Build

03 Hire

04 Settle

Match the visa to the candidate, not the other way around

IF YOUR CANDIDATE...		CONSIDER	WHY
...is finishing school on F-1	➡	OPT / STEM OPT	Hire now; register for the H-1B each March. STEM OPT needs E-Verify and an I-983 plan.
...already holds an H-1B elsewhere	➡	H-1B transfer	No new lottery — they can usually start once you file.
...is Canadian or Mexican	➡	TN	For professions on the USMCA list, such as engineers and scientists.
...is Australian, Chilean or Singaporean	➡	E-3 / H-1B1	Treaty alternatives to the H-1B, with annual caps rarely reached.
...has a standout track record	➡	O-1A	No cap or lottery; file any time, with premium processing.
...worked 1+ year at your foreign affiliate	➡	L-1A / L-1B	Intracompany transfer for managers and specialized-knowledge staff.
...is a long-term key hire	➡	Green card	Start PERM early — the Labor Department steps alone take well over a year.

What hiring costs, and how long it takes

Step	Government fee (Sept. 2026)	Typical timing
H-1B registration	\$215	March window; selections by March 31
Premium processing (H-1B, O-1, L-1, I-140)	\$2,965	15 business days (45 for NIW and EB-1C)
PERM labor certification	No DOL filing fee	Wage ~3–4 mo. + recruitment ~2 mo. + DOL review ~11 mo.
I-140 immigrant petition	\$715 + \$600 asylum program fee*	15 business days with premium
I-485 green card application	\$1,440	Varies widely by office — plan for a year or more

COMPLIANCE WATCH

- Sept 18, 2026 executive order: agencies to weigh recent layoffs; DOL to review past LCAs
- Proposed DOL rule would raise prevailing wage levels (not yet final)
- STEM OPT: follow the I-983 training plan — site visits happen
- Keep H-1B public access files audit-ready

OUR TIP

If someone matters to your company, start their green card in year one.

*\$300 for employers with 25 or fewer full-time employees; \$0 for nonprofits. Premium fees effective Mar 1, 2026 (91 FR 1059). DOL timing from FLAG processing times, Sept 2026 (PERM analyst review averaged 336 days in Aug 2026). Attorney fees not included.

04

Settle: from visa to green card

Making it permanent — and planning for it earlier than you think.

