

Turning away talent: Foreign students who want to work in U.S. must navigate complex visa system

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Student visas are far more generously given than work visas.

The pressure to find a job was high for Amrit Jalan. For 10 months, the University of Texas at Dallas student spent mornings and nights sending out resumes on Indeed. It was just like brushing his teeth, he said. And his ability to stay in the U.S. depended on it.

Jalan, from India, is one of hundreds of thousands of student visa holders who want to work in the U.S. after graduation. But in addition to the challenge of finding a job, foreign-born graduates must navigate a very narrow path to staying in the U.S. permanently.

Most arrive on an F-1 visa, more commonly known as a student visa. As they earn their degrees, they often work with an Optional Practical Training employment authorization. But to stay and work in the U.S. on a more permanent basis, they need another kind of visa, usually an H-1B visa for workers with needed talents. There's intense competition for those visas, which almost always require the worker to have a corporate sponsor and get through a lottery system.

"You never know what's going to happen," Jalan said. "That anxiety is always going to be there until my H-1B kicks in."

The complex system for getting work visas in the U.S. doesn't just complicate the lives of talented students. Experts say it is depriving the U.S. of that talent just when unemployment is at its lowest in years. Many foreign students are being forced to leave the country, and that's costing America at a time when high-skilled workers are in high demand.

"We would attract the best minds from all over the world to study in our universities on an F visa, and then we'd make them promise that they would go home to go compete against us, which is sort of a crazy way to think about it," said Jeremy Robbins, executive director of New American Economy.

After sending out 3,000 resumes in 10 months, Jalan landed a position as an operations analyst at Nike in Portland, four months after he graduated with a master's degree in systems engineering and management. But he still needs his H-1B visa to make a life here. Having a corporate sponsor may not get him that coveted document. There's an element of luck as well.

Practical training

For most students, the path to permanent employment in the U.S. is complicated, and worse, shaped like an inverted pyramid, with hundreds of thousands of foreign students legally studying in the U.S. through F-1 visas, and then only a fraction of those working through OPT and far fewer moving on to other, more permanent work visas like the H-1B after graduation.

OPT authorizes a student on an F-1 visa for up to one year of employment, with a possible 2-year extension for STEM – science, technology, engineering or math — majors.

Between 2014 and 2018, the number of students like Jalan who received temporary work authorization under OPT has nearly doubled.

In 2014, around 140,000 students requested OPT. By 2018, the number had grown to more than 249,000.

Those who wish to stay longer will need to apply for an employment-based visa. The most common visa is the H-1B.

Corporate sponsorships

Obtaining an H-1B visa requires a corporate sponsor. The quest for such a sponsor is a constant source of anxiety for students who are already studying in the U.S.

Back home in India, Nikita D'Monte earned a bachelor's degree, a master's degree and co-founded an online magazine called Ink Drift.

While pursuing a second master's degree at UT Dallas, she worked as a graduate teaching assistant, contributed to a student-run publication, and still made time to send out resumes, connect with people on LinkedIn and apply to at least 1,000 jobs, she said.

For a few months, she volunteered and was sometimes paid while working for a company called Andwill to maintain her status. Meanwhile, she was living in San Antonio with her friend to save on expenses. She had several job interviews, but companies were unwilling to hire her because of her visa status.

“It's not the fact that my skill sets don't match the job,” she said. “Sometimes I do feel like I'm overqualified. I have been told that, you know, ‘This role may be a little below your skill set ... but then again, even though you're overqualified, we still cannot take you on because we are not ready to sponsor (for a visa) at this point of time.’”

Without a corporate sponsor, D'Monte can't apply for the H-1B and needs to find another way to stay here. For many students, going back to school and obtaining another student visa is an option. D'Monte has been accepted to a PhD program and plans to go back to school this year. But that plan is only temporary.

“I'm looking at the worst case scenario, which is, I'll have to go back and I totally cannot stay here,” she said. “I do believe even with a Ph.D., my chances of getting a job, which sponsors my H-1B would be slim.”

Things are looking up. After a long period of radio silence, D'Monte finally was offered contract work for Levi's in Dallas as a content management coordinator. She is currently working under OPT.

“My previous job I was literally on the bench for quite some time. It would be a couple of weeks working and then a couple of weeks on the bench not getting paid,” she said. “So I remember when I got this call, the first thing I did was I called my mom back home ... I literally cried with joy.”{span class="print_trim"}

While people from foreign countries can apply for other types of employment-based visas, they are not as common as the H-1B because the requirements are far more specific. For example, the TN visa is specific to Canadian and Mexican nationals, and the O visa is for people with “extraordinary ability.”

