

# GREEN CARD BASICS

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INTERNATIONAL SCHOLARS OPERATIONS

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UNIVERSITY *of* WASHINGTON

OFFICE OF ACADEMIC PERSONNEL

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# TODAY'S TOPICS

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- **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

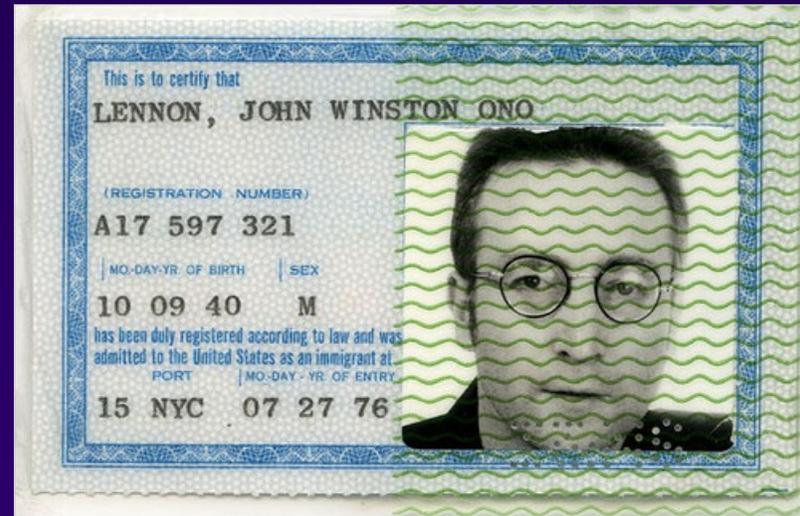
- **EB-1B Outstanding Researchers & Professors**

- **Troubleshooting**

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

- **Q&A**

# INTRODUCTION TO GREEN CARDS



# WHAT IS A GREEN CARD?

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**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”.

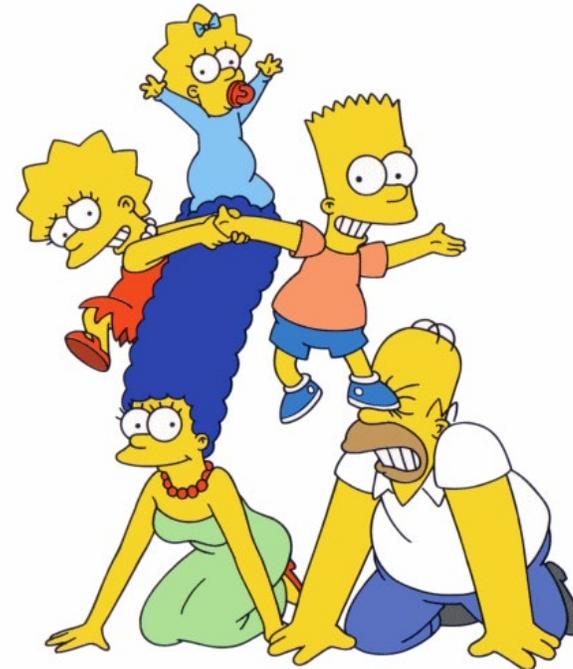
# FAMILY-BASED PERMANENT RESIDENCE

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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

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## **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

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

# RELEVANT AGENCIES:



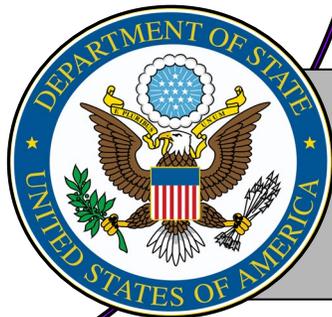
## Office of Foreign Labor Certification

- 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?

