

EB-2: National Interest Waivers Provide Individuals with Permanent Status.

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A foreign national may apply for lawful permanent residence status (green card), and seek a waiver of the job offer and labor certification requirements, by establishing that his or her admission to permanent residence would be in the National Interest.

There is no regulatory or statutory standard as to what will qualify an alien for a National Interest Waiver. The USCIS considers each case on an individual basis. The procedure is to file the case with evidence to establish that the alien's proposed services will be in an area of substantial intrinsic merit and will have a national benefit, and that the alien has some track record of success in his or her field.

The value of the National Interest Waiver classification seems to be that it does "not" require an employer to sponsor the prospective employee. Thus, it is referred to as a "self-sponsorship" classification for the green card. Of course, if the National Interest Waiver is done with the support of an organizational sponsor, the case can be perceived as being "stronger" by the CIS adjudicators.

The National Interest Waiver is an EB-2 classification. This means that the priority date numbers reported by the U.S. Department of State are likely to move the green card faster for the applicants than in the EB-3 classification. For Nationals of China and India (and some other countries) this consideration is very important.

In deciding whether the proposed work will be in an area of substantial intrinsic merit, factors that have been considered in successful cases include:

*The foreign national's admission will improve the U.S. economy.

*The foreign national's admission will improve wages and working conditions of U.S. Workers.

*The foreign national's admission will improve educational and training programs for U.S. children and under-qualified workers.

*The foreign national's admission will improve healthcare.

*The foreign national's admission will provide more affordable housing for young, aged, or poor U.S. residents.

*The foreign national's admission will improve the U.S. environment and lead to more productive use of the national resources.

*The foreign national's admission is requested by an interested U.S. government agency.

In addition to requiring the showing of a benefit that is national in scope, national interest cases require that the emphasis rest with the overall value and potential of the particular beneficiary's individual contribution to the United States. National Interest Waivers are granted to aliens who will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States. The alien may qualify by being found to be a key or critical member of a team if it can be shown that the team function would be severely impaired without this member. However, merely working in an area of national interest does not necessitate a finding of national interest qualification.

Many of the National Interest Waivers that have been approved were supported by affidavits from well-known, distinguished and influential people or organizations. Strong National Interest Waiver cases also document past achievements. They may include proof, for example, that the foreign national has already created jobs, has turned around a business, has created an increase in exports, has published articles in scholarly journals, or has made presentations at symposia.

CIS Officers look for realistic evidence of substantial prospective benefit to a national interest item or agenda which specifically sets the alien apart from others in the field.

If you are considering the National Interest Waiver, you will need to provide the following:

- Evidence of a one-time achievement (i.e., a major, internationally-recognized award), or at least three of the following:
 - * Receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor,
- - * Membership in associations in the field which require outstanding achievements as judged by recognized national or international experts
 - * Published material about the foreign national in professional or major trade publications or other major media,
 - * Participation on a panel or individually as a judge of the work of others in the field or an allied field,
 - * Original scientific, scholarly, artistic, athletic, or business-related contributions of significance in the field,
 - * Authorship of scholarly articles in the field, in professional or major trade publications or other major media,
 - * Display of the foreign nationals' work at artistic exhibitions or showcases,
 - * Evidence that the foreign national has performed in a leading or critical role for organizations or establishments that have a distinguished reputation,
 - * Evidence that the foreign national has commanded a high salary or other high remuneration for services, or
 - * Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

Recently, we helped a Research Professional working on potential drug therapy for Cancer obtain a national interest waiver. We have also assisted doctors who are willing to practice full-time in an area designated as having a shortage of health care professionals.

To see more of our National Interest Waiver cases that have been approved by the CIS, please visit our website at www.visaserve.com.