



Green Card for a PhD or Postdoc

Take control of your EB-1A / EB-2-NIW
Permanent Residency Application

Green Card for PhD

Compilation of answers to frequently asked questions related to Green Card preparation and application process.

Compiled by GreenCardForPhd.com

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Preface

Our main goal is to help PhDs in their pursuit for Green Card. This document is a compilation of typical questions that our team receives and answers.

Greencardforphd.com is a website started originally by a PhD who obtained his and his dependent's green cards by self-petitioning, without the help of a lawyer. He got interested in obtaining a residency when he was feeling highly constricted due to lack of mobility in his job (in his field most jobs either require a Green Card or Citizenship) and feeling stuck to an employer with no progress. If you are interested, you can read about his story on this [web page](#). When he approached a lawyer, the lawyer suggested him to obtain a job and try via EB1-Outstanding researcher category or the general EB2 category. Both of these require a permanent job offer and employer sponsorship. He felt he was facing a chicken and egg problem!! He researched the web to find out how a PhD can obtain a Green card without employer sponsorship. So he went on to collect various evidence and applied for his permanent residency on his own; all in less than two weeks (he had to apply quickly because of visa number retrogression). His I-140 petition was approved in a month after the application. Following his success, he helped a number of his friends obtain Green Cards. He and his friends wanted to help other PhDs. Thus the [blog](#) and [greencardforphd.com](#) website were born. Now the team has been helping other PhDs in their green card application process. Thus far several hundreds of PhDs have used their application approach.

We hope that you will find this book useful and wish you all the best in your Green Card application process.

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1. Permanent Residency

1.1. *What is permanent residency?*

Lawful permanent residency (PR) is an official immigrant status granted to a permanent residency applicant by the United States Citizenship and Immigration Services (USCIS). The PR status is also usually referred to as Green Card (GC).

Obtaining a PR has a number of advantages. Especially for a PhD, it allows flexibility to work without the worries of a work visa and more importantly it allows a wider set of job choices. With a GC you are no longer tied to a single employer or low paying job offers. Finally, it is the route to a citizenship which may be necessary for some jobs (for example ones that require clearances).

1.2. *Am I eligible to apply?*

The aim of this document is to provide information to PhD holders and other advanced degree holders in their GC pursuit. So we will only discuss employment based categories for Green Card application. In general, at this time, PhD is not a requirement for any of the GC categories. However, we have found that if a PhD collects all the publications, awards, various efforts along his/her PhD and during his/her work experience, they may collectively be sufficient evidence for a EB2-NIW (in most cases) or EB1A (in some cases) self-petition. We suggest you look at the USCIS criteria (listed in this document or on USCIS website) and some example petition packets on our website or elsewhere.

1.3. *Does PhD entitle me for a Green Card?*

The short answer is no (at least as of 3/2013). We would like to emphasize that PhD is not a requirement in the USCIS criteria. So you should not think that having a PhD entitles to a GC. Similarly you should not think that not having a PhD does not qualify for EB1A or NIW application. In general PhD's have an advantage that they have a strong background and they are more likely to satisfy the USCIS requirements in the EB1A or EB2-NIW categories. This allows them to self-petition for their green card, which does not require an employer sponsorship.

We would like to bring to your attention of a new bill in congress. In an effort to retain the best foreign talent in the country, efforts are underway in the US Congress, which if passed, would give "direct permanent residency" to aliens with a PhD degree. As of today, there is no special category meant for PhDs and the bill is still in congress.

1.4. *Can I apply for a Green Card on my own?*

In general, yes! Post doctoral researchers and PhD holders (and some exceptional PhD students also) can take advantage of two useful approaches for their Green card/Permanent residency application. As a PhD you can self-petition for your permanent residency via extraordinary ability in employment based category one (EB1A), or employment based category two- national interest wavier (EB2-NIW). You do not need an employer to sponsor your PR in these categories.

1.5. What are the advantages of self-petitioning?

The main advantage of self-petitioning is that you do not need an employer to sponsor you. So you do not need a permanent job offer to apply for a PR and once you apply, you are not tied to any employer. Beneficiaries have a great flexibility in changing jobs within their research area.

1.6. What GC application options does a Postdoc have?

In general there are three options available through EB1 and EB2. In the EB1 category, significant number of postdoc researchers apply through “extraordinary ability”, EB1A. This category does not require employer sponsorship, meaning that USCIS does not require that you have a permanent job offer in hand. The other category which is generally of interest to postdocs, because this also does not require employer sponsorship, is called EB2-NIW, national interest waiver category.