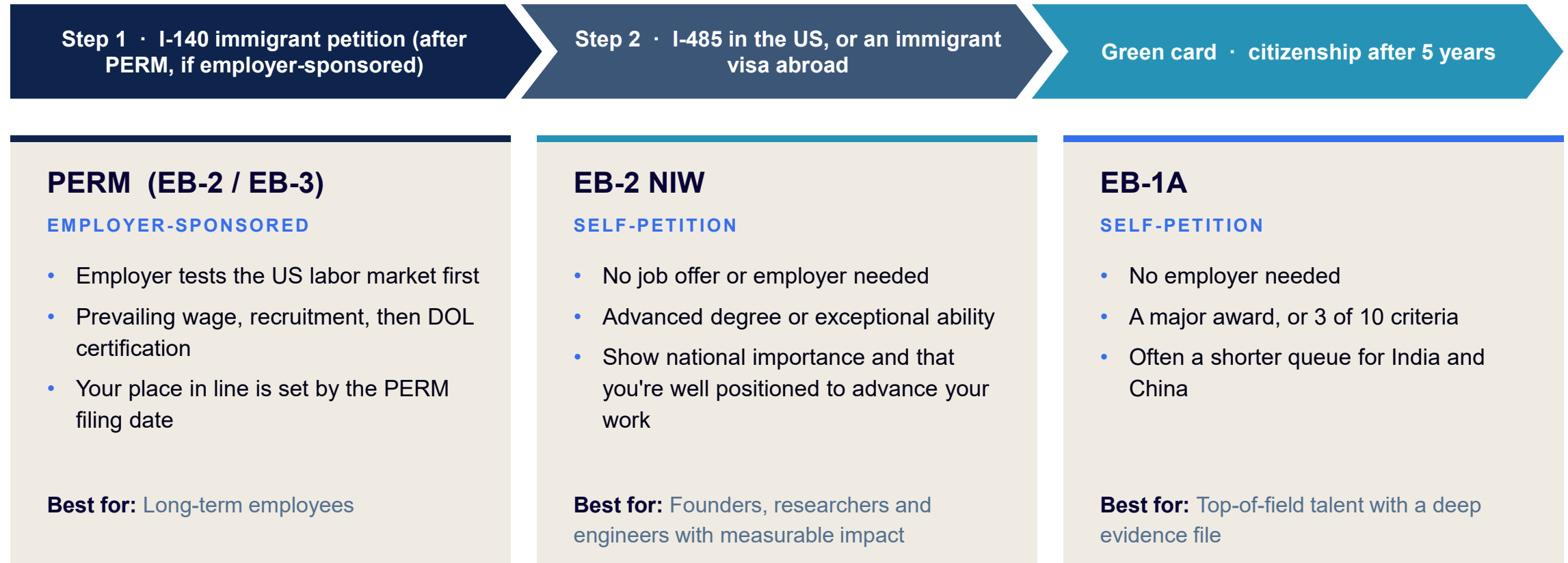
01 Stay

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Two steps, three common roads to a green card



Also common: EB-1B (outstanding researchers, employer-sponsored) and EB-1C (multinational executives and managers). NIW follows the Matter of Dhanasar three-part test.

October 2026 Visa Bulletin: file early to hold your place

Dates for Filing — the chart USCIS is using this month

Category	Rest of world	China	India
EB-1	Current	Jul 1, 2024	Jul 1, 2024
EB-2	Mar 15, 2026	Jan 1, 2023	Jan 15, 2015
EB-3	Aug 1, 2024	Apr 1, 2024	Jan 15, 2015

Jan 1, 2025

Rest-of-world EB-2 final action date after retrogressing this month (EB-3 moved back too, to May 2024).

WHAT IT MEANS FOR YOU

Rest of world

Filing early secures your priority date — and this month USCIS is accepting filings by the Dates for Filing chart.

India and China

Multi-year queues. An early approved I-140 locks in your place in line; EB-1 can move faster.

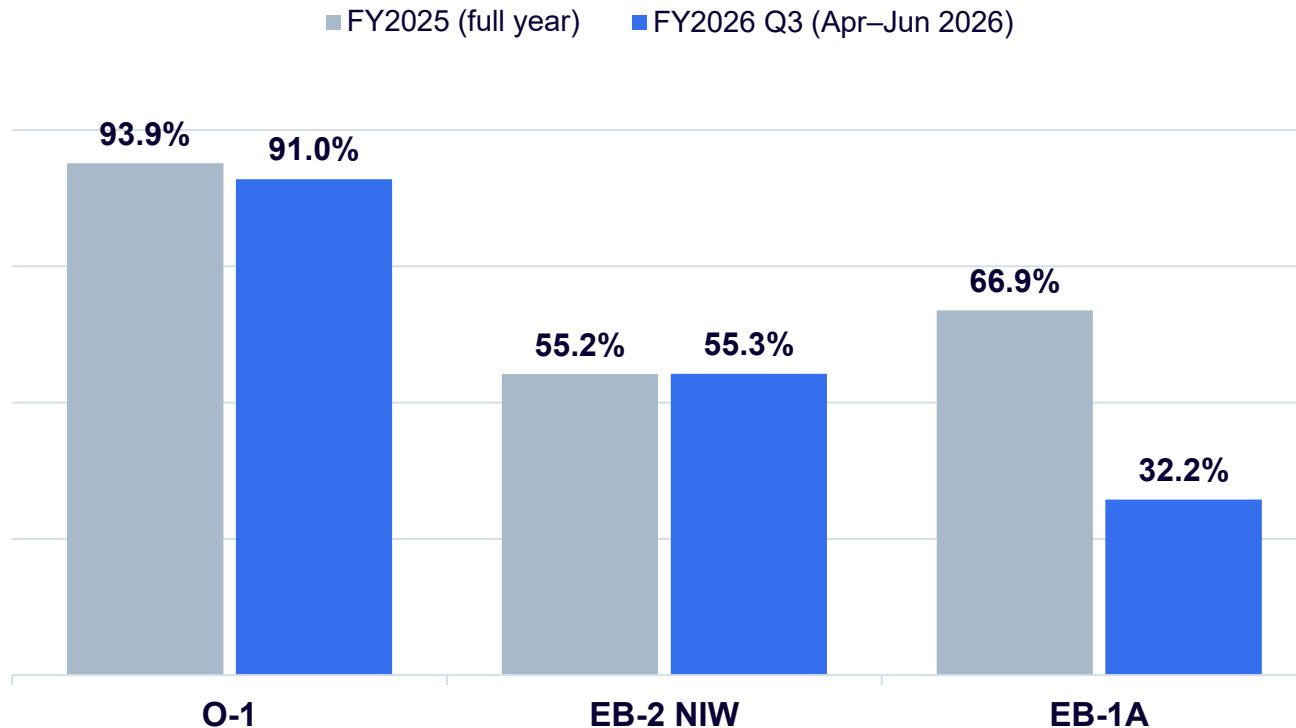
On an H-1B?

