

# U.S. Schools Educate Foreign Students But Immigration Law Extricates Them

Posted: 11/20/2013 1:40 pm EST | Updated: 11/21/2013 12:11 pm EST

WASHINGTON -- In September, Antinea Ascione was surprised to receive a letter telling her she had 60 days to leave the U.S.

The 23-year-old grew up in Trinidad and Italy, and spent part of high school in the United States. Ascione graduated from Trinity College in Connecticut in 2012 with a degree in political science and English. She was enjoying her work at a publishing company in Fargo, N.D., where she had moved to be with the boyfriend she met during college -- and then her H-1B visa application was rejected.

Ascione had to stop working immediately. U.S. Citizenship and Immigration Services said her application failed to show a degree was needed for her editing position.

"When you enter college no one warns you how hard getting an H-1B can be," Ascione said. "You're not aware about the mad rush for visas."

H1-B visas can only be granted for jobs "so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree," [according to USCIS](#), generally meaning that the employer must prove that the applicant's education and experience uniquely suits them -- and not another applicant, such as an American -- for the specific position. Additionally, while these employers aren't required to ensure there are no Americans available in the labor market for the position, they must attest that no U.S. employee at their company would be displaced as a result of hiring the foreign worker, according to Neil Ruiz, an associate fellow at the Brookings Institution.

Ascione, who is currently working with USCIS to stay in the country, is among thousands of foreign students who seek jobs in the U.S. upon graduating from American universities. Foreign student enrollment at U.S. universities reached an [all-time high](#) in the 2012-2013 school year, according to the Institute of International Education's 2013 "[Open Doors](#)" report. Nearly 820,000 students came to the U.S. to study last school year, mostly from China, India, South Korea, Canada and Saudi Arabia. And according to an Association of International Educators report, foreign students contributed [\\$24 billion](#) to the U.S. economy during the 2012-2013 school year.

Yet remaining in the country after graduation may be harder than it has ever been, largely because of the current U.S. immigration system.

A dual citizen of Italy and Trinidad and Tobago, Ascione had told her employer early on that she would need a work visa to remain in the country, and they agreed to sponsor her. Before getting a visa, she was allowed to work for one year of "[Optional Practical Training](#)." In April, her employer filed the necessary documents. USCIS held a [lottery](#) for applicants due to an

overwhelming number of H-1B visa applications for a mere 85,000 slots, and Ascione was lucky enough to win a place. While her application was pending she continued her editing work, putting her English degree to use.

"I have a pretty good resume, went to a well-respected school. I just assumed that given my past, it would be ... understandable why I deserved this job," Ascione said. "I'd been in the U.S. for six years."

Ruiz, of the Brookings Institution, said the problem is largely one of competition. Ruiz noted that the demand for H-1B visas dwarfs the supply. In the first five days of open applications this year, 124,000 applications were submitted for 85,000 H-1B visas -- 20,000 of which are reserved for foreign workers with graduate degrees.

Ascione said she was lucky USCIS even reviewed her application. Still, she said, "There is a disconnect between allowing so many students to get F-1 [student] visas, but only allowing 65,000 of those with bachelor's degrees to work here," Ascione said. "It doesn't make sense."

The [bipartisan comprehensive immigration bill](#) the Senate passed earlier this year would begin to address many of the problems that currently prevent international students from staying past graduation. For example, Ruiz said it would allow those with student visas to bypass the H-1B process, so an employer could sponsor them directly for a green card. The cap on the number of green cards would also no longer be based on country of origin. The current country-based caps mean Chinese workers can face 6-year waits for green cards, Ruiz said, and Indian workers can sometimes wait longer.

Making green cards easier to get would also normalize the number of H-1B applications, according to Vic Johnson, senior advisor for public policy at the Association of International Educators. "People wait decades for green cards," Johnson said, and in the meantime, they apply for H-1Bs. "One of the reasons the H-1B visas go so fast is because green cards are so hard to get."

Ruiz and other advocates for reform argue that the competitive nature of getting a visa could make the U.S. less competitive globally, since the country has to turn away so many visa applicants. "If we're training the world's leading innovators in the science and technical fields but sending them away, that's a major problem," Ruiz said.

But others say that foreign workers could out-compete Americans for employment. An [Economic Policy Institute study](#) released in April found that the shortage of science and tech workers in the U.S. is exaggerated, contending that IT companies often hire foreign workers "at wages that appear to be too low to attract large numbers of the best and brightest domestic students."

"We need to keep the best and brightest, but our main issue is that the prevailing wages are set too low and there aren't many recruitment requirements," said Daniel Costa, director of immigration law and policy research at EPI. "You aren't required to look for a U.S. worker first."

Many [tech companies](#) are eager to retain students who have studied science or math, like Ollie Rourke, a 25-year-old Australian Ph.D. student in applied mathematics at the University of Maryland. Rourke is not sure if he'll stay in the U.S. when he graduates, but the high-tech job opportunities here might make it difficult to resist.

"A lot of the tech consulting and research jobs are in the U.S. -- and it's not just Google," Rourke said. "The U.S. has got way more jobs in that than every country. Australia is very poor on that."

Luckily for Rourke, large tech companies tend to be good at obtaining work visas for employees they're interested in, despite the limited number of visas.

"If you're a large company and you have a huge immigration law firm or legal department," Ruiz said, "those companies tend to do well because they know how to work the system."

[http://www.huffingtonpost.com/2013/11/20/immigration-law-foreign-students\\_n\\_4296710.html](http://www.huffingtonpost.com/2013/11/20/immigration-law-foreign-students_n_4296710.html)