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# Chapter 7 - Skilled Worker, Professional, or Other Worker

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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)<sup>[1]</sup> workers. The visas for skilled workers (requiring at least 2 years training or experience)<sup>[2]</sup> and professionals (persons holding a bachelor’s degree or its equivalent in the specific field in which they are to be engaged)<sup>[3]</sup> 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.<sup>[4]</sup>

## A. Eligibility

In all cases, the beneficiary must have the minimum education and work experience requirements that are specified on the permanent labor certification.<sup>[5]</sup> 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.<sup>[6]</sup> 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 shepherd is an unskilled worker. An alien shepherd who has been legally employed as a nonimmigrant shepherd 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.

### *Professional Athletes*

Permanent labor certifications for professional athletes that were electronically filed with the DOL using its Foreign Labor Application Gateway (FLAG) system on or after June 1, 2023, no longer contain the minimum job requirements for the offered position. Therefore, for labor certification-based Form I-140 petitions filed on behalf of professional athletes, if the minimum requirements of the offered position



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labor certification or in the documentation submitted with the Form I-140 petition, an officer may request additional evidence to obtain this information from the petitioner.

## Footnotes

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[^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).

[^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 December 22, 2025

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