

GREEN CARD BASICS

INTERNATIONAL SCHOLARS OPERATIONS

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TODAY'S TOPICS

- **Introduction to Legal Permanent Residence**

- Family-based
- Employment-based
- Other bases

- **The UW Process**

- Step 1: Recruitment and selection
- Step 2: Labor Certification
- Step 3: Immigrant Petition
- Step 4: Adjustment of Status

- **EB-1B Outstanding Researchers & Professors**

- **Troubleshooting**

- Priority date delays
- Ineligibility grounds
- Incompatible visas
- Preserving permanent residence

- **Q&A**

INTRODUCTION TO GREEN CARDS



WHAT IS A GREEN CARD?



Legal permanent residence (documented by an LPR card or “green card”) is (practically) unconditional permission to reside and work in the U.S.

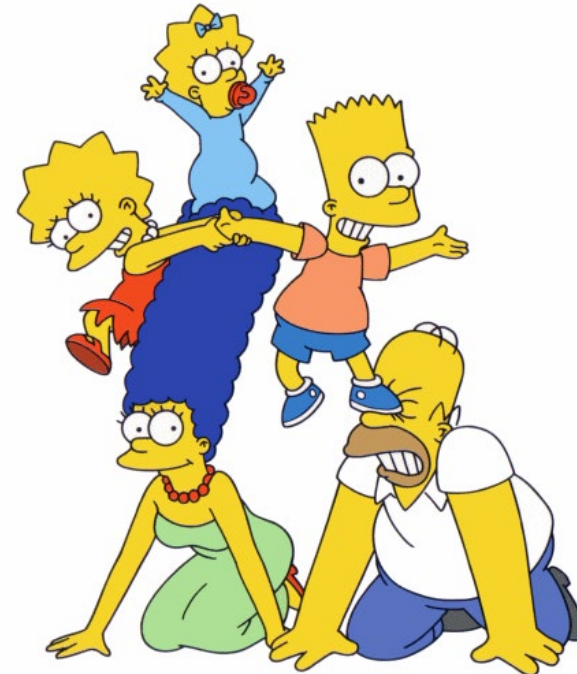
It usually requires a petition to USCIS for an “immigrant visa number”.

FAMILY-BASED PERMANENT RESIDENCE

Can be obtained by:

- Spouses, children, and parents of U.S. citizens (“**immediate relatives**”)
- Siblings of U.S. citizens
- Spouses and children of U.S. permanent residents

In general, **immediate relatives** can get permanent residence fairly quickly, while other relatives may have substantial wait times.



EMPLOYMENT-BASED PERMANENT RESIDENCE

Employer-sponsored:

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

Self-sponsored:

- EB-1A Extraordinary Ability
- EB-2 National Interest Waiver
- EB-5 Immigrant Investor



OTHER GREEN CARDS

- Refugees/Asylees
- Diversity visa lottery
- Survivors of domestic abuse, trafficking, or other crime
- Special Immigrant Juveniles
- Cuban emigres

RELEVANT 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"
- Issues immigrant visas

SHOULD I ASK HOW SOMEONE GOT THEIR PERMANENT RESIDENCE?

No!

If someone presents an unexpired green card, they are **eligible for employment.**

You don't need to know the basis for their residency or to advise them on its ramifications.

