



## POSITION STATEMENT

# ENSURING A STRONG HIGH-TECH WORKFORCE THROUGH EDUCATIONAL AND EMPLOYMENT-BASED IMMIGRATION REFORMS

*Adopted by the IEEE-USA  
Board of Directors, 19 November 2010*

Balanced reforms in the United States' immigrant and non-immigrant admissions programs are urgently needed to help U.S. employers and U.S. workers compete and be successful in knowledge-based, technology-driven global markets. Instead of increasing our national dependence on temporary visa programs, IEEE-USA recommends that permanent (immigrant) admissions programs be the preferred source of supply for professionals in science, technology, engineering and math (STEM) fields who may be needed to satisfy labor market demands that cannot be met through enhanced education and training opportunities for American workers.

Priorities for reform should include:

- Increasing the availability of permanent employment-based (EB) visas and streamlining the immigrant admissions (Green Card) process in order to make these visas the preferred path to citizenship for foreign professionals in STEM fields
- Allowing foreign students with advanced degrees in STEM fields from U.S. schools and job offers from U.S. employers to transition directly from student visas to Green Cards
- Reforming the H-1B temporary work visa program to ensure that U.S. and foreign workers are treated fairly by requiring all participating employers to make good faith efforts to recruit U.S. workers, to use the program to augment, not replace, American workers, and to pay H-1B workers fair market-based wages

This statement was developed by the IEEE-USA Career and Workforce Policy Committee and represents the considered judgment of a group of U.S. IEEE members with expertise in the subject field. IEEE-USA advances the public good and promotes the careers and public policy interests of more than 210,000 engineers, scientists and allied professionals who are U.S. members of IEEE. The positions taken by IEEE-USA do not necessarily reflect the views of IEEE or its other organizational units.

## Background

Research indicates that the foreign born make the U.S. economy more diverse, productive and innovative and its workforce younger and more creative. This characterization is especially true in professional fields like science and engineering, where immigrants currently hold 7 percent of the bachelor's degrees, 29 percent of the master's degrees and 39 percent of the Ph.D. degrees. Their contributions are expected to become even more important as demographic trends push older U.S. workers into retirement.

Permanent Employment-Based Visas – Foreign professionals seeking legal permanent resident status can be admitted as immigrants on family or employer-sponsored visas or Green Cards. Because employment-based (EB) admissions are limited to 140,000 per year, worldwide demand for Green Cards always exceeds the available supply. Per country limits and visa processing inefficiencies result in substantial backlogs and long waits, especially for applicants from high-demand countries like China and India.

Temporary Student Visas – Foreign students who come to study at U.S. educational institution are admitted on temporary student (F) visas. Student visas are available in unlimited numbers. Under current law, foreign students must return home upon completion of their studies, unless U.S. employers agree to sponsor them for Green Cards or temporary work visas.

Temporary Work Visas – Specialty occupation (H-1B) visas allow foreign professionals with bachelor's or higher degrees to work for sponsoring employers for six years and are available in limited numbers. H-1B workers are effectively tied to their sponsoring employers. Weak worker safeguards coupled with lax oversight and enforcement by government agencies can result in abuses that harm U.S. and foreign workers.

Temporary Visitor Visas – IEEE-USA also supports reforms to short-term visitor visa processing to enable foreign scientific and engineering professionals to more easily enter the United States to attend conferences and meetings. For specific recommendations, see the IEEE-USA's "[Visa Processing](#)" (June 2010) position statement (available on-line at: <http://www.ieeeusa.org/policy/positions/Visaprocessing0610.pdf>).

IEEE-USA Legislative Proposals -- In support of this position, IEEE-USA has outlined a series of proposals for employment-based immigration reform and is seeking congressional sponsorship to introduce corresponding legislation. Appended is a section-by-section summary of the proposed bill:

## SECTION BY SECTION SUMMARY

### **IEEE-USA EMPLOYMENT-BASED IMMIGRATION REFORM PROPOSAL**

Purposes – To strengthen economic prosperity, enhance technological competitiveness and help create jobs in the United States by reforming the nation’s employment-based immigration system.

#### Title I – Employment-Based Immigrant Visa Reforms

Section 101 – Assigns the task of preparing periodic analyses, reports and recommendations on the US workforce to the Bureau of Labor Statistics (rather than to an independent commission)

Section 102 – Increases the availability of permanent employment-based (immigrant) visas by not counting dependents (spouses and minor children) against applicable admissions ceilings.

Section 103 – Establishes a fee-based exemption from annual numerical limits for Schedule A (shortage) occupations and for professionals with advanced degrees in science, technology, engineering and mathematics from accredited US universities. Proceeds will be used to fund education and training opportunities for US citizens and legal permanent residents.

Section 104 – Raises the so-called per-country limits from 7% to 10% for employment and family-based visa petitions and eliminates these limits entirely for Schedule A and advanced degree STEM petitioners.

Section 105 – Reduces waiting times and backlogs by recapturing unused visas from prior years.

Section 106 – Expedites immigrant visa processing and adjudication by: a) imposing a 30-day processing time limit on labor certifications, petition and adjustment of status adjudications and visa interview scheduling; b) extending optional practical training (OPT) status for petitioners who are sponsored by a current employer and have already filed for a Green Card; c) permitting petitioners to file adjustment of status applications when visas are unavailable; and d) creating a limited transitional visa category to help current temporary workers who would otherwise be unable to benefit from other provisions in the bill.

#### Title II – Student Visa and Status Maintenance Reforms

Section 201 – Eliminates the current foreign residence maintenance requirement for foreign students attending accredited, degree-granting institutions and exchange visitors who are students at or employed by such institutions.

Section 202 – Improves visa status protections by: a) authorizing revalidation of most visa categories in the United States; b) mandating minimum visa validity periods for temporary student, exchange visitor and employment visas, irrespective of reciprocity schedules; and c) mandating pre-adjudication of inadmissibility waiver applications for immigrants and non-immigrants, even if the applicants are present in the United States.

### Title III – Employment-Based Nonimmigrant Visa Reforms

Section 301 (H-1B Visa Reforms) – Reduces the effective duration of H-1B visas to two years (renewable for one additional year) and extends the applicability of current recruitment and non-displacement attestation requirements to all employers (not just H-1B dependent employers), including contractors.

H-1B workers cannot work for a petitioning employer, unless at least 50 percent of the employer’s workers in the applicable job category are US citizens or legal permanent residents.

Section 302 (L-1 Visa Reforms) – Eliminates staffing company abuse by prohibiting the placement of L-1 visa workers at third party worksites, unless labor condition applications have been filed attesting that all pay, benefits and supervision arrangements are the exclusive responsibility of the petitioning employers.

Limits the duration of L-1 visas to two years (renewable for one additional year) with no transfer to longer term status with petitioning employers or any affiliated employers during the additional year.

### Title IV – Restriction on Immigration Provisions in Trade Agreements

Section 401 – Limits the authority of the United States Trade Representative (USTR) to receiving proposed changes to US immigration laws and referring them to Congress for approval or disapproval.

Section 402 – Allows Congress, through a point of order, to sever immigration-related provisions from trade legislation being considered under “fast track” authority and take them up separately.