

Immigration Info Session at Columbia University

On Wednesday May 17th the Columbia University Postdoctoral Society organized an Info Session about Immigration at Columbia University. The event was co-organized by [Columbia University Postdoctoral Society \(CUPS\)](#), [INet NYC](#), [ECUSA \(Spanish Scientists in USA\)](#), [Einstein Postdoctoral Association \(EPA\)](#), [Postdoc Executive Committee at ISMMS](#) and co-sponsored by [Columbia University Postdoctoral Society \(CUPS\)](#), [Columbia University Office of Postdoctoral Affairs \(OPA\)](#), [Rockefeller University Dean's Office](#), [NYU School of Medicine Postdoctoral Affairs](#). The idea was to provide the large community of New York postdocs with information on how to transition from non-immigrant to permanent resident status, or immigrant, in the United States.

The event got fully booked within 24 hours. The massive attendance of 185 people from 9 different institutions (Columbia University, Cornell University, NYU, Mount Sinai, Albert Einstein, The Rockefeller University, CUNY, Memorial Sloan Kettering Cancer Center, Rutgers, among others) speaks loud and clear about the discomfort of the time that we are living and the uncertainties that we, the international scientific community, face here in the United States.

Research in the U.S. is carried out and progresses thanks to many outstanding international PhD students, Postdocs and associate researchers on non-immigrant visas, who seek to become permanent residents to be able to stay and do their best Science. According to the [National Science Foundation](#) (NSF), the current number of international scientists and engineers in the U.S. workforce is estimated to be 5.2 millions, constituting almost 20% of the sector. This number has increased 2.5 fold in just the last decade.

The session started with a presentation about the main categories of visa given by attorney Aviva Meerscham from [Fragomen](#). Then, a panel of researchers that have successfully applied for and obtained an H-1B visa or a Green Card introduced their case and answered questions collected from the public, discussing the alternatives that students and postdocs have to apply for permanent residency.

Panelists included:

- Sophie Colombo, from Columbia University, H-1B (academic, professional);
- Kiran Kumar Andra, from Cornell University, EB-1A Green Card (obtained with the help of a lawyer);
- Hourinaz Behesti, from The Rockefeller University, EB-1B Green Card (obtained without the help of a lawyer);
- Chamara Senevirathne, from Memorial Sloan Kettering Cancer Center, EB-2 Green Card (obtained without the help of a lawyer);
- Wissam Hamou, from Mount Sinai, EB-2 Green Card (obtained with the help of a lawyer);
- Alicia Perez-Porro, from the Smithsonian Museum in Washington DC, Green Card through marriage (with a pro-bono lawyer);
- Jose Ignacio Garzón, from Columbia University, Green Card through lottery.

The session was broadcasted live for people who could not attend and the video can be seen at https://www.youtube.com/watch?v=IR9_-vvWQIQ

Let's summarize the information gathered during the meeting.

The status of non-immigrants is for foreign nationals that come to the U.S. temporarily and keep their residence abroad. In the field of academic research, common categories of visas include:

- F-1, for academic students;
- J-1, for exchange visitors;
- H-1B, for professionals. In particular, TN for Canadian and Mexican citizens, E-3 for Australians and H-1B1 for Singaporeans and Chileans;
- O-1, for foreign nationals of extraordinary ability.

[F-1](#) visa is available to foreign nationals entering the USA for academic studies and are eligible to work 12 months under the [Optional Practical Training](#) (OPT), either pre- or post-graduation in the field related to their studies. STEM degrees students may apply for a 24-months extension.

[J-1](#) visa allows foreign nationals to participate in an approved exchange program to gain experience, study or do research in their field. Examples of exchange visitors include, but are not limited to, trainees, interns, teachers, professors, research scholars, specialists, students and foreign medical graduates.

[H-1B](#) visa types are open to professionals that work in a “specialty occupation” and are going to remain in the U.S. for a minimum of 6 years. 65,000 H-1B visas can be issued annually, beginning each year on April 1st. However, certain employers are exempt from this quota (e.g. non-profit and governmental research organizations). Premium processing for this visa type have been temporarily suspended under the [current administration](#).

[O-1](#) visas are open to foreign nationals of extraordinary ability in the sciences, education, arts, business or athletics. Applicants have to meet certain requirements such as:

- having risen to the top of their field,
- having a publication record,
- being internationally recognized for their achievements in the field,
- having collected awards and membership in associations.