THE UW PROCESS

UW SPONSORSHIP

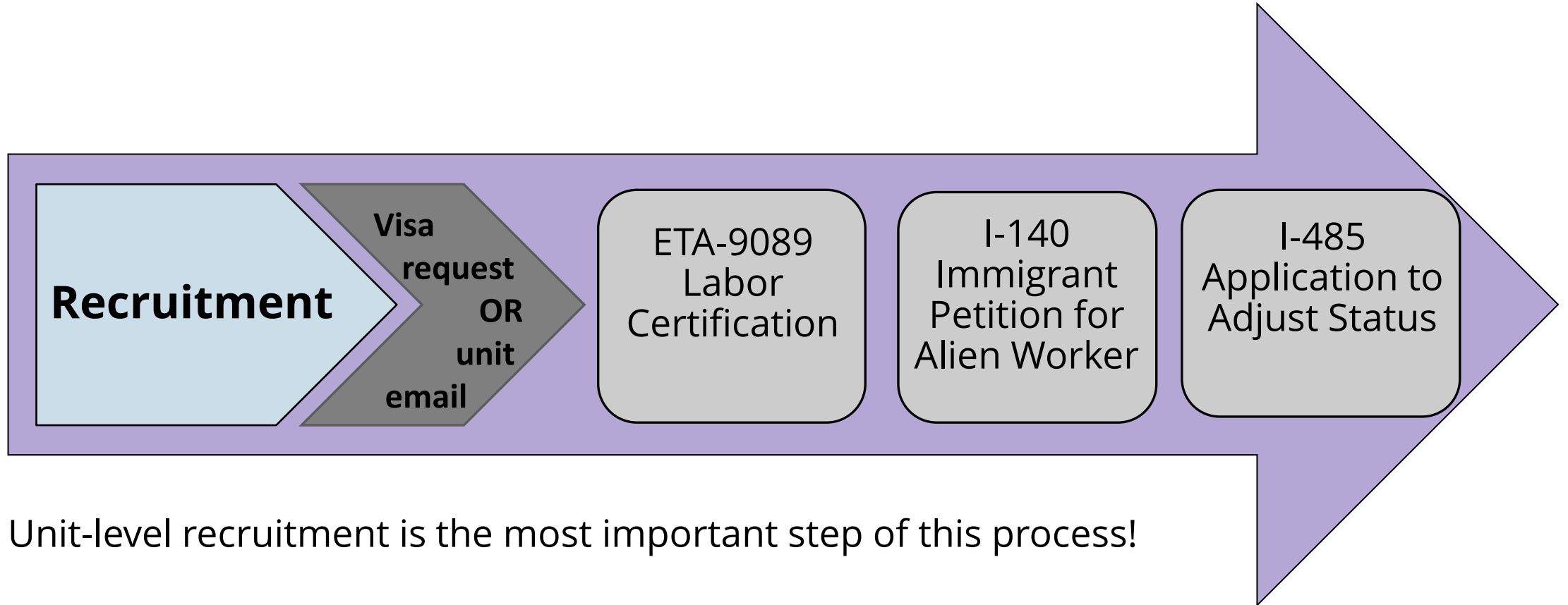
All UW-sponsored permanent residence **must** go through ISO.

UW sponsors the following faculty titles through the **EB-2 Advanced Degree Professional** category:

- **Assistant, associate, and full professors**
(with or without tenure, research, teaching, or clinical practice track)
- **Clinical assistant, associate, and full professors, salaried**
(Dental Pathway only)

To be eligible, must be a **full-time, permanent position with some teaching duties.**

STEPS TO PERMANENT RESIDENCE



Unit-level recruitment is the most important step of this process!

STEP 1: RECRUITMENT AND SELECTION

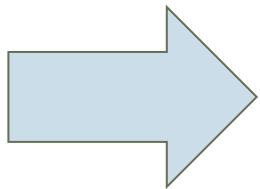
Sponsorship requirements include:

- **Unit must publish ad that:**
 - Runs in a professional print journal **or** *The Chronicle of Higher Education* online for **at least 30 days**
 - Requires an advanced degree (master's or doctorate) in a related field
 - Includes some mention of teaching duties
- The foreign national must:
 - **Meet the minimum requirements** for the position **and**
 - Be **the most qualified candidate** for the position

ADVERTISEMENT BEST PRACTICES

To make sponsorship easier:

- List all requirements clearly and precisely
- List all acceptable U.S. degree(s) and include “or foreign equivalent”
- Avoid “preferences” and excessive requirements
- Copy approved Interfolio position wording **exactly** for any external ads



Remember that you must provide documentation that the candidate meets **every single** requirement and preference.

