

U.S. Citizenship
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Services[Sign In](#) ▼[Topics](#)[Forms](#)[Newsroom](#)[Citizenship](#)[Green Card](#)[Laws](#)[Tools](#)

Policy Manual

[Contents](#)[Updates](#)[INA](#)[8 CFR](#)[Glossary](#)[Feedback](#)[Search USCIS Policy Manual](#) [Home](#) > [Policy Manual](#) > [Volume 6 - Immigrants](#) > [Part F - Employment-Based Classifications](#) > Chapter 7 - Skilled Worker, Professional, or Other Worker

Policy Manual

[Search](#)[Updates](#)[Table of Contents](#)[Volume 1 - General Policies and Procedures](#)[Volume 2 - Nonimmigrants](#)[Volume 3 - Humanitarian Protection and Parole](#)[Volume 4 - Refugees and Asylees](#)[Volume 5 - Adoptions](#)[Volume 6 - Immigrants](#)[Part A - Immigrant Policies and Procedures](#)[Part B - Family-Based Immigrants](#)[Part C - Adam Walsh Act](#)[Part D - Surviving Relatives](#)[Part E - Employment-Based Immigration](#)[Part F - Employment-Based Classifications](#)[Chapter 1 - Purpose and Background](#)[Chapter 2 - Extraordinary Ability](#)

Chapter 7 - Skilled Worker, Professional, or Other Worker

[Guidance](#)[Resources \(14\)](#)[Appendices \(0\)](#)[Updates \(5\)](#)

A total of 40,000 visas are available each fiscal year for employment-based 3rd preference workers, of which not more than 10,000 may be issued to “other” (unskilled)^[1] workers. The visas for skilled workers (requiring at least 2 years training or experience)^[2] and professionals (persons holding a bachelor’s degree or its equivalent in the specific field in which they are to be engaged)^[3] are deducted from the same 30,000 number allotment.

A petitioning U.S. employer may file an Immigrant Petition for Alien Workers ([Form I-140](#)) on behalf of a beneficiary for classification as a skilled worker, professional, or other (unskilled) worker.^[4]

A. Eligibility

In all cases, the beneficiary must have the minimum education and work experience requirements that are specified on the permanent labor certification.^[5] Therefore, if the permanent labor certification specifies that a bachelor’s degree in a given field is the minimum requirement for entry into the position, the beneficiary must possess a minimum of a U.S. bachelor’s degree or its foreign equivalent degree in the field.

Where the labor certification permits educational and experience equivalence to a bachelor’s degree, however, the beneficiary may qualify as a skilled worker if he or she meets the requirements on the labor certification.^[6] On the other hand, if the permanent labor certification states a requirement of “2 years college and 2 years experience,” mere possession of a bachelor’s degree, without 2 years of experience, would not qualify, although it would meet the education requirement.

Shepherders

A shepherdder is an unskilled worker. An alien shepherdder who has been legally employed as a nonimmigrant shepherdder in the United States for at least 33 of the preceding 36 months is not required to obtain an approved permanent labor certification from the U.S. Department of Labor. Instead, the petitioner files the permanent labor certification application directly with the appropriate USCIS office or the U.S. Department of State. This procedure relates only to the permanent labor certification process and has no bearing on the amount of training or experience needed to perform the job.

Footnotes

^[1] See [8 CFR 204.5\(l\)\(2\)](#), defining an other worker as one capable of performing unskilled labor (requiring less than 2 years training or experience).

Chapter 3 - Outstanding Professor or Researcher

Chapter 4 - Multinational Executive or Manager

Chapter 5 - Advanced Degree or Exceptional Ability

Chapter 6 - Physician

Chapter 7 - Skilled Worker, Professional, or Other Worker

Part G - Investors

Part H - Designated and Special Immigrants

Part I - Family-Based Conditional Permanent Residents

Part J - Special Immigrant Juveniles

Part K - CNMI Resident Status

Volume 7 - Adjustment of Status

Volume 8 - Admissibility

Volume 9 - Waivers and Other Forms of Relief

Volume 10 - Employment Authorization

Volume 11 - Travel and Identity Documents

Volume 12 - Citizenship and Naturalization

[Return to top](#)

Topics

Citizenship

Tools

Forms

Green Card

Newsroom

Laws

[^2] Relevant post-secondary education may be considered as training. See [8 CFR 204.5\(l\)\(2\)](#). (definition of skilled worker).

[^3] See [8 CFR 204.5\(l\)\(2\)](#). (definition of professional).

[^4] See [INA 203\(b\)\(3\)](#). See [8 CFR 204.5\(l\)](#).

[^5] See [Matter of Wing's Tea House \(PDF\)](#), 16 I&N Dec. 158 (Act. Reg. Comm. 1977).

[^6] See [8 CFR 204.5\(l\)\(4\)](#).

Current as of August 29, 2025

Previous

Next

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