Most of foreign Postdocs enter the U.S. with a J-1 visa, stay for 5 years and then shift to a H-1B type of visa for another 6 years. This can be done as long as they remain in academia. Eventually, as non-immigrants, they may decide to pursue the status of permanent residence while in the U.S. territory. Many do it because they do not want to deal with visa bureaucracy and paperwork every few years. Plus, being a permanent resident is definitely an advantage when transitioning from academia to industry. This change of status from non-immigrant to permanent resident can be done either from an F-1, J-1 or an H-1B visa.

The way to become a permanent resident, or immigrant, is by obtaining a [Green Card](#). A maximum of 650,000 Green Cards can be given each year, and they are distributed through the following different application processes:

- 480,000 cap for [family-based Green Cards](#), where a family member who is a U.S. citizen or permanent resident sponsors the applicant;
- 140,000 cap for [employment-based Green Cards](#), where an employer sponsors the applicant;
- 50,000 cap for [lottery Green Cards](#).

The employment based Green Card application is a two or three-step process, where the applicant needs to provide:

- a labor certification, where required ([Department of Labor](#) (DOL)),
- an immigrant preference petition ([Form I-140](#)),
- an adjustment of status ([Department of State](#) and [USCIS](#) Visa Bulletins) or immigrant visa application processed through a U.S. embassy/consulate abroad.

The employment based Green Card categories are:

- **EB-1**, for priority workers (40,000 cap), who have an extraordinary ability in a specific field (such as sciences, arts, education, business, or athletics) and can demonstrate it through sustained national or international acclaim and extensive documentation. No offer of employment is required.
- **EB-2**, for advanced-degree professionals and aliens of exceptional abilities. A labor certification is required.
- **EB-3**, for professionals, skilled and unskilled workers. This is the most commonly used employment-based category. A labor certification is required in all cases.

The **EB-1** category is subdivided into:

- **EB-1A**, for people of extraordinary ability, who may also self-sponsor.
- **EB-1B**, for outstanding professors and researchers, with internationally recognized achievements. These applicants must be sponsored by the employer and must be seeking a tenure teaching position.
- **EB-1C**, for multinational executives/managers, who must be sponsored by an employer that does business in 2+ countries. The job position, of managerial or executive capacity, must last at least 3 years.

The **EB-2** category is subdivided into:

- **EB-2A**, for advanced degree professionals. A labor certification is required.
- **EB-2B**, for persons of exceptional ability in the fields of science, art or business. A labor certification is required.

The **EB-3** category is subdivided into:

- professionals that have at least a bachelor degree;
- skilled workers with a minimum of 2 years working experience and/or training;
- unskilled workers (limited to 10,000).

For further information on the various Green Card categories, you can also check www.uscis.gov.

The audience asked lots of questions to the panelists. We have summarized their answers, at times commented by the attorney.

Q1: Can J-1 or F-1 visa holders adjust their status to immigrant?

A1: Yes, J-1 and F-1 visa holders can apply for a Green Card while in the United States. Nevertheless, they may have a travel restriction upon filing a petition application to change or adjust status. Moreover, some J visa holders might be subjected to the 2 years rule, which means that they must return to their home country for 2 years after completion of program, before seeking another non-immigrant visa category or permanent residence. Also, since F-1 is not a dual-intent visa category (i.e. it does not permit immigrant intent), there are certain restrictions related to traveling while the application is pending and to the timing for filing the application, which must be carefully considered. As such, it would be advisable to consult with a lawyer before proceeding with a Green Card application while in F-1 status.

Q2: Can one apply for J-1 visa when the current visa is F-1?

A2: Yes, you can move from a F-1 to a J-1. However, the applicant needs to meet the [following requirements](#):

- non-U.S. degree,
- non-U.S. previous working experience.

Moreover, eligible applicants may have to look for more than just one sponsor, to try to justify and demonstrate how the applicant's professional growth will benefit from this additional training.

Q3: What are the requirements for EB-1?

A3: There are 10 criteria to demonstrate extraordinary ability in your field. Applicants must meet 3 of these requirements or provide evidence of a one-time achievement (i.e., Pulitzer, Oscar, Olympic Medal).