See [Creating Ads for Permanent Residence Sponsorship Eligible Positions](#) and our [2024 Recruitment Training](#) slide deck for further guidance.

STEP 2: ETA-9089 LABOR CERTIFICATION

Once ISO knows of an eligible faculty member, ISO will prepare to file this with the Department of Labor to initiate permanent residence sponsorship.

ISO will gather the following from the unit:

- a. Documentation that foreign national meets all position requirements
- b. [Competitive Recruitment Report](#) describing recruitment process and confirming foreign national was most qualified applicant
- c. Proof that position was appropriately advertised and notice given to U.S. workers
- d. All information necessary for the ETA-9089

CLOCKS ARE TICKING AT STEP 2...



Recruitment Clock

ETA-9089 must be filed **within 18 months** of date of *first* offer letter



Prevailing Wage Clock

ETA-9089 must be filed while **Prevailing Wage Determination** is valid



Posted Notice Clock

ETA-9089 must be filed **no less than 30** and **no more than 180 days** after posting period started



H-1B Eligibility Clock

ETA-9089 must be filed before the end of **5th year of H-1B time** to preserve H-1B eligibility

FILING THE ETA-9089 LABOR CERTIFICATION

- Filing the labor certification **does not grant any immigration benefit.**
- The **“priority date”** is the day ISO files the ETA-9089 with the Department of Labor (DOL).
- DOL may take **2-14 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.

STEP 3: I-140 IMMIGRANT PETITION

Once labor certification is certified, ISO files the I-140 petition with USCIS to prove faculty member is eligible for an immigrant visa.

ISO will gather the following from the unit:

- Filing fee check(s) for \$715 (and \$2805 Premium Processing)
- Employer declaration confirming conditions of labor certification are met

The I-140 must

- be filed within 6-month validity of labor certification
- include documentation of foreign national's qualifications

FILING THE IMMIGRANT PETITION

Filing the immigrant petition **does not grant any immigration benefit to the faculty member**, although it may make a spouse eligible for an employment authorization card (H-4 EAD).

Immigrant petition:

- May take **2-12 months** for USCIS to adjudicate
- Can be **premium processed** for \$2805, which reduces USCIS processing time to ≤ 15 days
- May receive a **Request for Evidence** (RFE), which may further delay processing times and require additional documentation from unit or faculty member.

STEP 4: I-485 APPLICATION TO ADJUST STATUS

ISO can provide basic information, but cannot prepare or file this application. The faculty member may receive help from outside immigration counsel at this stage.

Application requires:

- \$1440 filing fee, or \$2330 if filed with Forms I-131 and I-765
- 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