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**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

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

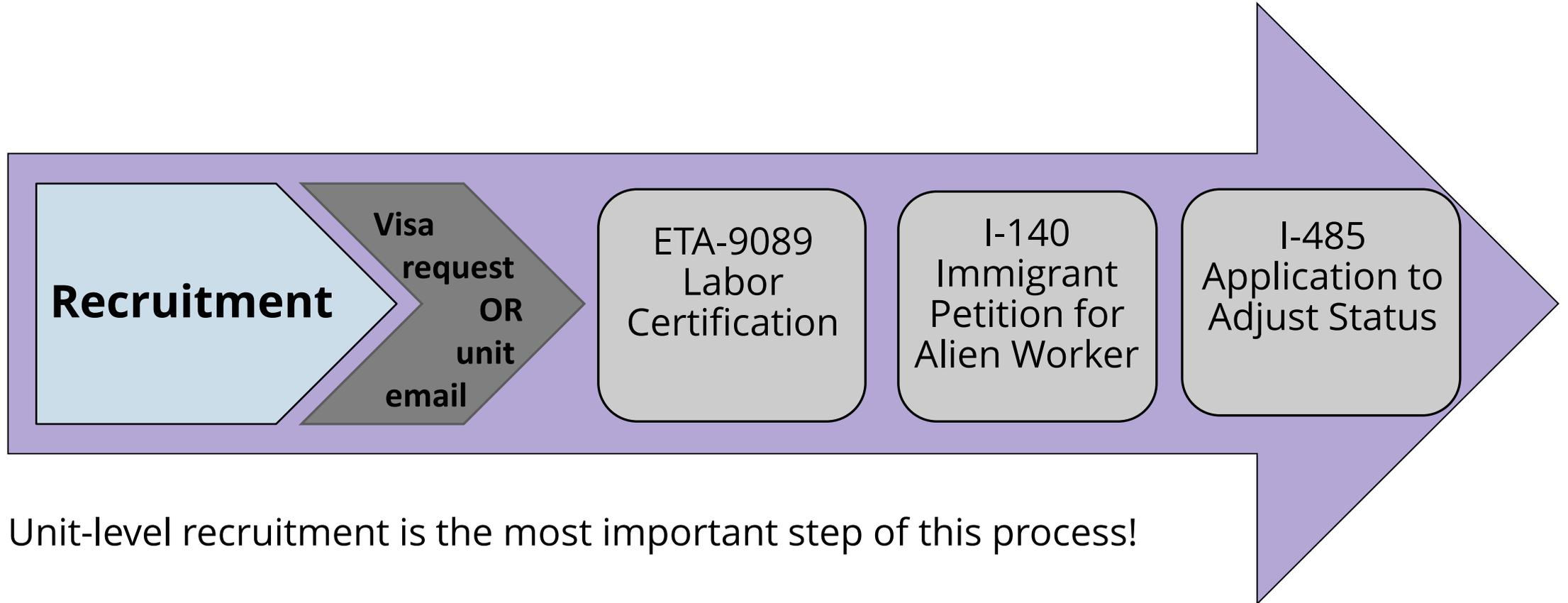
UW sponsors the following faculty titles through the **EB-2 Advanced Degree Professional** category:

- **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

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

# STEP 1: RECRUITMENT AND SELECTION

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Sponsorship requirements include:

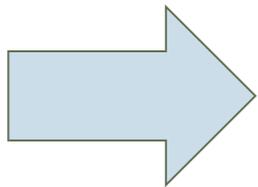
- **Unit must publish ad that:**
  - Runs in a professional print journal **or** *The Chronicle of Higher Education* online for **at least 30 days**
  - Requires an advanced degree (master's or doctorate) in a related field
  - Includes some mention of teaching duties
- The foreign national must:
  -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

# ADVERTISEMENT BEST PRACTICES

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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

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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 **5<sup>th</sup> year of H-1B time** to preserve H-1B eligibility

# FILING THE ETA-9089 LABOR CERTIFICATION

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- 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 **2-16 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

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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

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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  $\leq 15$  business 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

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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:

