



An International Affair

Sponsorship of Foreign Nationals
for Employment Based
Immigration Statuses

Planning the International Affair

- *Who's coordinating the affair?*
Federal Agencies
 - Translation Services
Immigration terminology
 - *Guest List*
Foreign Nationals eligible for employment-based statuses
 - *Invitations*
Petitions and Applications
 - *Expenses*
Processing Fees
 - *Host/Hostess Responsibilities*
Application Filings and associated processes
 - *Advisories*
Advice from the coordinators
-

Event Coordinators

Federal Agencies and Service Centers

- CBP (Customs and Border Protection)
 - DHS (Department of Homeland Security)
 - DOL (Department of Labor)
 - DOS (Department of State)
 - ETA (Education and Training Administration)
 - USCIS (U.S. Citizenship and Immigration Services)
 - CSC (California Service Center)
 - NSC (Nebraska Service Center)
 - TSC (Texas Service Center)
 - VSC (Vermont Service Center)
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Event Jargon

Immigration Terminology

- Beneficiary (Non-immigrant Guest)
- Petitioner (Employer – UF Department)

Acronyms, Acronyms and . . .

- COS - Change of Status
 - EOS - Extension of Status
 - COE - Change of Employer
 - NIV - Non-immigrant Visa (Ex: H-1B visa)
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Invitations and Passes to the Event

Applications/petitions for nonimmigrant statuses

- I-129 (Application for Non-immigrant Worker in H-1B, TN or O-1 Status)
 - DOL/ETA Form 9035 (Labor Condition Application)
 - I-907 (Premium Processing)
 - I-539* (COS or EOS)
*For dependents of nonimmigrant employee
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Expenses

Petition/Application Processing Fees

<u>Form</u>	<u>Fee</u>	<u>Responsible Party</u>
I-129 (H-1B, TN, O-1 or E-3)	\$320.00 (DHS/USCIS)	Employer
Anti-Fraud Fee (New or "Porting" H-1B)	\$500.00 (DHS/USCIS)	Employer
I-907 (Premium Processing)	\$1000.00 (DHS/USCIS)	Employer or Beneficiary
I-539 (COS or EOS)* *For dependents	\$300.00 (DHS/USCIS)	Beneficiary

Guest List

Non-immigrant Statuses

- F-1 Student / F-2 – Dependent
 - J-1 Exchange Visitor (Professors and Researchers) / J-2 Dependents
 - **H-1B Temporary Worker with Dual Intent / H-4 Dependent**
 - O-1 Temporary Worker w/ Extraordinary Ability / O-2 Dependent
 - TN Temporary Worker from Canada or Mexico under the North American Free Trade Agreement (NAFTA) / TD – Dependent
 - E-3 / Temporary Worker from Australia / E-3 Dependent
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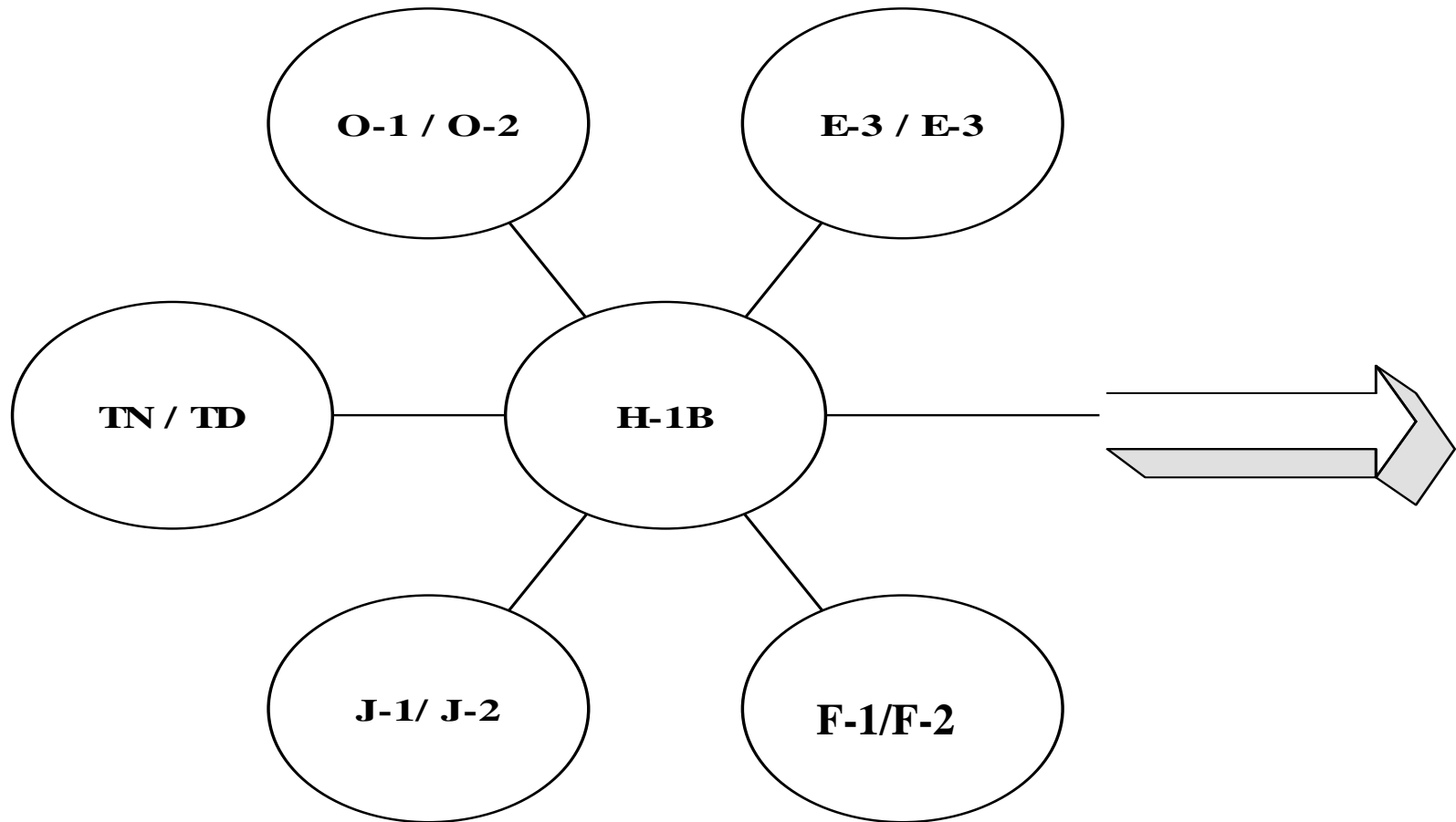
Guest Characteristics