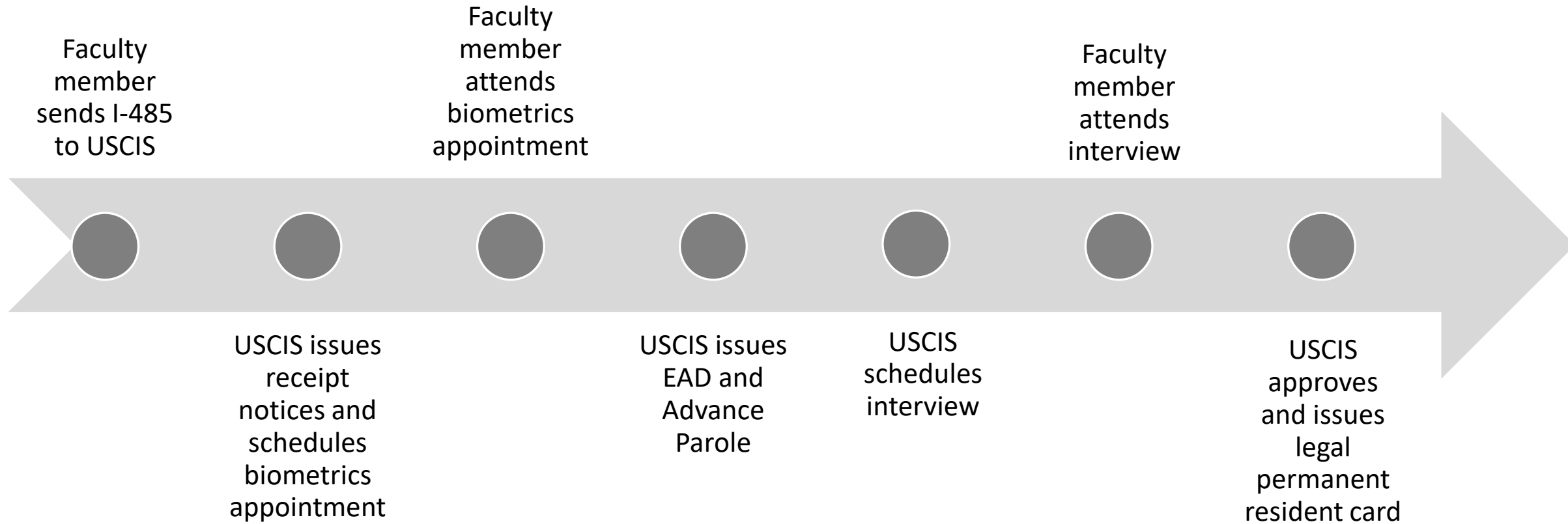
BENEFITS OF APPLYING FOR ADJUSTMENT

Application for adjustment of status makes faculty member eligible to apply for EAD and “advance parole” travel authorization.

If filed with I-485 application, these applications grant independent employment and travel authorization while the I-485 is pending.



I-485 PROCESS



QUESTIONS?

QUESTIONS & ANSWERS

Q1: Regarding the date of the first offer letter (in terms of the “recruitment clock” for submission of the ETA-9089), does that account for a change in start date? In other words, if the start date was delayed 4 months (candidate choice) will that put a crunch on the timeline for submission of the ETA-9089?

A1: What really matters for that recruitment clock is selection, and the official date of selection is the date of the first offer letter. If you’re offering someone a position on a really long timeline, please reach out to ISO to let us know, since it may require us to proceed with permanent residence sponsorship independent of a visa request.

QUESTIONS & ANSWERS

Q2: How long does it usually take for USCIS to process the I-485?

A2: It varies drastically; we've seen it take anywhere 3 months to several years.

Q3: We sponsored an E-3 visa for an Acting Assistant Professor and now we plan on sponsoring an H-1B for this employee as an Assistant Professor. Would we need to include the offer letter for the Assistant Professor position with the H visa request? Or would the Initial Acting Assistant Professor offer letter be acceptable for the H visa request submission?

A3: The H visa request should include the first offer letter issued for the Assistant Professor position, since that's the position eligible for permanent residence sponsorship.

**EB-1B
OUTSTANDING
RESEARCHERS &
PROFESSORS**



OUTSTANDING RESEARCHER/PROFESSOR

- Also called “EB-1B” or “EB-1-2”
- For researchers or professors with outstanding records of research or teaching and **sustained international recognition** in their field
- Does not require labor certification but does require I-140 petition

UW sponsors professorial faculty for EB-1B **by exception only** and after rigorous pre-review

- ISO fee: \$140/hour charged to units
- Cases routinely cost over \$6000, not including USCIS filing fees of \$3520

**WE UNDERSTAND THAT ALL OF YOUR
FACULTY ARE OUTSTANDING**

But many will not be outstanding
enough to get an EB-1B petition approved.

EB-1B EVIDENTIARY CRITERIA

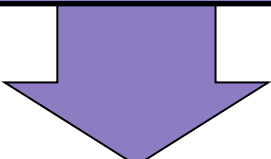
Candidates must prove **at least two** of the following to USCIS:

- 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 demonstrated outstanding achievement
- Published material** in professional publications by others about the faculty member's work in the academic field

...plus **three years of teaching** or research experience.

