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EB-1 VISA (Individuals of Extraordinary Ability)

The EB-1 visa is one of several employment-based visas that allow an individual to obtain Lawful Permanent Residency (LPR), sometimes referred to as a green card. Other categories of employment-based visas conferring LPR upon individuals include EB-2, EB-3, and EB-5 visas. EB-1, EB-2, and EB-3 visas are similar in that they are awarded to workers, whereas EB-5 visas are allotted for individuals creating businesses or making job-creating investments for U.S. workers in the U.S. However, what makes EB-1 visas different than EB-2 and EB-3 are the procedures required to obtain an EB-1 visa. Unlike for the EB-2 and EB-3 categories, an applicant for the EB-1 visa category is not required to complete "Labor Certification" before submitting the green card application. This can save the applicant a substantial amount in processing times. Furthermore, if the applicant is already in the U.S., he or she also will be able to get a temporary work card and travel document while the application is pending. The EB-1 visa is reserved for persons of extraordinary ability in the sciences, arts, education, business, or athletics; outstanding professors or researchers; and multinational executives and managers.

Labor Certification

For some immigrant visas, an applicant must already have a job offer from a U.S. employer, who will act as the applicant's sponsor. EB-2 and EB-3 visas require the applicant's sponsor to obtain an approved labor certification from the U.S. Department of Labor (DOL) before the applicant can submit an immigration petition to the U.S. Citizenship and Immigration Services (USCIS). The labor certification is a mechanism to protect jobs for U.S. workers. The labor certification is designed to confirm that:

- There are insufficient available, qualified, and willing U.S. workers to fill the position being offered at the prevailing wage
- Hiring a foreign worker will not adversely affect the wages and working conditions of similarly employed U.S. workers.

However, the EB-1 visa does not require the applicant to receive a labor certification from DOL. It is for this reason that EB-1 visas can be considered preferable to EB-2 and EB-3 visas.

EB-1 Visa Application Process

The EB-1 Visa Application Process requires you, or your employer, to complete an I-140 petition. As mentioned above, EB-1 visas are reserved for persons of extraordinary ability in the sciences, arts, education, business, or athletics; outstanding professors or researchers; and multinational executives and managers. Therefore, as an applicant, you must prove either that you have an extraordinary ability, that you are an outstanding professor or researcher, or that you are a multinational manager or executive. This standard is incredibly high.

Extraordinary Ability

As an individual hoping to acquire an EB-1 visa based on extraordinary ability, you must be able to demonstrate extraordinary ability in the sciences, arts, education, business, or athletics through sustained national or international acclaim. Your achievements must be recognized in your field through extensive documentation. Unlike the EB-2 visa, you are not required to have an offer of employment. To demonstrate extraordinary ability, you must provide at least 3 of the following criteria:

- Evidence of receipt of lesser nationally or internationally recognized prizes or awards for excellence
- Evidence of membership in associations in the field which demand outstanding achievement of their members
- Evidence of published material about you in professional or major trade publications or other major media
- Evidence of being asked to judge the work of others, either individually or on a panel
- Evidence of original scientific, scholarly, artistic, athletic, or business-related contributions of major significance to the field
- Evidence of authorship of scholarly articles in professional or major trade publications or other major media
- Evidence of work displayed at artistic exhibitions or showcases
- Evidence of performance of a leading or critical role in distinguished organizations
- Evidence of commanding a high salary or other significantly high remuneration in relation to others in the field
- Evidence of commercial successes in the performing arts
- *As an applicant, you may also provide evidence of a one-time achievement, including a Pulitzer, Academy Award, or an Olympic Medal, in lieu of providing 3 of the aforementioned criteria.

If as an applicant you are able to prove you possess extraordinary ability, you may petition for yourself by filing a Form I-140, Petition for "Foreign National" Worker.

Outstanding Professor or Researcher

If you are an individual looking to acquire an EB-1 visa based on your status as an outstanding professor and researcher, you must demonstrate international recognition for your outstanding achievements in a particular academic field. You must also have at least 3 years of experience in teaching or research in that academic area. You must also be entering the United States in order to pursue tenure or tenure track teaching or comparable research position at a university or other institution of higher education. You must provide documentation that you have an offer of employment from a prospective U.S. employer, as well as include documentation of at least two of the following:

- Evidence of receipt of major prizes or awards for outstanding achievement
- Evidence of membership in associations that require their members to demonstrate outstanding achievement

- Evidence of published material in professional publications written by others about your work in the academic field
- Evidence of participation, either on a panel or individually, as a judge of the work of others in the same or allied academic field
- Evidence of original scientific or scholarly research contributions in the field
- Evidence of authorship of scholarly books or articles (in scholarly journals with international circulation) in the field
- If you are able to provide evidence that you are an outstanding professor or researcher, you must have your employer file a Form I-140, Petition for “Foreign National” Worker.

Multinational Manager or Executive

If you are an individual looking to acquire an EB-1 visa based on your status as a multinational manager or executive, you must have been employed outside the United States in the 3 years preceding the petition for at least 1 year by a firm or corporation and seeking to enter the United States to continue service to that firm or organization. Your employment must have been outside the United States in a managerial or executive capacity and with the same employer, an affiliate, or a subsidiary of the employer. Your petitioning employer must be a U.S. employer doing business for at least 1 year, as an affiliate, a subsidiary, or as the same corporation or other legal entity that employed the applicant abroad. If you are able to demonstrate that you are a multinational manager or executive, you must have your employer file a Form I-140, Petition for “Foreign National” Worker.