

ALTERNATIVES TO LABOR CERTIFICATION 1994:
A CHECKLIST OF PERMANENT OPTIONS THAT DO NOT
REQUIRE A CONVENTIONAL LABOR CERTIFICATION*

or

"50 WAYS TO LEAVE YOUR LABOR cert"

by
Scott M. Borene**

The problem's all inside your head - this mystery
The answer is easy, if you analyze it legal-ly
Let me help you in your struggle to be free
There must be 50 ways to leave your Labor

Furthermore, I hope my meaning won't be misconstrued
But if your client's visa simply cannot be renewed
And the employer can't decide who must be interviewed
There must be 50 ways to leave your Labor

Just invest a million bucks, Chuck¹
File CSPA, Faye²
Be a Philippine ranger, stranger³
or marry a U-S-C.⁴

* **Author's Note:** A more traditional listing of Alternatives to Labor Certification arranged by categories (Family-Based Options, Business/Employment Based Options and Other Options) is attached without footnotes as Appendix A.

** **Scott M. Borene** practices immigration law with the Borene Law Firm, P.A. in Minneapolis, concentrating on employment-based immigration matters. A graduate of Harvard University and Minnesota's William Mitchell Law School, he currently serves as Chair of AILA's Minnesota - Dakotas Chapter. He has fifteen years immigration practice experience and has authored several articles for various AILA publications.

¹ Immigration and Nationality Act of 1952 (INA), Pub. L. No. 82-414, 66 Stat. 163 (codified as amended at 8 USC §§ 1101-1524) (hereinafter INA) 203 (b) (5), 8 USC § 1153 (b) (5).

² Pub. L. No. 102-404, 106 Stat. 1969, the Chinese Student Protection Act (hereinafter CSPA).

³ Immigration Act of 1990, Pub. L. No. 101-649, 104 Stat. 4978 (hereinafter IMMACT 90), § 405.

⁴ INA § 201 (b) (2) (A) (i), 8 USC § 1151 (b) (2) (A) (i).

Prove you're extra-ordinary, Harry⁵
Get adopted by 16, Doreen⁶
Get yourself an RN, Gwen⁷
or use your Pre-78 MD⁸

Just drop off the fee, Lee
and get yourself free

Choose USC parents, Clarence⁹
Learn to sheep-herd, Ferd.¹⁰
Work at a Hong Kong bank, Frank¹¹
or get your degree in P.T.¹²

Go multi-national CEO, Cleo¹³
Reduce your recruit, Lute¹⁴
Be a retired diplomat, Pat¹⁵
or get "national interest" and a degree¹⁶

⁵ INA § 203 (b) (1) (A), 8 USC § 1153 (b) (1) (A).

⁶ INA § 101 (b) (1) (E), 8 USC § 1101 (b) (1) (E).

⁷ 20 CFR § 656.22 (c) (2).

⁸ INA §§ 101 (a) (27) (H), 203 (b) (4), 8 USC §§ 1101 (a) (27) (H), 1153 (b) (4).

⁹ INA § 203 (a) (1), 8 USC § 1153 (a) (1).

¹⁰ Employment and Training Admin., U.S. Dep't of Labor, *Technical Assistance Guide No. 656: Labor Certification (TAG)* at page 74, 20 CFR § 656.21a (b) (1).

¹¹ IMMACT 90 § 124, 8 CFR § 204.8.

¹² 20 CFR § 656.10 (a).

¹³ INA § 203 (b) (1) (C), 8 USC § 1153 (b) (1) (C).

¹⁴ 20 CFR § 656.21 (i).

¹⁵ INA § 101 (a) (27) (I) (iii), 8 § 1101 (a) (27) (I) (iii).

¹⁶ INA § 203 (b) (2), 8 USC § 1153 (b) (2).