The third category which postdocs with permanent job offers can take advantage of EB1-OR, that is EB1 outstanding researcher. But most postdoc jobs are not permanent and universities or companies who hire postdocs are not willing to sponsor a Green Card. This creates a problem in applying in EB1-OR. However, there are exceptions when the institution calls the title as “Research scientist” and treats them as permanent employees.

1.7. What are USCIS criteria for EB1A?

USCIS has criteria for EB1A and requires the applicant to satisfy at least 3 of these criteria.

- (1) Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
- (2) Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields;
- (3) Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation;
- (4) Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought;
- (5) Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field;
- (6) Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media;
- (7) Evidence of the display of the alien's work in the field at artistic exhibitions or showcases;
- (8) Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation;
- (9) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field; or

- (10) Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

NOTE: If the above standards do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility.

1.8. What are USCIS criteria for NIW?

USCIS does not list criteria like the above for NIW. However, the applicants work should have demonstrated or should be considered of high significance in the US national interest. If the work improves any of the following then it can be argued as work in national interest.

1. The U.S. economy,
2. Educational and training programs for U.S. children and under qualified workers,
3. Provide more affordable housing for young, aged, or poor U.S. residents,
4. The U.S. environment, lead to more productive use of the national resources,
5. National security,
6. Wages and working conditions of U.S. workers,
7. A key / strategic technology area identified by government agency,
8. An important technology area that is likely to make profound national impact,
9. Defense research,
10. Fundamental research with wide range of national applications.

In addition, evidence substantiating three of the following USCIS exceptional ability criteria is necessary.

1. Evidence in the form of letter(s) from current or former employer(s) showing that the alien has at least ten years of full-time experience in the occupation for which he or she is being sought;
2. A license to practice the profession or certification for a particular profession or occupation;
3. Evidence that the alien has commanded a salary, or other remuneration for services, which demonstrates exceptional ability;
4. Evidence of membership in professional associations; or
5. Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.

1.9. I am a student on F1, can I apply?

You do not need to have a PhD or be a Post-doc for applying in the self-petition categories. You can apply even on an F1 visa and just as in the other situations; you still have to meet the USCIS criteria for either EB2-NIW or EB1A. We are aware of some people filing i-140 while on an F1 visa. However there are some issues to be aware of. F1 is a non-immigrant visa, meaning the visa holder is not expected to have a intent to immigrate. When a F1 visa holder applies for a Green Card then the applicant has expressed immigration intent. Therefore, the applicant may not be able to extend the F1 Visa while the GC is being processed.

1.10. Do I need a STEM degree?

It is certainly not true that EB1A or EB2-NIW require the applicant to have a STEM (Science Technology Engineering and Management) degree. In fact people without a PhD degree can also apply in EB2-NIW as long as they can justify their work under NIW criteria set by USCIS. For example artists or medical practitioners can also qualify. We suggest you read the USCIS criteria for both EB1A and EB2-NIW.

1.11. I have my PhD in International relations. Can I apply?

USCIS criteria does not discriminate based on your area of work, meaning USCIS criteria applies equally to a person working in chemistry or working in human relations. If your PhD work has substantial merit to justify that it is in the US national interest or if you can justify that it is extraordinary in nature (USCIS has criteria for judging both of these claims) then your application has a better chance in the EB2-NIW or EB1A categories. This is irrespective of which area your research is in.

2. Application Process

2.1. Can you explain the application process?

Applying for a GC is a two step process; 1) I-140 application and 2) I-485 adjustment of status application. In the first step, you petition for permanent residency and in the second you seek adjustment of status.

2.2. What is the process of self-petitioning for a GC?

In general the process is not very much different from other GC application processes. PhD's have an advantage that they have a strong background to satisfy the USCIS requirements in the EB1A or EB2-NIW categories which allows them to self-petition for their green card. The key difference from the employer sponsored categories is that these categories can request an exception from labor certification requirement.

The actual process involves preparing a petition and applying an I-140 (petition for permanent residency) first. If the priority dates for your country and category are current, then you can simultaneously apply for I-485 (adjustment of status). If not, you have to wait till they become current and apply for I-485. When you become eligible to apply for I-485, you can also apply for an EAD (employment authorization) and advanced parole (for travel purposes), if needed.