1. Evidence of receipt of lesser nationally or internationally recognized prizes or awards for excellence.
2. Evidence of your membership in associations in the field, which demand outstanding achievement of their members.
3. Evidence of published material about you in professional or major trade publications or other major media.
4. Evidence that you have been asked to judge the work of others, either individually or on a panel.
5. Evidence of your original scientific, scholarly, artistic, athletic, or business-related contributions of major significance to the field.
6. Evidence of your authorship of scholarly articles in professional or major trade publications or other major media.
7. Evidence that your work has been displayed at artistic exhibitions or showcases.
8. Evidence of your performance of a leading or critical role in distinguished organizations.
9. Evidence that you command a high salary or other significantly high remuneration in relation to others in the field.
10. Evidence of your commercial successes in the performing arts.

Q4: How does one meet the scientific standards required to apply for the EB-1?

A4: There are no minimal requirements (no minimum number of research or review papers). It is crucial to highlight how your achievements have had a great impact on the American society and internationally. Therefore, more than the number of publications, you may want to highlight how your research has been cited or disseminated. Also, non-scientists will read and evaluate the paperwork, so avoid jargon and technicalities and go straight to the point of why your work matters.

Q5: Can O-1 visa be self-sponsored?

A5: No, you need an employer or an agent who will act as a sponsor/petitioner.

Q6: How many recommendation letters is it advisable to submit?

A6: Between 5 and 10 letters of recommendation. It is better if the letters do not come from your past boss or supervisor, but are rather signed by third parties or your future boss. It is crucial to follow the template when writing these letters, which can be crafted also by the lawyers. Hiring lawyers with a science background may help (as it happened to one of the panelists). Sometimes this turns out to be the best option because the right content will be conveyed through the right amount of bureaucratic language.

Q7: What happens if the current visa expires while you are in the process of applying for a Green Card or H-1B visas?

A7: When you apply for a Green Card or H-1B visas, it is also strongly advisable to apply at the same time for an Employment Authorization ([Form I-765](#)) combined with a Travel Document ([Form I-131](#)). It allows you to work and travel even if your current visa status expires.

Q8: Is it allowed to switch jobs while filing a Green Card or H-1B application?

A8: Since this will most likely imply a change in sponsor, it is not advisable to do so. It is definitely advisable to keep the same employer (= sponsor) through the whole application process.

Q9: Can one apply for multiple Green Card categories at the same time?

A9: It is possible but not advisable.

Q10: How much does the whole application process cost?

A10: The panelists reported the following experiences:

- \$13,000, for 1 person + spouse, with the help of a lawyer;
- \$7,000, for 1 person, with a lawyer;
- \$1,800, for a spouse of a US citizen, with the help of a pro-bono lawyer;
- \$2,800, for 1 person, with the application managed by herself, without the help of any lawyer. This included the option of faster processing request ([Form I-907](#)) which costs \$1,225;
- \$1,500 for the lottery process.

Some lawyers refund you half of the costs if the application is not successful.

Q11: How long does it take to get a Green Card, depending on the different categories?

A11: It is slower to obtain one of the EB-1 Green Card types than one of the EB-2 or EB-3 types. According to the [historical average processing times](#), the government processing time for the EB-1 visa is about 6 months. Once the EB-1 has been approved, the government takes additional time to issue permanent residence. According to the panelists, the whole application process took up to 18, 9 or 6 months when applying for employment, family or lottery-based categories respectively. The premium service shortens the processing decision down to 15 calendar days.

Q12: Can you switch to industry or a different postdoc if you have an academic position-related H-1B?

A12: No, you can't with the same H-1B. If you have an H-1B visa and you want change your employer (which could be a different academic group leader or an industry employer), you also have to change your visa. However, the applicant can apply for a [H-1B visa transfer](#), which allows to start working for the new employer as soon as the H-1B transfer petition is submitted, without having to wait until the transfer is issued. This is the list of the required documents when issuing an H-1B visa transfer:

- up to 3 months latest pay stubs;
- copy of your existing H1B approval;
- passport copies;
- copies of I-94 records;
- copy of Social Security Card;
- latest resume;
- copy of existing valid visa;
- copy of all your diploma/degrees.

Q13: Are O-3/O-1 and H-4/H-1B dependents respectively allowed to work?

A13: Different from J-2 (J-1 dependents), O-3/H-4 are not eligible. However, H-4 can apply for permission to work only when a permanent residency petition, based on the H-1B's employment, has been pending for a year or more.