H-1B Status (H-1B / H-4)

- Offer of employment in specialty occupation that requires the incumbent to teach, lecture, conduct research or perform professional duties
 - Limited to specified income from university. Note: permission from USCIS required to change conditions of status and/or to earn income from another employer
 - Maximum period of stay is six years, however, requested validity periods are limited to three year periods, but shorter periods may be requested
 - Processing period 15 to 180 days
 - Status provides beneficiary with dual intent: visitor w/intent to pursue permanent residence in the U.S.
 - Dependents may engage in incidental study, but may not obtain employment
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Transition Flow Chart

Migration patterns to H-1B status



Extended Stays / Permanent Resident Status

Clarification of Immigrant Status~

“An immigrant is a foreign national who has been granted the privilege of living and working permanently in the United States. A multi-step process is required to become an immigrant. In most cases, the USCIS must first approve an immigrant petition for [the foreign national], usually filed by an employer or relative. Then, an immigrant visa number must be available . . . , even if [the foreign national is] already in the United States. After that, if [the foreign national is] already in the United States, [he or she] may apply to **adjust to permanent resident status.**”

Sponsoring Permanent Resident Status Applications and Petitions

Application for Permanent Labor Certification (PLC)

- DOL/ETA Form 9089

Immigrant Petitions

- I-140 (Application for Immigrant Petition for Alien Worker status)
 - I-485 (Application to Adjust Status to Permanent Resident Status)

 - I-765 (Application for Employment Authorization / EAD)

 - I-797 (Notice of Action – Receipt Notice or Approval Notice)
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Immigration Terminology

- Department of State – DOS

Visa Bulletin:

http://travel.state.gov/visa/frvi/bulletin/bulletin_3263.html

- Adjustment of Status – AOS
 - Employment and Training Administration - ETA
 - Permanent Resident Card – PRC (*green card*)
 - Lawful Permanent Resident – LPR (*green card* holder)
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Optimum Conditions for PR Sponsorship

- The position offered is permanent
 - The position is full-time
 - The employee intends to remain employed by the sponsoring employer for an indefinite period and meets the criteria established by the USCIS laws
 - The employer is willing to devote the staff time and expend the funds necessary to undertake the process
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Self-Sponsored PR Pathways

- Extraordinary Ability (EB1-1)
- National Interest Waiver (EB 2)

Characteristics:

- Permanent Labor Certification from Employment and Training Administration is not required
 - Assistance from employer not necessary
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Extraordinary Ability

