

# Green Cards for Scientific Researchers: How to win your EB-1A/NIW Case

**Organized by:** IAFP's Student Professional Development Group

**Moderator:** Minji Hur, University of Georgia

Sponsored by the  IAFP  
FOUNDATION

Please consider making a contribution



This webinar is being recorded and will be available to IAFP members within one week.

# Webinar Housekeeping

- It is important to note that all opinions and statements are those of the individual making the presentation and not necessarily the opinion or view of IAFP.
- All attendees are muted. Questions should be submitted to the presenters during the presentation via the Questions section at the right of the screen. Questions will be answered at the end of the presentations.
- This webinar is being recorded and will be available for access by IAFP members at [www.foodprotection.org](http://www.foodprotection.org) within one week.

# Moderator Bio



Minji Hur is a 3rd year Ph.D. student in the Center for Food Safety at the University of Georgia (UGA) under the direction of Dr. Francisco Diez-Gonzalez and the SPDG International/Affiliate Representative.

Minji is currently working on determining the survival of *Listeria monocytogenes* on avocado skin during storage during refrigerated storage. She also works with blue light for foodborne pathogen control.

She was a recipient of the IAFP Travel Scholarship in 2022. In her free time, she likes to spend time in grocery stores and try new products.

# Presenter Bio



Brian Getson, ESQ.  
Getson & Schatz, P.C.

Brian Getson is a graduate of the University of Pennsylvania Law School with more than 25 years of experience. He is a leading U.S. immigration lawyer who represents scientific researchers in applying for green cards and is the principal of a boutique immigration law firm based in Philadelphia, PA.

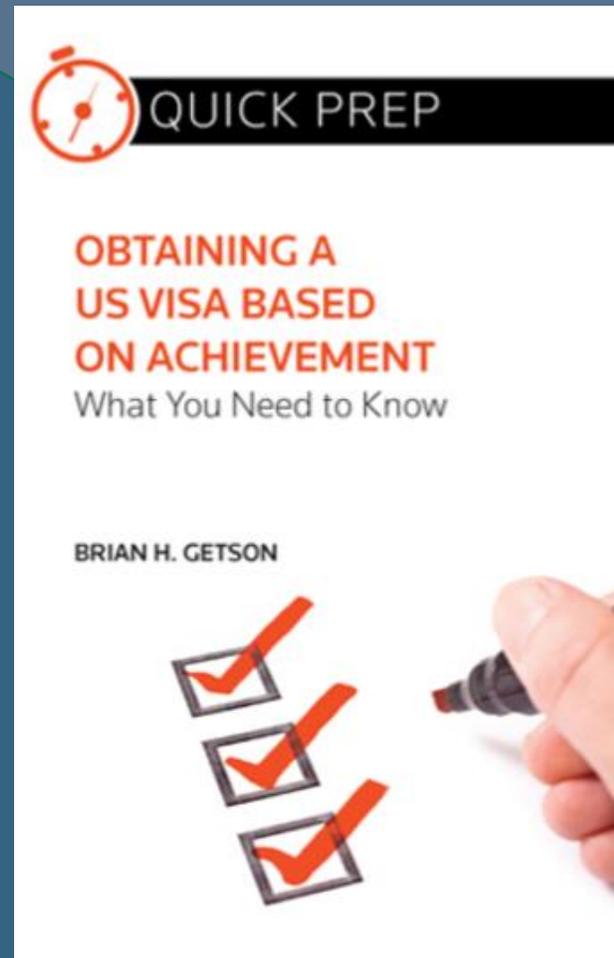
Mr. Getson has given presentations on “Green Cards for Scientific Researchers” at numerous major scientific conferences, institutions, and universities.