An approved I-140 lets you extend past the 6-year limit — and can open work authorization for an H-4 spouse.

Source: US Department of State, Visa Bulletin for October 2026 (first bulletin of FY2027); USCIS chart selection as reported Sept 29, 2026. Dates change monthly — check before you file.

Scrutiny is up: EB-1A approvals fell to about 1 in 3

Approval rate by category — FY2025 vs. FY2026 Q3



What it means

- O-1 is still a reliable bridge — about 9 in 10 approved
- NIW is roughly a coin flip — how you frame the "proposed endeavor" is everything
- EB-1A dropped from 66.9% (FY2025) to 32.2% (Q3 FY2026) — file when your evidence is truly ready
- USCIS can now set shorter RFE deadlines (Aug 2026) — build a complete file on day one

EB-1A for an engineer with no publications and no citations

Challenged on 5 of 6 criteria. We rebuilt it. Approved.



Site reliability engineer at a major technology company, running infrastructure that serves billions of users. Another firm filed the original petition; we were retained for the RFE response.

HOW WE REBUILT THE RECORD

The RFE	USCIS challenged 5 of 6 claimed criteria, down to the contact details in the recommendation letters
Procedural fix	Fixed the procedural objections first, then worked criterion by criterion
Judging	Invitation and confirmation emails across six conferences, independent of any managerial role
Critical role	Four senior executive letters on specific work, e.g., outages cut 50% and deploys from weekly to daily
High salary	W-2s, pay stubs and comparative wage data from BLS and industry sources
Outcome	Approved following the RFE response

Actual Ellis Porter matter; identifying details omitted. Every case turns on its own facts, and prior results do not guarantee a similar outcome.

NIW for a founder USCIS compared to a classroom teacher

USCIS compared the work to a classroom teacher. We showed them a national data privacy platform.



Owner of a data solutions company building privacy-focused analytics platforms for e-commerce clients. Advanced degree in computer science; no publications, no citation history.

HOW WE REFRAMED THE CASE

The RFE	Challenged all three Dhanasar prongs and questioned any field-wide influence
Prong 1	Tied national importance to privacy regulation: GDPR and the emerging US privacy landscape
The narrative	Shifted from "client services" to privacy infrastructure with regulatory significance
New evidence	A public Chrome extension with thousands of active users, showing reach beyond paying clients
Prong 2	Active user adoption documented influence in the field
Outcome	Approved following the RFE response

Actual Ellis Porter matter; identifying details omitted. Every case turns on its own facts, and prior results do not guarantee a similar outcome.

Myth or fact? Five things we hear all the time

You can't start a company on a student or work visa.

Myth

Founders use O-1A, E-2, majority-owner H-1B and entrepreneur parole.

Startups now pay \$100K for every H-1B.

Myth

The fee is blocked by a court today — and approved in-US changes of status were exempt even when it was collected.

Lose the lottery and you have to leave.

Myth

Cap-exempt employers, O-1A, treaty visas and more lottery tries on STEM OPT are all on the table.

Some green cards don't need an employer at all.

Fact

EB-2 NIW and EB-1A are self-petitions. (Bring very strong evidence.)

You need a Nobel Prize to get an O-1.

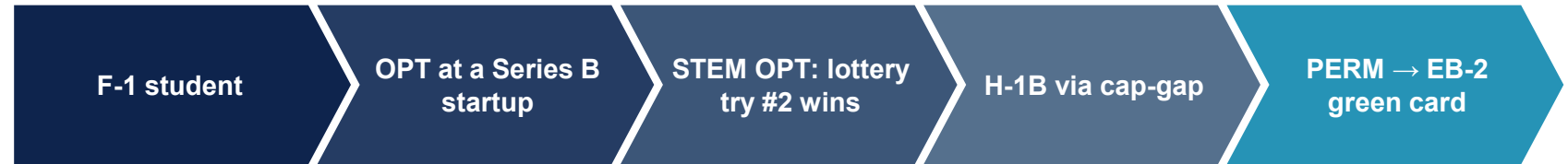
Myth

You need 3 of 8 criteria — and O-1 approvals are running around 91%.