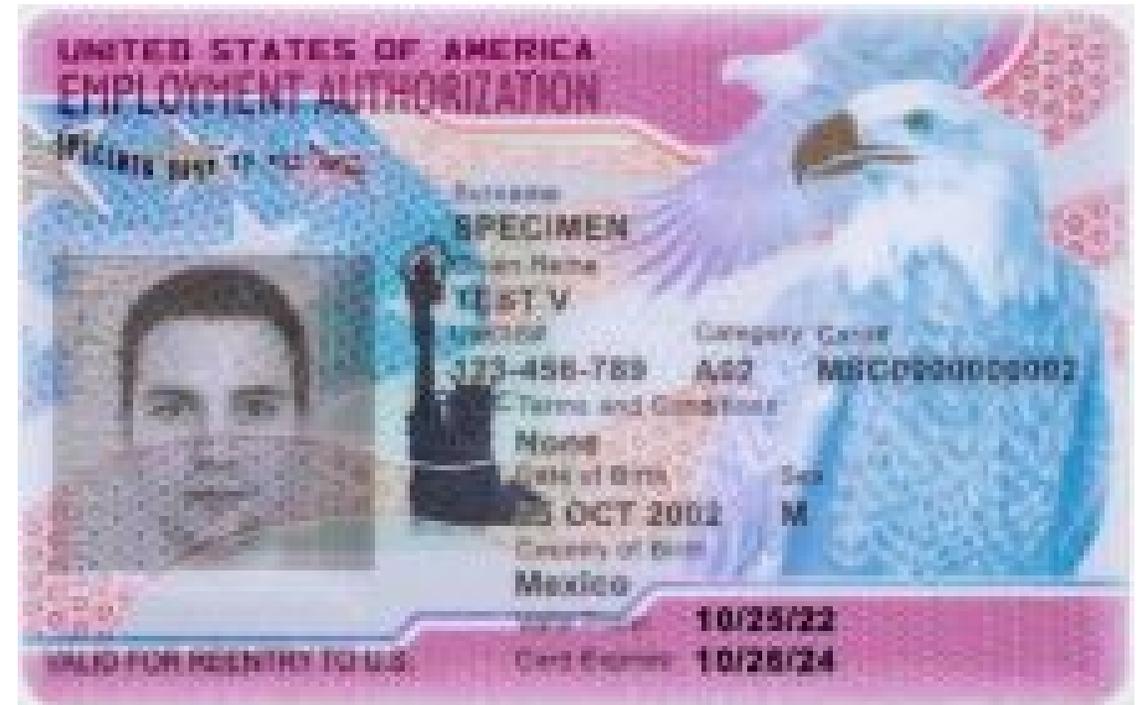
- \$1440 filing fee, or \$2590 if filed with Forms I-131 and I-765
- A medical exam by a “civil surgeon”
- A residential and employment history for the last five years
- Copies of immigration and legal documents
- Fingerprinting by USCIS
- An FBI background check