TWO-STEP EB-1B ANALYSIS

USCIS determines if the faculty member meets at least two of the evidentiary criteria



If they do, USCIS determines if the evidence proves the faculty member is outstanding and has received **“sustained international recognition”** in their field

Many candidates can meet the evidentiary criteria requirement, but do not meet the overall **“sustained international recognition”** requirement

HOW DO I REQUEST EB-1B SPONSORSHIP?

- Send an email to ISO at acadvisa@uw.edu
- ISO will send you more information and a sponsorship request template
- Complete the template, route for approval with candidate CV/offer letter through your Chair and Dean's Offices, and have it sent back to ISO
- ISO will review for chances of success, then make a recommendation to the Vice Provost
- Vice Provost will make a final decision, which ISO will communicate to unit

TROUBLE- SHOOTING



WHEN RECRUITMENTS GO WRONG

Recruitment issues that can make us unable to sponsor:

- Ad wasn't posted for at least 30 days in print professional journal or *The Chronicle of Higher Education* online
- Externally-posted ad didn't list all requirements and duties
- Faculty member didn't meet the exact minimum requirements of the recruitment at the time of hire, or wasn't the most qualified candidate
- Labor certification wasn't filed within 18 months of selection
- Immigrant petition wasn't filed before the labor certification expires

OVERCOMING RECRUITMENT PROBLEMS

- If recruitment is still open, **fix it!**
- If recruitment closed, contact your ISO advisor
- ISO will work with OAP to identify possible solutions

PRIORITY DATE DELAYS, OR THE “VISA BACKLOG”

“Priority date” from the labor certification establishes the faculty member’s **place in line** for permanent residence.

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 may wait **3-10 years or longer** before they can finish the process. They should check the [Department of State’s Visa Bulletin](#) regularly to find their turn.

GETTING AROUND BACKLOGS

If a faculty member is subject to the visa backlog, they may have options to bypass it if they can:

1. Change “preference category” by filing a new immigrant petition
2. Apply for permanent residence on a different basis: family (e.g. marriage to a U.S. citizen), asylum, etc.

Both of these strategies will require at least a new petition to USCIS, if not more.

Remember: If the labor certification is filed on time, UW faculty members are eligible for **indefinite “AC-21” extensions of their H-1B** until the green card is approved.

INELIGIBILITY FOR PERMANENT RESIDENCE

Certain things can make your faculty member **ineligible** for a green card:

- o Criminal history
- o Membership in totalitarian groups
- o Communicable diseases
- o Gaps in immigration status
- o 212(e) two-year home residence requirement
- o Etc. etc.

If your faculty member has any of these problems, they should consult an immigration attorney **before filing the I-485**.



INCOMPATIBILITY WITH PERMANENT RESIDENCE

F, J, TN, E-3, and O visas all require “nonimmigrant intent”, which may be violated by applying for permanent residence.

Filing an I-485 may affect their ability to travel and return to the U.S. on their nonimmigrant visa.

If your faculty member is in any of these statuses, they should consult an immigration attorney **before starting the permanent residence process.**

PRESERVING PERMANENT RESIDENCE

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 faculty member has any of these problems, they should consult an immigration attorney **before applying to extend their permanent residence card or applying for U.S. citizenship.**



QUESTIONS?

QUESTIONS & ANSWERS

Q4: After a scholar has obtained a green card, and is coming up to their green card expiration, do they need to go through ISO for renewal, or is that done separately between them and USCIS?

A4: Applying for renewal of legal permanent residence is a personal application through USCIS; those do not route through ISO. The employee may choose to hire a private immigration attorney to assist them with the process.

ADDITIONAL RESOURCES:

- [Permanent Residence Landing Page](#)
- [How to Sponsor for Permanent Residence](#)
- [Creating Ads for Permanent Residence Sponsorship Eligible Positions](#)
- [LPR Process Handout](#)

Email us at acadvisa@uw.edu