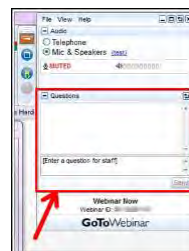


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Type them into questions box!

**“Why am I muted?”**

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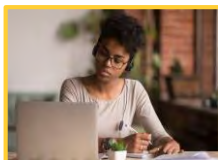
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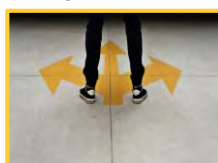
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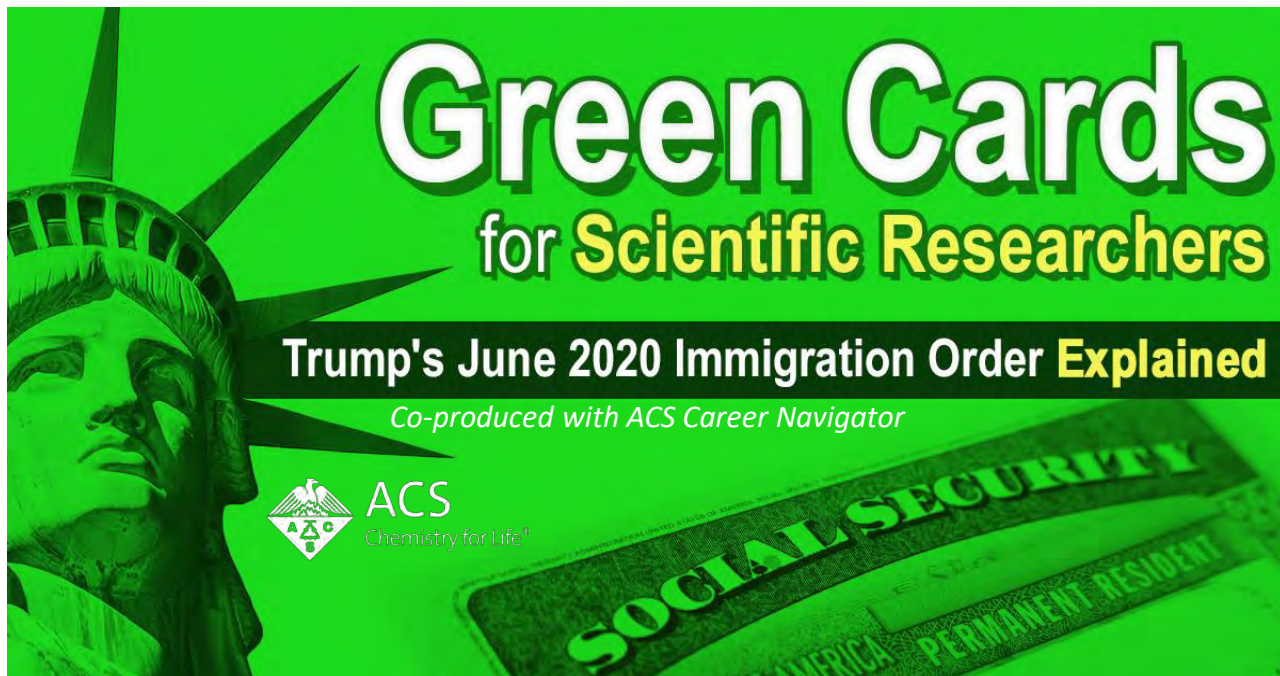
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## Green Cards for Scientific Researchers: Trump's June 2020 Immigration Order Explained



**Brian Getson**  
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**Anant Kumar**  
Science Writer, Getson & Schatz, P.C.