Q14: Is it worth it responding to Request for Evidence (RFE) for the EB-1A Green Card or is it better to apply again?

A14: RFE is requested from USCIS when a petition is lacking initial documentation or the officer needs additional evidence. The petitioner should respond to the RFE usually in 30 days and will receive a status case respond in 60 days. Keep in mind that USCIS is perfectly able to deny any immigration application without first issuing RFEs, so this might be your last chance to prove what they have asked. [Here](#) you will find more information about this process.

Q16: How can you apply for Green Card without a lawyer?

A16: Panelist Hourinaz Behesti applied for EB-1B without a lawyer and shared her experience. Being EB-1B an employment-based Green Card, the employer (i.e., the University) was the "Petitioner". The applicant was the "Beneficiary". Applicants need to have a title other than "postdoctoral fellow/associate" as the USCIS does not recognize "Postdoc" as a permanent position. However, a transition to "Research Associate", for example after the postdoc position, is considered a permanent position. The employer has to write the cover letter based on material provided by the applicant and has to fill out the forms. On the USCIS webpage, all relevant forms can be downloaded in the ["forms"](#) tab. Here is the EB-1B forms checklist:

- Cover letter written by the petitioner (i.e., the University that employs you), listing what is included in the application;
- Form I-140 (Immigrant Petition for Alien Worker);
- Form I-907 (only if you want to request premium processing);
- Filing fees in the form of checks;
- Petitioner's letter of support (i.e., your boss). This is a pretty extensive letter and you can find templates online regarding the format of the letter and what it should include;
- Supporting documentation:
 - Copies of passport bio page, I-94 information and I-797 Approval Notice for valid H1-B status or other visa type you are on.
 - Petitioner information (i.e., the University that employs you).
 - Copy of petitioner's offer of permanent employment to the beneficiary.
 - Evidence of grants or fellowships obtained or awards won for outstanding scientific contributions to your field of study (you should ask for letters from the granting bodies if you do not have an official letter from them already).
 - Evidence that you are a member of professional societies (again ask for letters from all societies you belong to, asking them to outline what their organization is about and what it takes to be a member).
 - Evidence of any talks/poster presentations you've been invited to give.
 - Evidence that you have been asked to be the judge of others' work in your field (reviewed articles, grants, etc.).
 - Evidence of articles authored in international journals.
 - Letters of recommendations from experts in the field who can vouch that you have made original scientific and scholarly contributions to your field of study (the panelist included 7 of these). Include their CVs too.
 - Evidence of published materials written by others about your work (if you have any).
 - Your citations (Google Scholar or web of science printout).

- Form I-485 (Application to register Permanent Residence or Adjust Status);
- Form G-325 (Biographic Information);
- Form ETA 750 Part B;
- Filing Fees for adjustment of status;
- Form I-765 (Application for Employment Authorization);
- Form I-131 (Application for Travel Document);
- Letter from your employer confirming its intention to continue to employ you;
- Copy of your birth certificate;
- 2 x Color photographs;
- Form I-693 (Medical Exam and Vaccine Record, this has to be done by an authorized Doctor).

Q17: As a scientist/researcher, would it make sense to apply for EB-1, EB-2 or EB-3 types of Green Card?

A17: EB-3 is for professionals, skilled workers and other workers, which could certainly include scientists/researchers. However, since scientists/researchers usually have advanced degrees and good credentials, it would be more appropriate for them to apply for EB-1 or EB-2 rather than an EB-3.

Q18: Who is eligible to obtain a Green Card through family?

A18: The following categories are eligible:

- [An immediate relative of a U.S. citizen](#); this includes spouses, unmarried children under the age of 21, and parents of U.S. citizen petitioners 21 or older;
- [a family member of a U.S. citizen fitting into a preference category](#); this includes unmarried sons or daughters over the age of 21, married children of any age, and brothers and sisters of U.S. citizen petitioners 21 or older;
- [a family member of a Green Card holder](#), this includes spouses and unmarried children of the sponsoring Green Card holder
- [a member of a special category](#), this can include [battered spouse or child \(VAWA\)](#), a [K nonimmigrant](#), a [person born to a foreign diplomat in the United States](#), a [V nonimmigrant](#) or a [widow\(er\) of a U.S. Citizen](#).

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