Marry a CSPA Chinese, Louise¹⁷
Quit Soviet nukes, Duke¹⁸
Be a monk from Tibet, Bette¹⁹
Or a refugee²⁰

Get born on U.S. land, Chan²¹
Be a transborder Sioux, Lou²²
Get a 12 year discharge, Sarge²³
Or juvenile court decree²⁴

Be a USC's widow, Kiddo²⁵
Get religious work, Burke²⁶
Get a private bill, Phil²⁷
or sign up for registry²⁸

¹⁷ CSPA.

¹⁸ Pub. L. No. 102-509, 106 Stat. 3316; 8 CFR § 204.10.

¹⁹ IMMACT 90, § 134, 22 CFR § 47.2.

²⁰ INA § 209 (a) (1), 8 USC § 1159 (a) (1).

²¹ U.S. Constitution, Fourteenth Amendment, INA § 301, 8 USC § 1401.

²² 8 CFR, Part 289.

²³ INA § 101 (a) (27) (K), 8 USC § 1101 (a) (27) (K).

²⁴ INA § 101 (a) (27) (J), 8 USC § 1101 (a) (27) (J) .

²⁵ 8 CFR § 204.2 (b) (1).

²⁶ INA § 203 (b) (4), 8 USC § 1153 (b) (4) and INA § 101 (a) (27) (C), 8 USC § 1101 (a) (27) (C).

²⁷ INS Operations Instruction § 107.1 (c); Senate and House rules reprinted in *Interpreter Releases* 597-602 (May 3,1993)

²⁸ INA § 249, 8 USC § 1259.

Dump that battering louse, spouse²⁹
Be an outstanding prof, Hoff³⁰
Choose Sched A, Group II, Stu³¹
or work for the U.S. Embassy³²

Go with CSS/LULAC, Mack³³
Get an LPR Mom, Strom³⁴
Get here from Havana, Joanna³⁵
Or be an asylee³⁶

Get a "gig" at the "U", Hugh³⁷
Marry your P.R. Fiancee, Ray³⁸
Use your smarts doing art, Mart³⁹
or come by the Panama treaty⁴⁰

Just drop off the fee, Lee
and get yourself free

²⁹ 8 CFR § 216.5 (e) (3).

³⁰ INA § 203 (b) (1) (B), 8 USC § 1153 (b) (1) (B).

³¹ 20 CFR 656.10.

³² INA § 101 (a) (27) (D), 8 USC § 1101 (a) (27) (D).

³³ INA § 245A (a), 8 USC § 1255a.

³⁴ INA § 203 (a) (2), 8 USC § 1153 (a) (2).

³⁵ Cuban Refugee Adjustment Act, Pub. L. No. 89-732.

³⁶ INA § 209, 8 USC § 1159.

³⁷ 20 CFR § 656.21a.

³⁸ INA § 203 (a) (2), 8 USC § 1153 (a) (2).

³⁹ 20 CFR § 656.10 (b).

⁴⁰ INA § 101 (a) (27) (E), 8 USC § 1101 (a) (27) (E).

Get a job as a RAW, Pa⁴¹
Do like orphan Annie, Danny⁴²
Be a diplomat's kid, Sid⁴³
Or the Dad of a USC⁴⁴

Be a star ath-uh-lete, Clete⁴⁵
Get a USC sis, Chris⁴⁶
Be an off-Broadway star, Bar⁴⁷
Or Hong Kong consul employee⁴⁸

Put your deport in suspense, Lawrence⁴⁹
And if that ain't enough stuff
Send your card to D.C., Lee
for the next lottery.⁵⁰

⁴¹ INA § 210A, 8 USC § 1161.

⁴² INA § 101 (b) (1) (F), 8 USC § 1101 (b) (1) (F).

⁴³ INA § 101 (a) (27) (I) (i), 8 USC § 1101 (a) (27) (I) (i).

⁴⁴ INA § 201 (b) (2) (A) (i), 8 USC § 1151 (b) (2) (A) (i).

⁴⁵ INA § 203 (b) (1) (A), 8 USC § 1153 (b) (1) (A).