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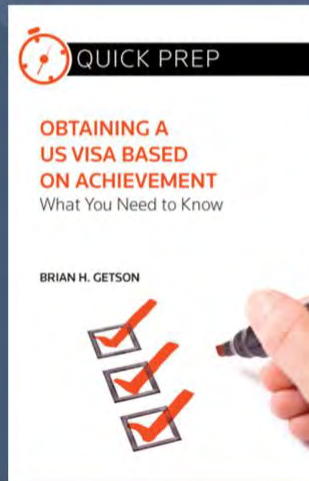
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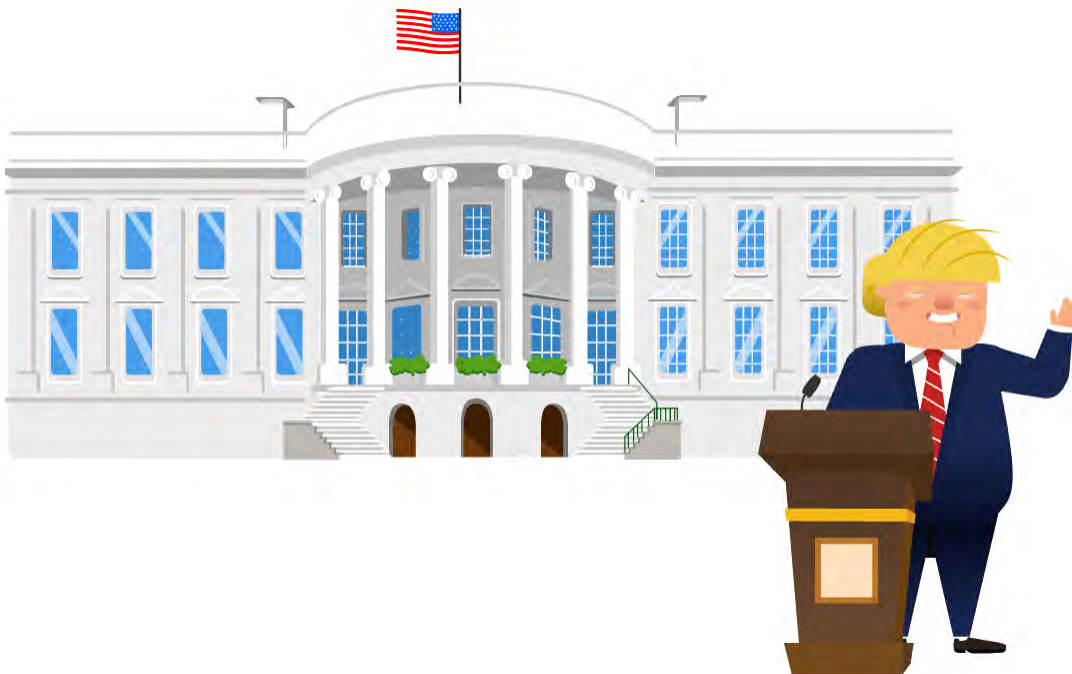
# UPENN LAW SCHOOL, 1995

**AUTHOR OF:**



**BRIAN GETSON, ESQ.**

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## **April 2020 Executive Order**

**Immigrant Visas (Green card visas at the consulate) suspended for 60 days.**

**Can still adjust status (File I-485) if you are already in the U.S.!**

**Are there any exceptions?**



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## **June 2020 Executive Order**

**Immigrant Visas suspended until 2021**

**H-1B and L visas suspended until 2021**

**Certain J visas suspended until 2021 (DOES NOT AFFECT RESEARCHERS)**

**Can still adjust status (File I-485) if you are already in the U.S.!**



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## **EXCEPTIONS**

**Spouses of U.S. citizens**

**Children of U.S. citizens under 21**

**Research/work related to Covid**



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## **THREE THINGS YOU SHOULD REMEMBER**

- 1. You can CHANGE status to H-1B or L in the U.S.**
- 2. You can still adjust status (apply for a green card) in the U.S.**
- 3. If you are outside the U.S., you will have to use a J-1 for a postdoc until 2021**



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## Audience Survey Question

ANSWER THE QUESTION ON BLUE SCREEN IN ONE MOMENT



**If you are a foreign born scientist, what is your current status?**

- F-1
- H-1B
- J-1
- Outside the US
- Other



*\* If your answer differs greatly from the choices above tell us in the chat!*

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## MAINTAINING YOUR STATUS

### WORK

### STUDENT

**F-1**

**POSTDOC VS.  
INDUSTRY**

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# HOW TO MAINTAIN YOUR STATUS

## POSTDOC

OPT: 3 YEARS

H-1B: 6 YEARS +

J-1: 5 YEARS

GREEN CARD

## INDUSTRY

OPT: 3 YEARS

H-1B: 6 YEARS +

O-1: INDEFINITE

GREEN CARD

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## OPT: 3 YEARS

CAN I APPLY FOR A GREEN CARD  
DURING OPT?