Three journeys from campus to company

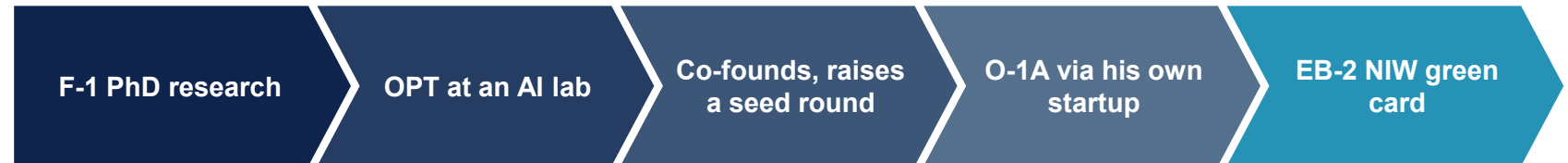
Priya

MS in computer science → software engineer



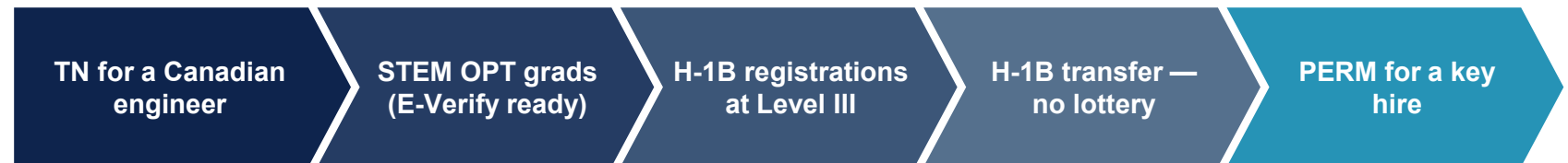
Mateo

PhD in machine learning → AI founder



Lin

Head of Talent, 40-person Series A



Illustrative composites to show common paths — not actual clients or outcomes. Every case turns on its own facts.

Your next step: a free 30-minute strategy session

Bring your questions — we'll bring a plan. For students, founders, hiring teams and visa holders.

WHAT YOU'LL WALK AWAY WITH

- 01 Your options, ranked**
The visas and green card routes that fit you or your team
- 02 A timeline**
Key dates — OPT windows, the March lottery, priority dates
- 03 A budget**
Government fees and what to plan for, with no surprises
- 04 A named attorney**
Someone who answers when the rules change again



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Questions after watching? Bring them to your session.

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Thanks for watching

Gilberto Orozco Jr. · Arvinder Ubhi · Julie P. Levey

Shaju Jacob · Natalie Puletti · Nadia Langworthy

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Book a free consult

Attorney advertising. This presentation is general information, not legal advice, and reflects rules as of September 29, 2026. Immigration rules are changing quickly — talk to counsel about your situation.

Sources and notes

- H-1B fee: Proclamations of Sept 19, 2025 and Sept 18, 2026 (whitehouse.gov); State of California v. Mullin (D. Mass. June 8, 2026; 1st Cir. stay denied July 24, 2026); Chamber of Commerce v. DHS (D.D.C. Dec 23, 2025).
- Proposed H-1B fee: DHS, Fee for Certain H-1B Petitions, 91 FR 54817 (Aug 25, 2026).
- Lottery: DHS weighted selection final rule, 90 FR 60864 (Dec 29, 2025); FY2027 cap results via Fragomen (July 2026).
- H-1B modernization (founders, cap-gap, cap exemptions): 89 FR 103054 (effective Jan 17, 2025).
- F-1 fixed admission periods: DHS final rule (July 17, 2026), postponed by D. Mass. order (Sept 14, 2026) in the Presidents' Alliance / NAFSA litigation.
- Travel and vetting: Proclamation 10998 (Dec 16, 2025); US Department of State online-presence and interview announcements (2025–2026).
- Adjustment of status: USCIS Policy Memorandum PM-602-0199 (May 21, 2026).
- Fees: USCIS premium processing rule, 91 FR 1059 (Jan 12, 2026); USCIS fee schedule, 8 CFR 106.
- PERM timing: US Department of Labor FLAG processing times (Sept 2026). Wage rule: 91 FR 15454 (proposed Mar 27, 2026).
- H-1B program integrity executive order (Sept 18, 2026).
- Approval rates: USCIS quarterly data as analyzed by Manifest Law (Sept 9, 2026) and Greenberg Traurig (June 2026).
- Visa Bulletin for October 2026, US Department of State. O-1 criteria: USCIS Policy Manual Vol. 2, Part M (Jan 2025). Entrepreneur parole thresholds (FY2025).
- OPT fees proposed rule (RIN 1653-AB01): OIRA review concluded Sept 11, 2026; not yet published (Fragomen, NAFSA).
- Case studies: Ellis Porter matters, shared with identifying details omitted. Prior results do not guarantee a similar outcome.

Prepared September 29, 2026. General information only — not legal advice.