**GETSON**

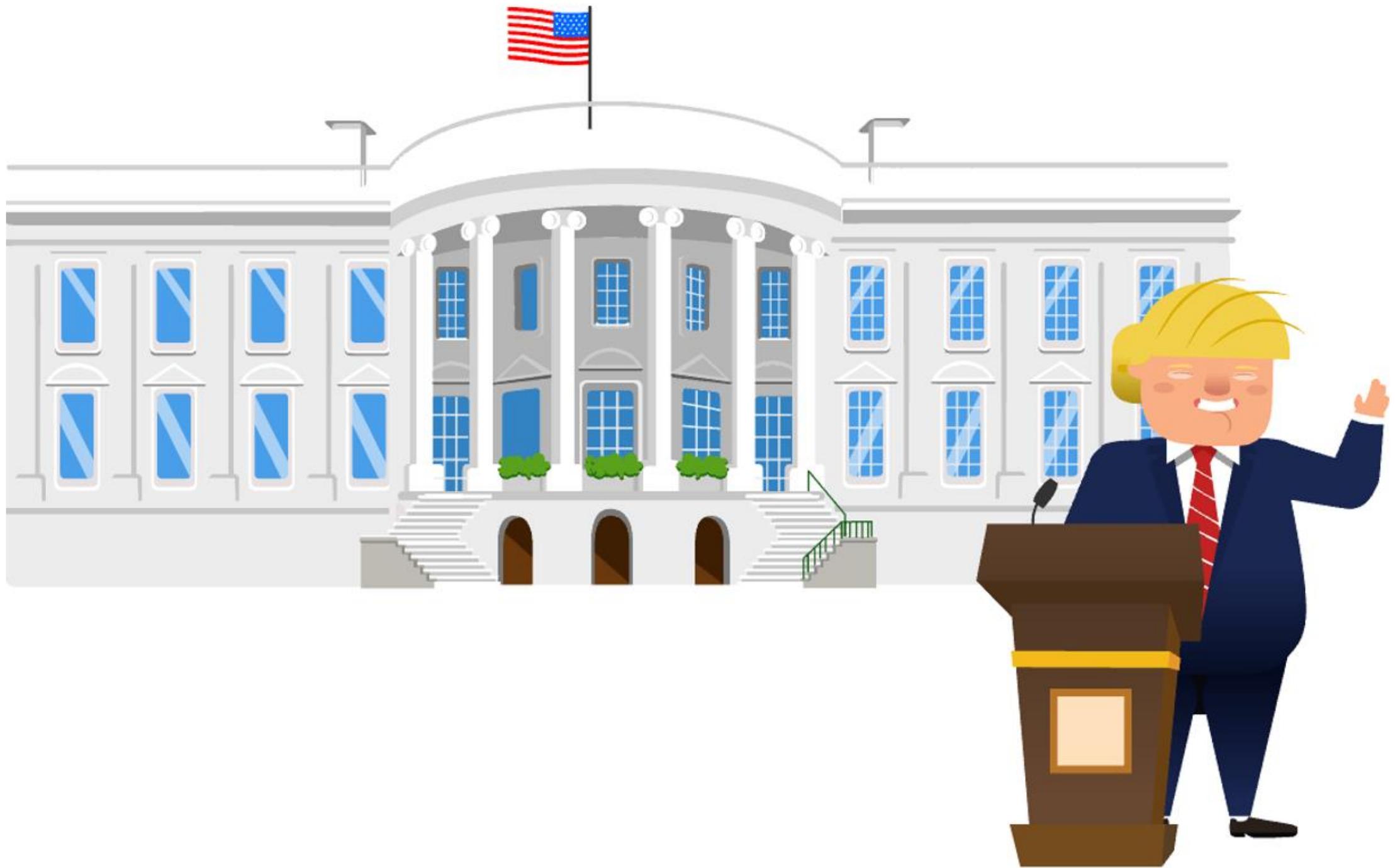
**Immigration  
Lawyer for  
Researchers**

