Green Card Basics

International Scholars Operations
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Introduction to Green Cards
A green card, a.k.a. legal permanent residence, is (practically) unconditional permission to reside and work in the United States. It usually requires a petition to USCIS for an “immigrant visa number”.

What is a Green Card?

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Family-based Green Cards

Can be obtained by:

- Spouses, children, and parents of US citizens ("immediate relatives")
- Siblings of US citizens
- Spouses and children of US permanent residents

In general, immediate relatives can get green cards fairly quickly, while other relatives may have substantial wait times.
Employment-based Green Cards

Can be sponsored by employer:

- EB-1 Outstanding Researcher/Professor or Multinational Manager
- EB-2 Advanced Degree Professional or National Interest Waiver
- EB-3 Skilled Worker
- EB-4 Special Worker

Or self-sponsored by employee:

- EB-1 Extraordinary Ability
- EB-2 National Interest Waiver
- EB-5 Immigrant Investor
Other Green Cards

Other ways in:

• Refugees/Asylees
• Diversity Visa Lottery
• Survivors of domestic abuse, trafficking, or other crime
• Special Immigrant Juveniles
• Cuban emigrees

Or the end run:

• MAVNI accelerated citizenship for some enlistees in the Armed Forces
So many agencies...

**Office of Foreign Labor Certification**
- Issues prevailing wage determinations
- Certifies labor certifications for employment-based green cards

**U.S. Citizenship and Immigration Services**
- Adjudicates family- and employment-based petitions
- Issues green cards

**Bureau of Consular Affairs**
- Allocates “immigrant visa numbers”
- Admits people entering the US on immigrant visas

**Federal Bureau of Investigation**
- Runs background checks for green cards
Do I have to know all this stuff?

No! If someone presents you with an unexpired green card, that person is **eligible for employment**. You don’t need to know the basis for their residency or advise them on its ramifications.
The UW Process
All UW-sponsored green cards **must** go through ISO. UW sponsors the following faculty titles through the **EB-2 Advanced Degree Professional** category:

- Assistant, Associate, and full Professors (with or without tenure)
- Research Assistant, Associate, and full Professors
- Clinical Assistant, Associate, and full Professors (for Dentistry only)
- Senior Lecturers (by exception only)

Any of these must be a **full-time, permanent position with some teaching duties** to be eligible for green card sponsorship.
There are **three steps** to sponsorship for a green card at UW:

- ETA-9089 Labor Certification
- I-140 Immigrant Petition for Alien Worker
- I-485 Application to Adjust Status

But the recruitment is also an important part of this process.
Recruitment and Selection

In order to sponsor a position for a green card, the initial recruitment must meet the following requirements:

- Ad must:
  - Be published in a professional print journal or the Chronicle of Higher Education for at least thirty days
  - Must require an advanced degree (master’s or doctorate)

- The foreign national must:
  - meet the minimum requirements for the position
  - be the most qualified candidate for the position

If you have questions about how to conduct your recruitment, contact us!
There are ways to make the green card process easier even at this stage!

- List all requirements clearly and precisely
- List all acceptable US degree(s) and include “or foreign equivalent”
- Avoid excessive requirements and “preferences”

Remember that you will have to document that the candidate meets **every single** requirement and preference.

ISO files this document with the Department of Labor to prove that we have a position subject to a “labor shortage” and a qualifying foreign national applicant. We can only file:

1) After notice has been posted at the worksite for at least ten days, and after a subsequent waiting period of 30 days, but no longer than 180 days after the posting started.

2) When we have collected the following from you:
   a. documentation that the foreign national meets all requirements of the position (e.g. degree, certificates, publications, letters confirming experience)
   b. a recruitment report confirming the recruitment process and that the foreign national was the most qualified applicant
   c. all information necessary for the ETA-9089
The clocks are ticking...

Recruitment Clock
9089 must be filed within 18 months of offer letter

Prevailing Wage Clock
9089 must be filed while Prevailing Wage Determination is valid

Posted Notice Clock
9089 must be filed no less than 30 and no more than 180 days after posting period started
The day that ISO files the Labor Certification with the Department of Labor is the “priority date” for that scholar. Filing the labor certification, in and of itself, does not grant any immigration benefit to the scholar.

The DOL may take anywhere from two to twelve months to approve the labor certification. They may decide to audit it, which may further delay processing times and require additional documentation from the unit.
ISO files this petition with USCIS to prove that we have an employee who qualifies for an “immigrant visa” based on an approved labor certification.