The narrowing funnel

U.S. Citizenship and Immigration Services spokesman Matthew Bourke said in a statement that the agency does not have data available on the total number of F-1 students who applied for an H-1B. But only about 30,000 to 40,000 F-1 students are approved for the H-1B visa each year between 2012 and 2017, according to USCIS.

There’s a nagging reason that the number of F-1 students who changed status to H-1B is relatively small compared to the almost quarter million students who are staying on OPT, said Jeanne Batalova, senior analyst at the Migration Policy Institute.

That’s because there’s a limit to how many new H-1B visas can be issued each year. And that number has not grown in more than a decade.

Since 2005, the annual cap for the number of available H-1B visas is at 65,000, with an additional 20,000 for those with a master’s or higher level degree. Every April, when the annual application period opens, if the number of petitions exceeds the cap, those who apply are entered into a lottery for the coveted spots.

”More and more people came to the United States to study,” said Batalova. “If you look at the number of international students, it has been climbing fairly steadily. And yet we still have the 65,000 cap.”

Since 2014, the number of petitions has always exceeded the cap and required a lottery. In 2017, there were more than 236,000 petitions within the first five business days of April, and in 2018 that number dropped slightly to 199,000, according to the Pew Research Center.

Foreign students who studied in the U.S. under an F-1 visa don’t get any special consideration for the H-1B spots. When he applies for the H-1B for the next fiscal year, Jalan’s petition will be one of many in the highly competitive lottery.

In early 2019, USCIS made a change to H-1B process that was aimed at giving U.S. employers seeking foreign workers with a U.S. master’s or higher degree a greater chance in the lottery. The change was expected to increase the number of advanced degree holders by 16% by reversing the order in which H-1B petitions were selected in the lottery, USCIS said.

But some critics have said the change creates a math problem that will result in fewer visas selected overall, and say it hurts high-skilled workers who only have bachelor’s degrees.

Critics are also concerned because President Donald J. Trump’s Buy American and Hire American executive order, signed in 2017, has resulted in tighter scrutiny of the H-1B visa process. More applications are being denied, and there’s been an increase in requests for evidence, which slows things down.

But the challenge of retaining high-skilled foreign graduates predates Trump. Experts say the H-1B system is not designed to give an easy pathway for international students.

”Before the president even came into office, we had a very broken immigration system,” Robbins said, “particularly when it came to keeping students here.”

Long road to reform

Even after someone gets an H-1B, the path to permanent residency can be really long for some. The availability of green cards allowing permanent residency is limited based on per-country quotas. That makes the wait time for a green card longer for applicants from countries that have a high number of applicants — such as India, China, the Philippines and Mexico.

A Cato Institute study found the wait time for a green card for an Indian national is 151 years, at the current rate of visa issuances.

Laura Collins, director of the Bush Institute-SMU Economic Growth Initiative, noted that people seeking green cards are “trying to do things the right way. They are trying to use the system and the way it was intended, and they’re being put in these endless waits.”

”So you are in effect having a system that creates illegality, whether you intended that or not,” she added.

In order to increase international students’ chances of getting the H-1B, more substantial changes are needed, she said. This includes increasing or eliminating the H-1B cap or making it easier for students to get a green card.

”(International students) have had time in the United States to adjust to American social and cultural norms, and they have improved their English language skills. Those are things that we know help immigrants be successful in the United States,” Collins said. “The faster we can get those people on that path, we’re more likely to end up with someone who’s a very good contributing member of society.”

High-skilled foreign workers, including international students, are needed to fill workforce needs in industries such as engineering, medicine and technology, that not enough native-born workers have the skills for, Collins said.

”If you are not letting in the best and the brightest, if you’re not letting them earn an opportunity to work here, you’re losing them to places like Canada who frankly is much more willing to not only give them a work visa, but gives them citizenship and allow them to become Canadian,” Collins said.

D’Monte says she is considering moving to countries such as Canada, Australia or Germany if she can’t stay in the U.S. long-term.

”It’s almost like I’m starting all over,” she said. “You have to start from the ground up with your social relationships all over again, making new friends. And at this age, I’m turning 27 now, at this age it’s very difficult to break into the social groups.”

Leaving the U.S. would mean saying goodbye to friends that she’s built close relationships with during her time here.

”They’ve literally become family away from home,” she said. “It’s always difficult leaving behind people you’ve grown so close to ... When you’re away from home, they kind of become like a family. You share your sorrows, your joys with them.”

Jalan echoes the same sentiment. While Jalan said he's never really given much thought to going back to India, he is open to exploring other places such as Europe. And even if he has to leave the U.S., he said his experiences were still worthwhile.

"Studying abroad is more often than not really tough, especially for kids with Asian backgrounds because it's a very contrasting culture," he said. "Once you overcome that barrier, it's really easy for you to walk to any place on this planet."