**UPENN LAW SCHOOL, 1995**

**AUTHOR OF:**



**BRIAN GETSON, ESQ.**





# MAINTAINING YOUR STATUS

**STUDENT**

**F-1**

**WORK**

**POSTDOC VS.  
INDUSTRY**

# 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?**

**TYPICALLY ONLY AN OPTION FOR NIW  
FOR THOSE NOT BORN IN CHINA OR  
INDIA**

**TWO STEPS – I-140 & I-485**

**NEED TO CONSIDER EXPIRATION DATES  
OF OPT EAD AND STEM OPT EAD**

# 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-1 petition and pending I-485**

**2. Ability to extend beyond 6 years if needed  
(important for China and India 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** **(TYPICALLY 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.**
- 4. If you want to transition from academia to industry  
(Easier and faster than EB-1A)**

# **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**

# FEBRUARY 2023 VISA BULLETIN

## CHINA EB1

## INDIA EB1

## WORLD EB1

FINAL ACTION

02/01/2022

02/01/2022

C

DATES FOR FILING

06/01/2022

06/01/2022

C

## CHINA NIW

## INDIA NIW

## WORLD NIW

FINAL ACTION

06/08/2019

10/08/2011

11/01/2022

DATES FOR FILING

07/08/2019

05/01/2012

12/01/2022



## **EXPERT TIP ON STRATEGY/TIMING**

**Sometimes it make sense to file a NIW now and an EB-1 later**

**Ex: You are on OPT with 175 cities and no significant positive factors and you are unlikely to win an EB-1 and if USCIS denies you once they are likely to deny you twice**



## **EXPERT TIP ON STRATEGY/TIMING**

- 1. File EB-1 once your NIW is approved after strengthening your case (higher cites, etc.)**
- 2. Odds of EB-1 approval are HIGHER because your case is stronger & USCIS knows you have an approved NIW**

## **EXPERT TIP ON STRATEGY/TIMING**



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

**4. You can't premium process the I-485 so it typically does not make sense to premium process an I-140 if you need to wait to file the I-485 because of a backlog.**