EB1-1

A Definition~

One of a small percentage who have risen to the very top of the field of endeavor. Demonstrated by sustained national/international acclaim and recognized achievements

National Interest Waiver (NIW)

EB 2

A Description~

Individuals with exceptional ability, or an advanced degree, who can show that their activities will substantially benefit the U.S. national interest

Employer Sponsored Pathways

- Outstanding professors or researchers (EB1-2)
 - Members of the professions holding advanced degrees (EB2-1)
 - A professional possessing a bachelor's degree or the foreign equivalent (EB2-2)
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Outstanding Professors and Researchers

EB1-2

- Recognized internationally as outstanding in the academic field, and possesses at least 3 years of teaching or research experience in the field
 - Must hold a permanent position
 - Permanent Labor Certification not required
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A Member of the Professions holding an Advanced Degree (EB2-1)

- An individual holding a degree above a bachelor's degree, which is required for the job offered
 - Must have offer of a permanent full-time position which requires an advanced degree or equivalent
 - Standard permanent labor certification required; “special handling” for teachers
-

Professionals (EB2-2)

(Possessing a bachelor's degree or the foreign equivalent)

- An individual with at least a bachelor's degree in a specific field of endeavor (professional) or with at least two years of specific education, training or experience (skilled worker).
 - Must have offer of permanent full-time position meeting criteria
 - Standard permanent labor certification required
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DOL/ETA Permanent Labor Certification

A Definition ~

A permanent labor certification is a finding by the Department of Labor that:

- ❑ There are not sufficient U.S. workers in the geographic area of employment who are able, willing, qualified and available to do the job in question, and
 - ❑ The employment of an alien will not adversely affect the wages and working conditions of U.S. workers
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ETA Permanent Labor Certifications Filing Categories

Special Handling

- Positions which include actual classroom teaching benefit from special requirement & documentation standards that allow the employer to select the “alien” if s/he is more qualified than any of the U.S. workers who applied

Standard Processing

- For all other positions, the employer must demonstrate that it was unable to recruit any U.S. worker who possesses the minimum qualifications to perform the job.
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Permanent Labor Certification Issues

- Determination of prevailing wage
(usually issued by a State Workforce Agency)
 - Method used to establish minimum requirements (“overly restrictive” requirements may result in an audit)
 - Establishment of guidelines satisfying minimum experience/training requirements
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PLC Filing Notice Requirements

- In all labor certification cases, employers must provide an internal notice of the job opportunity and the filing of the PLC application to current employees, or to the occupation's bargaining representative, if a union exists
 - The notice must be “posted for 10 business days in a conspicuous location at the place of employment”
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Requirements for Special Handling Cases

- Internal Notice for current employees
 - Prevailing Wage Determination (PWD)
 - Print advertisement
 - posted in a professional publication with national distribution (print ad!)
 - unduly restrictive requirements prohibited
 - Recruitment report on competitive recruitment process
 - “Normal” competitive recruitment process
 - Filing deadline compliance
 - “Date Alien is Selected” may be no more than 18 months prior to filing.
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Requirements for Standard Processing Cases

- Internal Notice
 - Prevailing Wage Determination (PWD)
 - State Workforce Agency (SWA) Job Order
 - 2 Sunday newspaper ads or 1 Sunday paper ad + 1 professional journal ad
 - 3 additional recruitment steps
 - Venue options provided by DOL regulations
 - Recruitment report
 - Filing deadline compliance
 - Filing date must occur no later than the 180th day that follows the date of the posting period of the first advertisement and no earlier than the 30th day after the end date of the last advertisement posting period
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Advertisement Content Requirements

- Name of employer
 - Application submission instructions
 - Description of vacancy
 - Geographic location of work site
 - Salary (optional)
 - If included, salary must match or exceed 100% of prevailing wage determination
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Supporting Documents

Offer of Employment Letters

- Must indicate the position is a permanent position and that the contract of the incumbent is annually renewed (based on employee's performance, departmental programmatic needs and fiscal considerations)
 - Must include language indicating the offer is contingent upon eligibility to work under the provisions of all applicable immigration laws and regulations.
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Applications, Petitions and Notices

- DOL/ETA Form 9089
 - Application for Permanent Labor Certification
 - I-140
 - Immigrant Petition for Alien Worker status
 - I-485
 - Application to Adjust Status to Permanent Resident Status
 - I-797
 - Notice of Action – Receipt Notice or Approval Notice for immigrant and associated petitions / applications
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Expenses