2.3. Do I only have to apply with the help of a lawyer?

Not necessarily. USCIS does not require you to apply with the help of a lawyer in the case of self-petitions. You can prepare the entire petition by your-self and apply on your own. This has multiple advantages. It saves money (\$3k to \$6k) and it also saves time in some cases (especially if you have to explain the importance of your field to the lawyers). A few applicants who have applied with a lawyer and by themselves (for example NIW with the help of a lawyer and EB1A by themselves) have felt that it is easier to do on their own. Some applicants have felt that a lawyer route is better approach, since they can

For more information visit: www.greencardforphd.com and www.greencardpostdoc.info

tackle any unforeseen complications. However, we have seen a large number of successful self-petitioning applicants apply and succeed on their own. The best approach is to read the USCIS criteria and study some example petitions so that you can come up with a proper plan to apply on your own.

2.4. *What evidence do I need to file an I-140 application?*

I-140 petition is the key part of the GC application. Here the goal is to satisfy a sub-set of requirements listed by USCIS. Please see sections 1.7 and 1.8 for these USCIS criteria. You should prepare your documents that provide the justification and supporting evidence. For example in the EB2-NIW you have to satisfy at least three of the several USCIS criteria listed in 1.8. Examples of evidence would include an official academic record showing that the alien has a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to the area of exceptional ability. Information such as publications, references, citations, article reviews, reviewer comments, memberships, past or present job offers, remuneration, etc can all act as evidence. In addition you have to justify that your work is in national interest.

2.5. *Can I apply for multiple i-140 applications?*

USCIS does not have any restriction on the number of I-140 applications you file either independently (self-petition) or through an employer. In fact one could file multiple I-140 petitions simultaneously or one after other. Decision of one application does not affect the other. For example you could self-petition in EB1A and EB2-NIW at the same time or self-petition in EB1A and have an employer file another EB2 petition. However, each of the application should be complete by itself and should be filed independent of the other. If you are also planning on filing an I-485, it is possible to file¹ only one I-485 with one of the I-140 applications. In case if the second one is approved earlier, it is possible to transfer the I-485 to the approved 140. I-485 transfers/interfiles sometimes happen automatically. A few applicants reported that interfiling has worked even when the first I-140 is denied.

2.6. *How many recommendations do I need?*

USCIS does not expect a fixed number of letters. Most successful applications have six or more letters. Some applicants even use as many as ten to twelve letters. While more letters are always useful, it is important to obtain letters from well known people in your field and letters that are strong. Letters from independent referees are also very useful.

2.7. *Do I need external recommendations?*

In the past USCIS had denied some petitions citing that all the recommendation letters are within the beneficiary's collaboration circle. However, USCIS has later amended their decision and approved the cases citing it as an error. Therefore it is not absolutely necessary that you should have recommendations from outside your collaborators. In the

¹ Provided visa numbers listed in visa bulletin are current.

past we have helped applicants with no external recommendation letters obtain approvals. However, if you can obtain some letters from outside, it is useful.

2.8. *When can I apply for adjustment of status (I-485)?*

You can apply for AOS when your priority date is current. If the priority date is current at time of I-140 application, you can apply for I-485 simultaneously or at any later date (of course the priority dates have to be current). You can find about the visa number availability and the dates in the visa bulletin published by DOS at their [website](#).

2.9. *How long does it take to get a Green Card?*

How long it takes depends mostly on your nationality and the category of application, among other factors. Sometimes the processing center handling your application may also make a difference. You can generally make an estimate based on current processing times. Here is an example. During March 2013 Nebraska service center was approving the first stage of GC applications, I-140 (permanent residency petition), that were applied on or before Sept 16, 2012 for EB2 category. The estimate for I-485 (change of status to permanent resident after the I-140 approval) can also be found on the same USCIS web page. For example the same USCIS service center reports a 4 month time for 485 approvals. However, it does not mean that applicants who applied for their I-140 before Sept 16, 2012 could apply for their I-485. I-485 applications are accepted based on priority dates (the date of your original I-140 filing) and PR visa number availability. Priority dates for different categories and countries are usually listed in the current [visa bulletin](#) released by department of state every month². For example, as of April 2013 (refer to [April 2013 visa bulletin](#)) priority date for EB2 for Indian citizens is Sept 01, 2004. Meaning applicants who applied for I-140 before this date are eligible to apply for their I-485. If they apply in March 2013, according to the USCIS I-485 processing times, their application is likely to be processed in 4 months. If we were to use EB1A category (priority dates are current in 3/2013, meaning I-485 applications are accepted anytime without wait) as an example, applicants who concurrently filed I-140 and I-485 on or before Sept 16, 2012 could get their GC sometime soon after 3/2013. These estimates would be correct as of 3/2013 and do not imply that there is always a long wait to get GC in EB2. Priority dates can change; sometimes they can regress or advance rather quickly depending on various factors from USCIS and DOS. However, this should give a general idea of how long the process takes.