CHINA AND INDIA: I-140 YES, I-485:  
USUALLY NO DUE TO VISA BACKLOGS!

VS.

REST OF THE WORLD: USUALLY YES!

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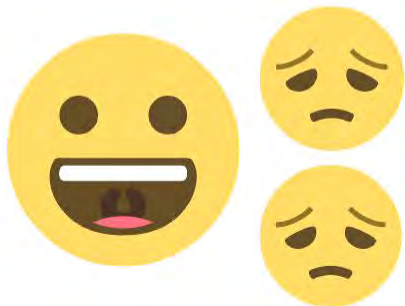
# H-1B

**Postdoc:  
Cap Exempt**

**Industry:  
Visa Lottery**

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**ODDS OF  
WINNING H-1B  
VISA LOTTERY**



**1 in 3, or worse**  
**IF TRY INDUSTRY, BUT LOSE**  
**THE LOTTERY, THEN GOING**  
**BACK TO POSTDOC MAY BE**  
**NECESSARY**

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# WHY IS H-1B BETTER THAN J-1?

**H-1B:**

**1. Dual Intent:**

**Allows travel and extension of status with pending or approved I-140 NIW/EB-1A petition and pending I-485**

**2. Ability to extend beyond 6 years if needed (important due to visa backlogs)**

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## **WHY YOU DON'T WANT A J-1 UNLESS YOU HAVE NO CHOICE**

**1. No dual intent**

**2. 2 year rule**

**3. Unfortunately, most University postdoc positions use the J-1**

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## **WHEN TO USE THE O-1** **(FOR INDUSTRY ONLY)**

1. If you don't win the H-1B lottery.
2. If you are subject to the J-1 2 year rule.
3. If you cannot extend H-1B beyond 6 years.

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## **PATHS TO A GREEN CARD**

1. PERM, Permanent Labor Certification: CANNOT SELF-FILE
2. EB-1A "Extraordinary Ability": CAN SELF-FILE
3. EB-1B "Outstanding Researchers/Professors": CANNOT SELF-FILE
4. EB-2 NIW "National Interest Waiver": CAN SELF-FILE

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## **GREEN CARD FILING STRATEGY/TIMING**

- 1. HAVE A ROADMAP**
- 2. HAVE A PLAN B/BACKUP PLAN**

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## **GREEN CARD FILING STRATEGY/TIMING**

- 1. WHEN DOES YOUR CURRENT STATUS EXPIRE AND CAN YOU EXTEND YOUR CURRENT STATUS OR CHANGE STATUS? HAVE A ROADMAP**
- 2. ARE YOU IN INDUSTRY OR POSTDOC?**
- 3. HOW STRONG IS YOUR CASE NOW AND WILL IT IMPROVE IN THE NEAR FUTURE?**
- 4. FAMILY AND JOB CONSIDERATIONS**

30

# GETTING A GREEN CARD WHILE AVOIDING PERM LABOR CERTIFICATION

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## August 2020 VISA BULLETIN

	<b>CHINA EB1</b>	<b>INDIA EB1</b>	<b>WORLD EB1</b>
<b>FINAL ACTION</b>	02/18	02/18	C
	<b>CHINA NIW</b>	<b>INDIA NIW</b>	<b>WORLD NIW</b>
<b>FINAL ACTION</b>	01/16	07/09	C

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## EXPERT TIP ON STRATEGY/TIMING



**If you file an NIW I-140 petition which is approved, you can use your priority date for a later EB-1 (Important for China/India)**