Application Processing Fees

<u>Form</u>	<u>Fee</u>	<u>Responsible Party</u>
DOL/ETA Form 9089	N/A	N/A
I-140 (Immigrant Petition	\$475.00 (DHS)	Employer or Beneficiary
I-485 (AOS)	\$1010.00 (DHS)	Employer or Applicant
Optional	If filed separately	
I-765* (Employment Auth)	\$340.00 (DHS)	Applicant
I-131* (Travel Auth)	\$305.00 (DHS)	Applicant

*May be filed concurrently or subsequently

Transition Timeframes

Petition/Application Completion Period / Processing Period

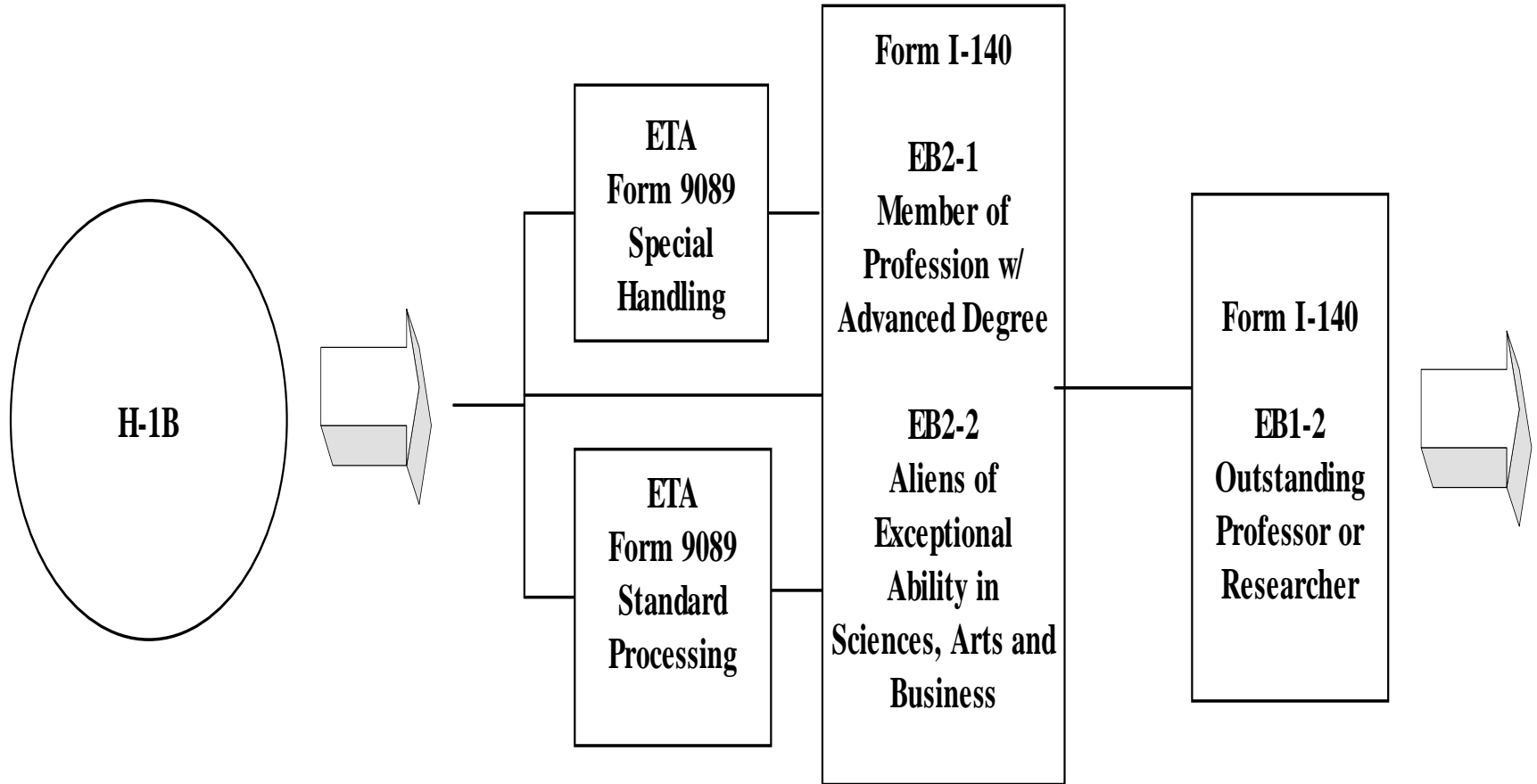
Form I-140 1 day to 5 days / 30 days to 180 days