# BENEFITS OF APPLYING FOR ADJUSTMENT

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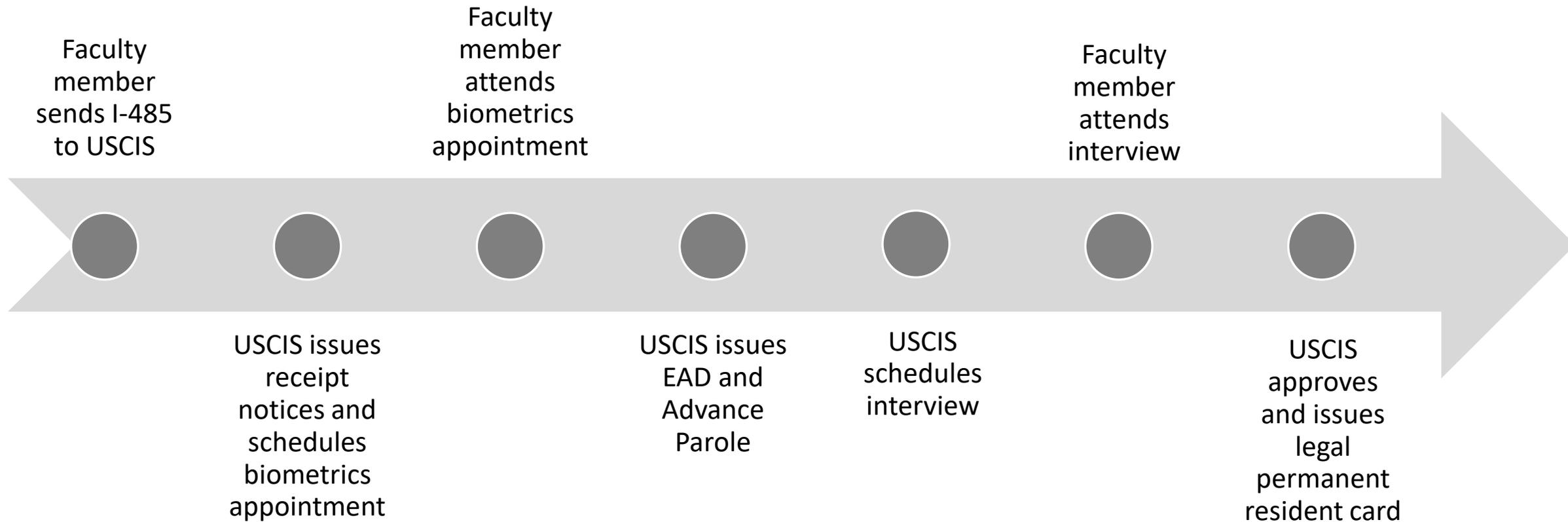
Application for adjustment of status makes faculty member eligible to apply for EAD and “advance parole” travel authorization.

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



# I-485 PROCESS

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



# OUTSTANDING RESEARCHER/PROFESSOR

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- 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: \$117/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

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

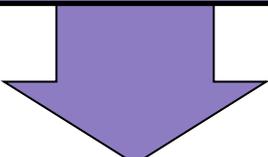
- Authorship of **scholarly books or articles** in the field
- Participation as a **judge of the work of others** in the field
- Original scientific or scholarly research contributions** in the field
- Major prizes or awards** for outstanding achievement
- Membership** in associations that require demonstrated 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

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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?

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- Send an email to ISO at [acadvisa@uw.edu](mailto: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

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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

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

# PRIORITY DATE DELAYS, OR THE “VISA BACKLOG”

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“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

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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

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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

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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

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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.**



## Q & A

Q: I thought the provost said we no longer needed a prevailing wage determination for visas that were going to be requesting permanent residency status?

A: In October 2023, UW announced that it would no longer require a prevailing wage determination for H-1B sponsorship; however, UW's standard permanent residence sponsorship ALWAYS requires a prevailing wage determination. More information on the prevailing wage requirement and when ISO will submit a prevailing wage application is available at <https://ap.washington.edu/ahr/visas/admin-resources/h1b/h1b-eligibility/wage-requirements/>.

## Q & A

Q: What is the five-year rule for continuing H-1B eligibility?

A: Normally H-1Bs are limited to 6 years; however, if we submit the ETA-9089 or I-140 by the end of the employee's 5th year of H-1B time, they will be eligible for continued "AC21" H-1B extensions through grant of permanent residence. This is why it's important for ISO to find out as soon as possible if the unit is hiring a foreign national into a faculty title, so that we can track this five-year deadline along with other sponsorship deadlines.

Q: How do we demonstrate that someone is the "most qualified candidate" in a recruitment?

A: The [Competitive Recruitment Report](#) documents the recruitment and describes how the candidate was determined to be the most qualified candidate.

## Q & A

Q: How do salary range requirements affect the permanent residence process? What if we have to offer above the posted range?

A: If you hire someone and offer them a salary that is outside the wage range stated in the ad, you may need to re-recruit. If this happens, please contact APF, and if you have selected someone who will need green card sponsorship, please also contact ISO.

# ADDITIONAL RESOURCES:

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

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