Have Questions?

Type them into questions box!

“Why am I muted?”
Don’t worry. Everyone is muted except the presenter and host.
Thank you and enjoy the show.

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ACS Efforts and Resources on COVID-19

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

Presentation slides are available now! Edited recordings are an exclusive ACS member benefit.

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This ACS Webinar is co-produced with the ACS Career Navigator.
UPENN LAW SCHOOL, 1995

AUTHOR OF:

BRIAN GETSON, ESQ.
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?

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.!
EXCEPTIONS

Spouses of U.S. citizens
Children of U.S. citizens under 21
Research/work related to Covid

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
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!
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

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!
H-1B

Postdoc: Cap Exempt

Industry: Visa Lottery

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
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)

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
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.

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
GREEN CARD FILING STRATEGY/TIMING

1. HAVE A ROADMAP

2. HAVE A PLAN B/BACKUP PLAN

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
**GETTING A GREEN CARD WHILE AVOIDING PERM LABOR CERTIFICATION**

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### August 2020 VISA BULLETIN

<table>
<thead>
<tr>
<th>Country</th>
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<td>CHINA EB1</td>
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<td>WORLD NIW</td>
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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.

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
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.
METHOD 1
RECEIPT OF A MAJOR, INTERNATIONALLY RECOGNIZED AWARD

Good luck with this method!

METHOD 2
EB-1A: SATISFY 3 OF THE CATEGORIES
EB-1B: SATISFY 2 OF THE CATEGORIES
NIW: ALL EVIDENCE COUNTS, NOT REQUIRED TO "SATISFY"
1. RECEIPT OF NAT’L OR INT’L RECOGNIZED AWARDS IN FIELD

2. ACHIEVEMENT-BASED MEMBERSHIP IN ASSOCIATIONS
3. PUBLISHED MATERIAL ABOUT YOU AND YOUR WORK IN JOURNALS OR MAJOR MEDIA PLATFORMS

4. PARTICIPATION AS A JUDGE OF OTHERS
5. ORIGINAL CONTRIBUTIONS OF MAJOR SIGNIFICANCE

A. OBJECTIVE EVIDENCE INCLUDING CITATION LEVEL
B. REFERENCE LETTERS

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)
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

HOW WE WRITE THE LETTERS

RESEARCHERGREENCARD.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
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

6. AUTHORSHIP OF JOURNAL ARTICLES IN THE FIELD, IN MAJOR TRADE PUBLICATIONS OR MAJOR MEDIA
7. DISPLAY OF WORK AT ARTISTIC EXHIBITIONS OR SHOWCASES

Does not apply!

8. CRITICAL ROLE

PERFORMANCE IN A LEADING OR CRITICAL ROLE FOR ORGANIZATIONS THAT HAVE A DISTINGUISHED REPUTATION
9. HIGH SALARY COMPARED TO OTHERS IN THE FIELD

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

Does not apply!
**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!

**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!
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.

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
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

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

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
WHY CHOOSE GETSON?

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

for more information, SEE:

RESEARCHERGREENCARD.COM
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