Form I-485 5 days to 90 days / 180 days to 730 days



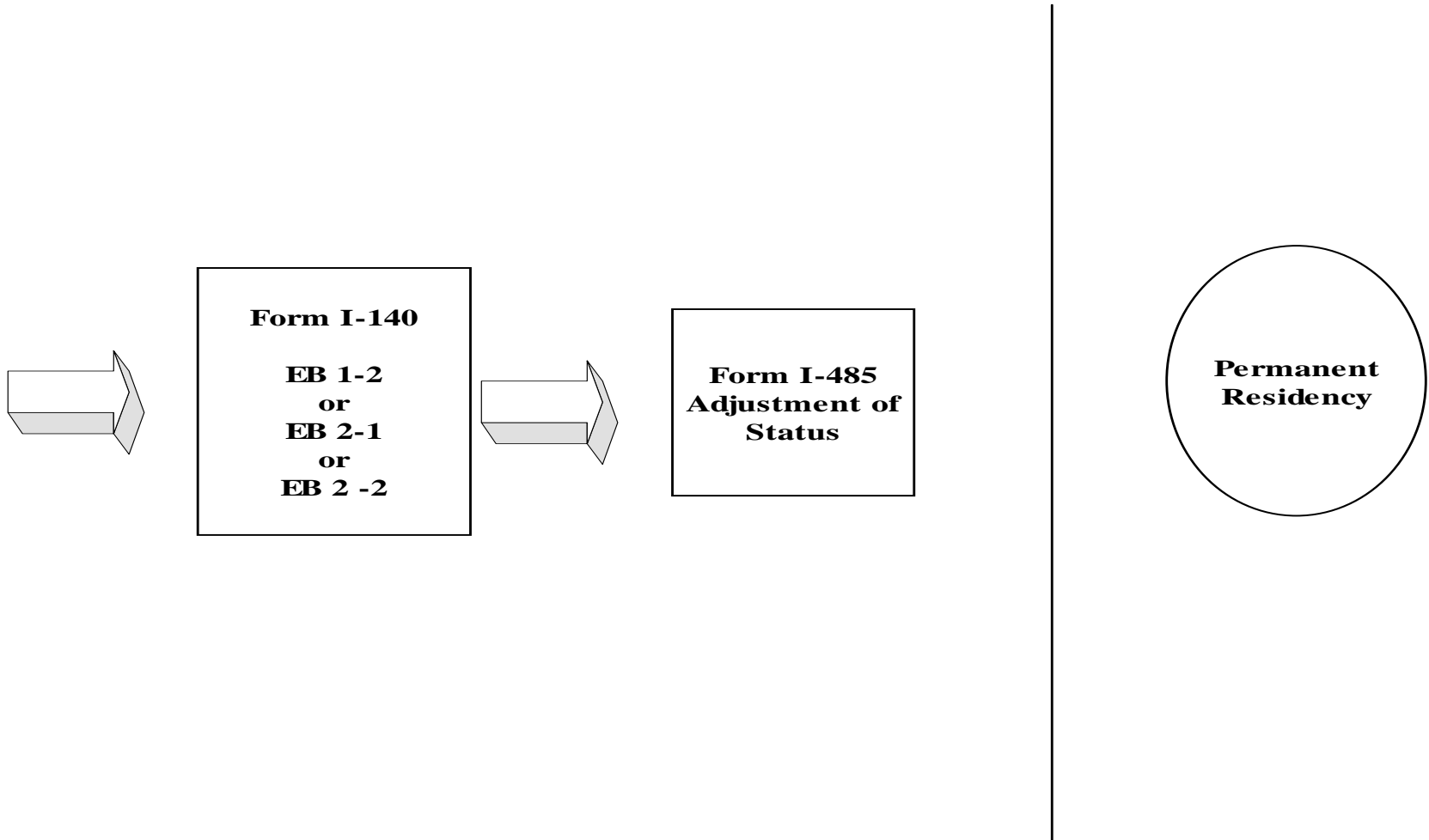
Transition Flow Chart

Migration patterns to immigrant status



Transition Flow Chart

Migration patterns to immigrant status



Permanent Resident Sponsorship Training Exercise

Party Poopers

- Detrimental details associated with sponsorship of Permanent Resident status

Refer to Workshop Supplement for Exercise Exhibits

Exhibit A: Position Advertisement

Exhibit B: Diploma for Master of Science

Exhibit C: Offer of Employment Letter

Event Endings

Memorabilia

Today, we discussed:

- ❑ Employment based immigration statuses
 - ❑ Federal regulations and procedures regarding sponsorship and maintenance of employment based immigration statuses
 - ❑ Timelines and expenses associated with sponsoring foreign nationals for employment based statuses
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Your attendance is appreciated and your
questions are welcomed~