**Ex: You are from China/India and are on OPT with 175 cites and no significant positive factors. Due to the visa bulletin you cannot file an I-140/I-485 concurrently and are unlikely to win an EB-1.**

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## EXPERT TIP ON STRATEGY/TIMING



- 1. File EB-1 when your NIW priority date is near current in EB-1 after strengthening your case (higher cites, etc.)**
- 2. Odds of EB-1 approval are HIGHER because your case is stronger & established an early priority date with the NIW.**
- 3. Receive green card just as fast as if you had filed the EB-1 at the same time as NIW**

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## EXPERT TIP ON STRATEGY/TIMING



**4. If you have a strong EB-1 case, you should not wait to file your EB-1, but should still file an NIW as insurance in case your EB-1 is denied.**

**5. If you are not from China/India, there is no reason to file an EB-1 as NIW has less wait time and is much easier to win.**

35

**HOW TO WIN  
AN EB1/NIW  
CASE**



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## METHOD 1

RECEIPT OF A MAJOR,  
INTERNATIONALLY  
RECOGNIZED AWARD



*Good luck with this method!*

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## METHOD 2

EB- 1A: SATISFY 3 OF THE CATEGORIES

EB- 1B: SATISFY 2 OF THE CATEGORIES

NIW: ALL EVIDENCE COUNTS, NOT REQUIRED  
TO "SATISFY"

38

**1. RECEIPT OF NAT'L OR INT'L RECOGNIZED AWARDS IN FIELD**



39

**2. ACHIEVEMENT-BASED MEMBERSHIP IN ASSOCIATIONS**

40

**3.**

**PUBLISHED MATERIAL ABOUT YOU  
AND YOUR WORK IN JOURNALS OR  
MAJOR MEDIA PLATFORMS**



***NewsRx***<sup>TM</sup>



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**4.**

**PARTICIPATION AS A JUDGE OF OTHERS**

**Peer Review**



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## **5. ORIGINAL CONTRIBUTIONS OF MAJOR SIGNIFICANCE**

- A. OBJECTIVE EVIDENCE INCLUDING CITATION LEVEL**
- B. REFERENCE LETTERS**

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### **A. ORIGINAL CONTRIBUTIONS: OBJECTIVE EVIDENCE**

- 1. GOOGLE SCHOLAR CITATION PAGE**
- 2. PUBLICATIONS COUNT EVEN IF NOT 1ST AUTHOR**
- 3. CONFERENCE PRESENTATIONS**
- 4. COPIES OF ARTICLES CITING YOUR WORK**
- 5. INTEREST IN YOUR WORK: EMAILS/RESEARCHGATE**
- 6. PATENTS/FUNDING (ESP. COMMERCIALIZED)**

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## **B. ORIGINAL CONTRIBUTIONS: LETTERS**

- 1. FIVE INDEPENDENT "RECOMMENDATION" LETTERS**
- 2. SUPERVISOR LETTERS**
- 3. PRIVATE COMPANY LETTERS**
- 4. GOVERNMENT AGENCY LETTERS**
- 5. USE OF WORK BY OTHERS WHO HAVE CITED YOU**
- 6. COLLABORATION LETTERS**
- 7. ORAL CONFERENCE PRESENTATION LETTERS**
- 8. COMMERCIALIZATION/FUNDING**

45

## **HOW WE WRITE THE LETTERS**

**RESEARCHGREENCARD.COM/WHY-CHOOSE-GETSON/RECOMMENDATION-LETTERS**

- 1. YOU OUTLINE YOUR RESEARCH**
- 2. Q&A FROM OUR SCIENCE WRITERS**
- 3. WE WRITE THE LETTERS FOR YOUR REVIEW**

46

# **WHY OUR LETTERS ARE EFFECTIVE**

- A. INDEPENDENT LETTERS DISCUSS ALL RESEARCH**
- B. WE WRITE SUPPLEMENTAL LETTERS**
- C. WE AVOID PROBLEMATIC LANGUAGE**
- D. WE USE EXPERIENCED SCIENCE WRITERS TRAINED AT OUR LAW FIRM**

