

Immigrant Petition Categories

EB-1 Outstanding Professors and Researchers, Employment Based Immigrant Petition, First Preference (For Faculty and Research Staff)

You must demonstrate international recognition for your outstanding achievements in a particular academic field. You must have at least 3 years' experience in teaching or research in that academic area. You must be entering the United States in order to pursue tenure or tenure track teaching or comparable research position at a university or other institution of higher education.

Documentary Evidence That a Person is an Outstanding Professor or Researcher (at least two of the six criteria)
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1. Evidence of receipt of major prizes or awards for outstanding achievement
2. Evidence of membership in associations that require their members to demonstrate outstanding achievement
3. Evidence of published material in professional publications written by others about the alien's work in the academic field
4. Evidence of participation, either on a panel or individually, as a judge of the work of others in the same or allied academic field
5. Evidence of original scientific or scholarly research contributions in the field
6. Evidence of authorship of scholarly books or articles (in scholarly journals with international circulation) in the field

EB-2 National Interest Waiver, Employment Based Immigrant Petition, Second Preference (For Faculty, Research, and Professional Staff)

Aliens seeking a national interest waiver are requesting that the Labor Certification be waived because it is in the interest of the United States. Though the jobs that qualify for a national interest waiver are not defined by statute, national interest waivers are usually granted to those who have exceptional ability (see above) and whose employment in the United States would greatly benefit the national.

As an aside, those seeking a national interest waiver may self-petition (they do not need an employer to sponsor them) and may file their labor certification directly with USCIS along with their Form I-140, Petition for Alien Worker.

EB-2 Advanced Degree Holder - Teaching Faculty (Special Handling)

This category is used for college and university professors and is eligible for a reduced form of labor certification called "Special Handling." The position must include classroom teaching duties.

In order for the position to qualify for the special handling process, the hiring department must have selected the alien in a competitive recruitment process and the labor certification must be filed within 18 months from when the individual was selected.

Documentation Needed

- Copy of the print ad from a professional journal.
- Recruitment report stating the number of applicants for the position and why the alien was more qualified than each specific candidate, a copy of final report (if applicable), and a written statement of the alien's credentials.

EB-3: Professional or Skilled Workers (for Faculty, Research and Professional Staff)

Professionals are those members of a profession that require a U.S. bachelor's degree or its foreign equivalent as the minimum requirement for entry into the occupation. Skilled workers are those capable of performing labor that requires at least two years of training or experience.

EB-3 cases have the following requirements:

There must be a permanent, full-time job offer.

Cases for aliens qualifying for this category must be filed by Tech's outside counsel. The process requires filing an:

Alien Labor Certification

I-140 Immigrant Petition

I-485 Adjustment of Status Application or consular processing of an immigrant visa

A permanent labor certification issued by the Department of Labor (DOL) allows an employer to hire a foreign worker to work permanently in the United States. In most instances, before the U.S. employer can submit an immigration petition to the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS), the employer must obtain a certified labor certification application from the DOL's Employment and Training Administration (ETA). The DOL must certify to the USCIS that there are not sufficient U.S. workers able, willing, qualified and available to accept the job opportunity in the area of intended employment and that employment of the foreign worker will not adversely affect the wages and working conditions of similarly employed U.S. workers.

To improve the operations of the permanent labor certification program (PERM), ETA published a final regulation on December 27, 2004, implementing a new, re-engineered permanent labor certification program, effective March 28, 2005. This new electronic program has improved services to our various stakeholders

Filing Fee Cost. Michigan Tech (the department) will pay for the immigrant petition filing fees, currently \$580 for the I-140 and \$1,225 for premium processing when necessary. Necessity is dictated by how long an employee can stay on H-1B status. Additionally, for faculty, it is dictated by the urgency for a faculty member to apply for federal research grants that require permanent residency status in relation to tenure requirements.

Adjustment of Status. Employees are responsible for the filing fees and related costs to the I-485 adjustment of status application. The filing fee cost is currently \$1,070 for each person 14 years old and over and \$635 for each child under 14.