2.10. *Can I apply from outside the United States?*

Both I-140 (permanent residency petition) and I-485 (adjustment of status) do not explicitly state that the applicant should be residing in the USA at the time of application. The applicant can potentially be from anywhere. The procedures for I-485 filing when the applicant is outside the US are slightly different and may require consular processing.

² One can find this website by searching for “visa bulletin” in Google. Scroll down and look at the employment based category table.

2.11. *In case if myself petition is rejected, is it possible to go through an employer?*

USCIS does not have any restriction on the number of I-140 applications you file either independently (self-petition) or through an employer. In fact one could file multiple I-140 petitions simultaneously. We recently helped one applicant file two I-140s (one in EB1A and one in EB2-NIW) and his EB2-NIW got approved. One can always file a new petition (again via an employer or independently) if an old one is rejected.

2.12. *I only have a few publications. Can I still apply?*

We have had people with three journal publications and four conference publications succeed in EB2-NIW. However, you will need to build a strong case. I-140 application is based on several other factors in addition to publications. For example, prizes/recognition, acting as a judge of others in the field etc will build a strong case. You can see USCIS website for criteria for EB1A and EB2 NIW. In general EB1A is hard with just 3-4 publications unless they are top-notch in your field with lots of referrals and they represent some thing of great importance. In short, publications are only one part of the application packet. If the publications are few, you should strive to build a strong packet with the rest of the evidence.

3. Forms etcetera

3.1. *What forms do I need to know for GC application?*

The following forms are useful in the GC application.

- **I-140:** To petition for an alien worker to become a permanent resident in the United States.
- **ETA-750b:** This form is used for employment certification and is generally filled by employer. In the case of self-petitioning, this form is usually not necessary but is optionally filled by some applicants.
- **I-485:** To apply to adjust your status to that of a permanent resident of the United States.
- **I-131:** To apply for a travel document or advance parole. This form allows you travel abroad while I-485 is pending.
- **I-765:** Application for Employment Authorization, to request an Employment Authorization Document (EAD).
- **GS-325:** To provide biographic information on an alien. This form needs to be included with I-485.
- **I-134:** To show that visa applicants have sponsorship and will not become public charges while in the United States.
- **I-639:** Report of medical examination. This is needed for I-485 examination and usually the medical practitioner provides this and fills it (or you should request one from USCIS and give it to your doctor).

3.2. *That is a lot of forms. Is it complicated?*

Yes, it is a lot of forms. But it is not at all that complicated. Filling all the forms is straight forward. You can do it yourself or you can use filled examples in our packet. The only lengthy step (certainly lengthy but not hard) is the petition that you submit with I-140. Even this is manageable with the help of example petitions.

3.3. *Do I need to send a 750B along with EB2-NIW*

In general EB2 requires labor certification, and it is usually done by a sponsoring company. However, if you self-petition for an EB2 in the NIW category, you can request to do without the labor certification process. Therefore EB2-NIW applications may not contain a 750B form (actually the new form is 9089 instead of ETA 750, which is still valid). You can attach a filled 750B (easier than 9089) along with the I-140 packet. In this case you sign the form (not the employer).

Several people in the past have obtained their approvals without 750B or 9089 forms. However a few USCIS examiners may send an RFE (request for evidence) requesting for a filled ETA750B form. So it does not hurt to include one.

4. Need help? Or have suggestions?

Please visit the Green Card Blog for Postdoc's at www.greencardpostdoc.info or the website at www.greencardforphd.com for further help. Send us an email (greencardforphd@gmail.com) our team will be happy to answer your questions. The website has example petition packets (consisting of example petition, step-by-step "how to" guides, and filled example application forms) for the EB1A and EB2-NIW categories. These packets are built from our own applications. In most of our cases I-140 approvals were quick (sometimes as short as a month). In addition, our team has helped several of our friends in the past. With the help of our packets, several PhD's have obtained approvals to their permanent residency petitions. We hope our efforts will be useful to you in your GC application process.

If you have suggestions on improving this document or if you like to report an error, please contact us. You can find our contact at our websites. You can help us help other PhDs.

We wish you all the best in your application process.
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