* Must be filed within validity of labor certification (i.e. within six months of approval)
* Must include documentation of foreign national’s qualifications
* Requires $580 filing fee to USCIS
* Can be premium processed within 15 days for an additional $1225 fee
Filing the immigrant petition, in and of itself, does not grant any immigration benefit to the scholar.

USCIS may take anywhere from two to ten months to approve the immigrant petition. They may issue a Request for Evidence ("RFE"), which may further delay processing times and require additional documentation from the unit or the scholar.
The foreign national must file this, but may do so with the assistance of outside counsel.

This application requires:

∗ $1070 filing fee
∗ A medical exam by a “civil surgeon”
∗ A residential and employment history for the last five years
∗ Copies of immigration and legal documents
∗ Fingerprinting by USCIS
∗ An FBI background check

ISO can provide basic information on this application, but cannot give individualized legal advice.
The application to adjust makes the scholar eligible to apply for an Employment Authorization Card ("EAD") and "advance parole" travel authorization.

If filed with the I-485, these applications are free and grant independent employment and travel authorization to the scholar.
Outstanding Researchers & Professors
This category (also called “EB-1B” or “EB-1-2”) is for researchers or professors who have an outstanding record of research and sustained international recognition in their field. It does not require a labor certification but does require an I-40.

The UW sponsors employees for EB-1B by exception only and after a rigorous pre-review. Work on these cases is billed hourly to the unit.
Yes, we realize that all of your faculty members are very special.

But most of them will not be “special” enough to get an EB-1B petition approved.
A scholar must have **at least two** of the following:

- Authorship of **scholarly books or articles** in the field
- Participation as a **judge of the work of others** in the field
- **Original scientific or scholarly research contributions** in the field
- **Major prizes or awards** for outstanding achievement
- **Membership** in associations that require their members to demonstrate outstanding achievement
- **Published material** in professional publications written by others about the alien's work in the academic field
USCIS determines whether the scholar meets at least two of the criteria. If they do, USCIS determines whether the evidence proves that the scholar is outstanding and has received "sustained international recognition" in their field.

Most researchers meet the evidentiary criteria, but do not meet the overall requirement for "sustained international recognition".
Trouble-shooting

YOU'RE TEARING ME APART LISA
ISO will try to foresee difficulties in the green card process and avoid them proactively. However, there are some problems that can only be fixed by a new recruitment:

- If the ad didn’t run in a professional journal or the Chronicle for at least 30 days
- If the labor certification wasn’t filed within 18 months of selection
- If the foreign national didn’t meet the exact minimum requirements of the recruitment at the time of hire, or wasn’t the most qualified candidate
- If the immigrant petition isn’t filed before the labor certification expires

The foreign national will have to apply for the new recruitment and be the most qualified applicant in the pool.
The “priority date” from the labor certification establishes the foreign national’s place in line for a green card. Depending on country of origin, they may have a long wait, a brief wait, or no wait at all before they can file the I-485.

In particular, Indian and Chinese nationals going through the UW process may wait five to ten years before it’s their turn to apply for a green card. They should check the Department of State’s Visa Bulletin regularly to see when their turn will come.
If a UW employee is subject to the visa backlog, they may have options to get around it; all of these will require at least a new petition to USCIS, if not more.

1. Change “preference category” by filing an EB-1 petition
2. Get a green card on one of the bases listed earlier: family (e.g. marriage to a U.S. citizen), asylum, etc.

Remember: as long as Step 1 or Step 2 is filed on time, UW employees will be eligible for indefinite “AC-21” extensions of their H-1B until their green card has been approved.
Ineligibility for Green Card

Certain things can make your scholar ineligible for a green card:

- Criminal history
- Membership in totalitarian groups
- Communicable diseases
- Gaps in immigration status
- 212(e) two-year home residence requirement
- Sooooo many other things...

If your scholar has any of these problems, they should consult an immigration attorney before filing the I-485.
F, J, TN, E-3, and O visas all require “nonimmigrant intent”, which is violated by applying for a green card.

Filing an I-485 may end their legal status or make them deportable.

If your scholar is in any of these statuses, they should consult an immigration attorney before filing the I-485.
Certain events can result in revocation of permanent residence, and even **deportation**:  
- Criminal issues  
- Visa fraud  
- Substantial absence from the U.S.  
- Failure to renew green card in time

If your scholar has any of these problems, they should consult an immigration attorney **before** applying to renew their green card or applying for U.S. citizenship.
Any questions?

E-mail us at acadvisa@uw.edu

Or check our website at http://ap.washington.edu/ahr/administrators/international-scholars/permanent-residency/