⁴⁶ INA § 203 (a) (4), 8 USC § 1153 (a) (4).

⁴⁷ 20 CFR § 656.21a.

⁴⁸ INA § 101 (a) (27) (D), 8 USC § 1101 (a) (27) (D).

⁴⁹ INA § 244 (a) (1), 8 USC § 1254 (a) (1).

⁵⁰ INA § 203 (c), 8 USC § 1153 (c).

APPENDIX A

ALTERNATIVES TO LABOR CERTIFICATION 1994:

A CHECKLIST OF PERMANENT RESIDENCE/CITIZENSHIP OPTIONS THAT DO NOT REQUIRE A CONVENTIONAL LABOR CERTIFICATION

or

"50 WAYS TO LEAVE YOUR LABOR cert"

Business, Occupational or Employment-Based Options

- | | |
|--|---|
| <input type="checkbox"/> EB-1 Extraordinary Ability | <input type="checkbox"/> Special Handling - Performing Artist |
| <input type="checkbox"/> EB-1 Outstanding Professor/Researcher | <input type="checkbox"/> Special Handling - Athlete |
| <input type="checkbox"/> EB-1 Multinational Executive/Manager | <input type="checkbox"/> Special Handling - Entertainer |
| <input type="checkbox"/> EB-2 plus "National Interest" | <input type="checkbox"/> Soviet Scientist |
| <input type="checkbox"/> EB-4 Religious Worker | <input type="checkbox"/> Pre-78 M.D. |
| <input type="checkbox"/> EB-5 Permanent Investor | <input type="checkbox"/> Hong Kong Bank Employee |
| <input type="checkbox"/> Waived or Reduced Recruitment | <input type="checkbox"/> Retired Diplomat |
| <input type="checkbox"/> Schedule A, Group I, RN | <input type="checkbox"/> Child of Diplomat |
| <input type="checkbox"/> Physical or Occupational Therapist | <input type="checkbox"/> Hong Kong Consular Employee |
| <input type="checkbox"/> Schedule A, Group II, "Exceptional" | <input type="checkbox"/> RAW |
| <input type="checkbox"/> Shepherd | <input type="checkbox"/> U.S. Embassy Employee |
| <input type="checkbox"/> Special Handling - College Teacher | <input type="checkbox"/> 12 years U.S. Military Service |

Family-Based Options

- | | |
|---|--|
| <input type="checkbox"/> Married to U.S. Citizen | <input type="checkbox"/> Son or Daughter of LPR |
| <input type="checkbox"/> Parent of USC | <input type="checkbox"/> Battered Spouse or Child of USC or LPR |
| <input type="checkbox"/> Son or daughter of USC | <input type="checkbox"/> Adopted by USC or LPR parents |
| <input type="checkbox"/> Widow or Widower of U.S. Citizen | <input type="checkbox"/> Orphan |
| <input type="checkbox"/> Married to LPR | <input type="checkbox"/> Eligible to accompany or follow to join spouse/parent in another LPR category |

Other Options

- | | |
|--|---|
| <input type="checkbox"/> CSPA | <input type="checkbox"/> Juvenile Court Decree |
| <input type="checkbox"/> Married to a CSPA - eligible spouse | <input type="checkbox"/> Derivative claim to USC |
| <input type="checkbox"/> Refugee | <input type="checkbox"/> Philippines Veteran |
| <input type="checkbox"/> Asylee | <input type="checkbox"/> Displaced Tibetan |
| <input type="checkbox"/> Registry | <input type="checkbox"/> CSS/LULAC Claim |
| <input type="checkbox"/> Diversity Lottery | <input type="checkbox"/> Cuban Refugee (including spouse/child) |
| <input type="checkbox"/> North American Indian | <input type="checkbox"/> Panama Treaty |
| <input type="checkbox"/> Private Bill | <input type="checkbox"/> Suspension of Deportation |

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