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- 6. AUTHORSHIP OF JOURNAL ARTICLES IN THE FIELD, IN MAJOR TRADE PUBLICATIONS OR MAJOR MEDIA**

48



## **7. DISPLAY OF WORK AT ARTISTIC EXHIBITIONS OR SHOWCASES**

---

**Does not apply!**

---

49

## **8. CRITICAL ROLE**

**PERFORMANCE IN A LEADING OR CRITICAL ROLE FOR ORGANIZATIONS THAT HAVE A DISTINGUISHED REPUTATION**

50

**9.**

**HIGH SALARY  
COMPARED TO OTHERS  
IN THE FIELD**



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**10.**

**COMMERCIAL SUCCESS IN THE PERFORMING ARTS AS SHOWN  
BY BOX OFFICE RECEIPTS OR MUSIC/VIDEO SALES**

---

**Does not apply!**

---

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## **EB-1A LEGAL STANDARD**

- 1. SMALL PERCENTAGE AT THE VERY TOP OF THE "FIELD" HIGHER STANDARD**
- 2. SUSTAINED NAT'L OR INT'L ACCLAIM**
- 3. KAZARIAN STANDARD: EVEN IF SATISFY 3 CATEGORIES, YOU CAN STILL BE DENIED!**

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## **EB-1B LEGAL STANDARD**

- 1. INT'L RECOGNITION AS OUTSTANDING**
- 2. TENURE OR TENURE TRACK TEACHING OR PERMANENT RESEARCH POSITION (ACADEMIC OR INDUSTRY)**
- 3. THREE YEARS TEACHING OR RESEARCH EXPERIENCE**
- 4. KAZARIAN STANDARD: EVEN IF SATISFY 2 CATEGORIES, YOU CAN STILL BE DENIED!**

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# **PROBLEM WITH EB-1B**

- 1. BELONGS TO THE EMPLOYER, NOT YOU!**
- 2. THEREFORE, YOU ARE STUCK IN THE JOB FOR THE BACKLOG PLUS 180 DAYS AFTER FILING I-485.**

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## **EB-2:**

### **NIW: NATIONAL INTEREST WAIVER**

- 1. Hold an advanced degree, or a BA/BS with 5 years experience**
- 2. Demonstrate that your permanent employment is in the national interest**

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# **NIW LEGAL STANDARD**

**Matter of Dhanasar (AAO Decision):**

**CIS may grant an NIW if:**

- 1. Your proposed endeavor has substantial merit and national importance,**
- 2. that you are well positioned to advance the proposed endeavor, and**

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**"ON BALANCE"**

- 3. that, "on balance", it would be beneficial to the U.S. to waive the job offer requirement and labor certification.**

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# PREMIUM PROCESSING

EXPEDITE YOUR APPLICATION FOR EB-1A, EB-1B,  
BUT NOT NIW, FOR \$1,440.

**THEY SAY "DECISION 15 DAYS OR LESS",  
BUT... MORE LIKELY TO RECEIVE AN RFE AND  
WAIT IN BACKLOG ANYWAY!**

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**DEFINE YOUR EB-1A/NIW "FIELD" VERY CAREFULLY!**

- 1. BROAD ENOUGH TO COVER ALL OF YOUR RESEARCH**
- 2. BUT NOT TOO BROAD!**
- 3. BE CAREFUL: ANY NEW JOB PRIOR TO GREEN CARD  
MUST BE WITHIN YOUR DEFINED FIELD**

60

## **WHY CHOOSE GETSON?**

- 1. MONEY BACK GUARANTEE FOR MOST CLIENTS**
- 2. WE EMPLOY SCIENCE WRITERS**
- 3. 20+ YEARS OF EXPERIENCE**

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for more information, SEE:

**RESEARCHERGREENCARD.COM**

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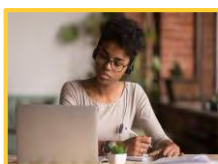
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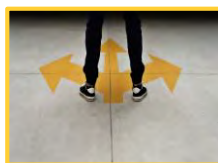
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