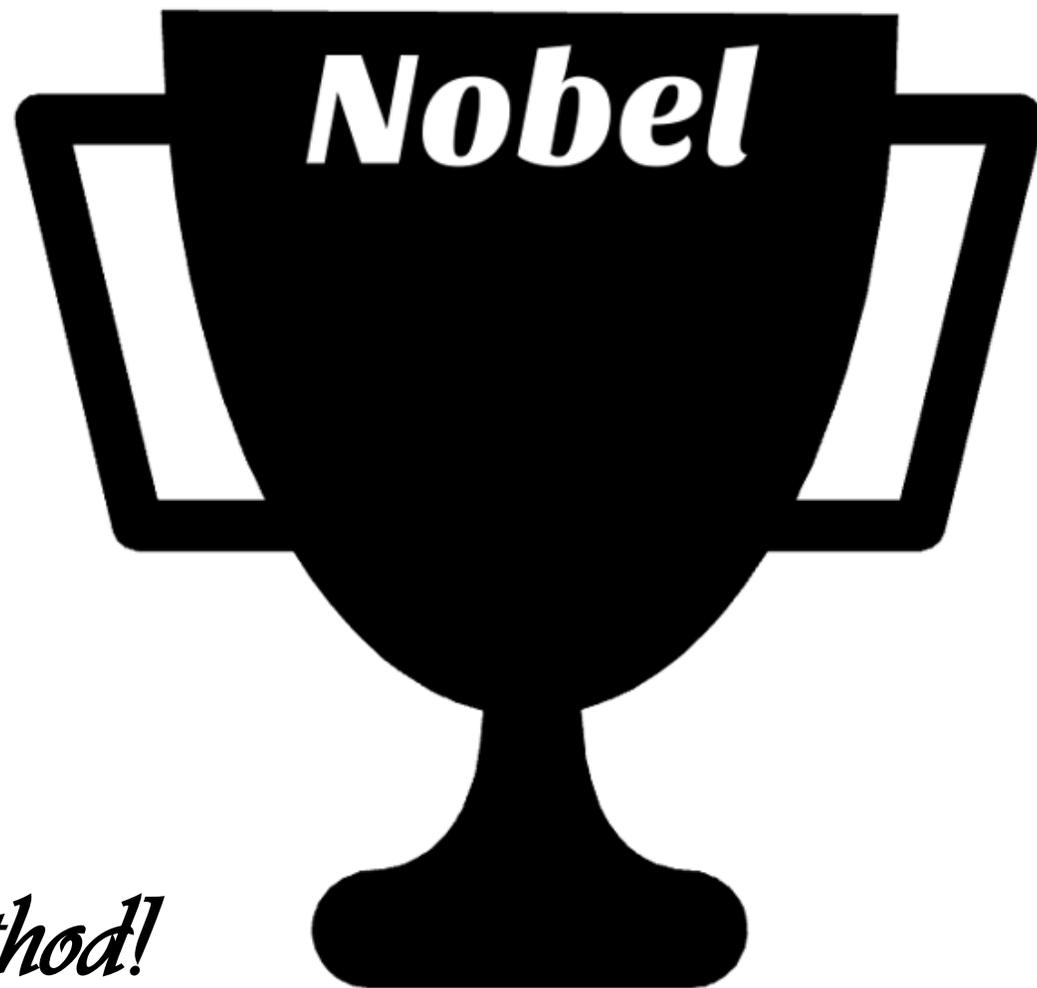
# HOW TO WIN AN EB1/NIW CASE



# 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 - NO SET  
CATEGORIES**

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

Peer Review



**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/MEDIA**
- 5. INTEREST IN YOUR WORK BY OTHERS**
- 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**

**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**

# **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 (DEPARTMENT OR DIVISION  
NOW COUNTS)**

# **9. HIGH SALARY COMPARED TO OTHERS IN THE FIELD**



**10.**

**COMMERICAL 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”**
- 2. SUSTANIED 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. 3 YEARS EXPERIENCE**
- 4. KAZARIAN STANDARD: EVEN IF SATISFY 2 CATEGORIES. YOU CAN STILL BE DENIED!**

# **EB-1B IS EMPLOYER BASED**

- 1. BELONGS TO THE EMPLOYER, NOT YOU!**
- 2. YOU MUST STAY IN THE JOB FOR 180 DAYS AFTER FILING I-485 AND THEN CAN PORT TO “SAME OR SIMILAR” POSITION.**

**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**

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

**CIS may grant an NIW if:**

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



**“ON BALANCE”**

**3. “On balance”, it would be beneficial to the U.S. to waive the job offer requirement and labor certification.**

# PREMIUM PROCESS

**EXPEDITE YOUR EB-1 OR NIW PETITION FOR \$2,500.**

**DECISION WITHIN 15 DAYS FOR EB-1 AND 45 DAYS FOR NIW**

**MORE LIKELY TO RECEIVE AN RFE/DENIAL**

## 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. 25+ YEARS OF EXPERIENCE**

for more information, SEE:

**RESEARCHGREENCARD.COM**



# Questions

# Upcoming Webinars

January 31, 2023    A Comparison Between Manual and Automated Microbial Testing Methods

Register at <https://www.foodprotection.org/events-meetings/webinars/>

# Be sure to follow us on social media



@IAFPFOOD

international-association-for-food-protection



@IAFPSPDG



InternationalAssociationforFoodProtection



IAFPFood



IAFP Student Professional Development Group

This webinar is being recorded and will be available for access by **IAFP members** at [www.foodprotection.org](http://www.foodprotection.org) within one week.

**Not a Member?** We encourage you to join today.

For more information go to: [www.FoodProtection.org/membership/](http://www.FoodProtection.org/membership/)

All **IAFP webinars** are supported by the IAFP Foundation with no charge to participants.

Please consider making a donation to the [IAFP Foundation](#) so we can continue to provide quality information to food safety professionals.



**4** MILLION **\$**  
*for* **40** YEARS  
an IAFP FOUNDATION  
milestone event