

MEMORANDUM

TO: Law Office Client
FROM: Lorne M. Fienberg
DATE: May 1, 2008
RE: Outstanding Professor/Researcher Immigrant Visas

Outstanding Professor/Researcher Immigrant Visas

The Outstanding Professor/Researcher category involves a two-step process that can eventually lead to a grant of Lawful Permanent Resident Status in the U.S. if both steps are approved by the USCIS. The first step of the process consists of filing an “Immigrant Petition for Alien Worker”, requesting the USCIS to grant the foreign national an Immigrant Visa. The second step, once the first is approved, is the filing of an “Application to Adjust Status to that of a Lawful Permanent Resident,” commonly referred to as a green card application, or attending an interview at the U.S. Consulate in the person’s home country, called Consular Processing. (Under recent changes in the immigration regulations, the immigrant petition and the adjustment application may now be filed concurrently provided that green card “numbers” are available.) One of the major benefits of this category is that it qualifies a foreign national in the First Employment-Based Preference Category that does not, generally, have a waiting list for permanent residence.

The Outstanding Professor/Researcher Immigrant Visa Petition permits an employer to petition for a qualified foreign national without filing for a Labor Certification from the Department of Labor. A foreign national cannot file an Outstanding Professor/Researcher petition without the sponsorship of his/her employer.

The Outstanding Professor/Researcher petition will only be approved for a Professor/Researcher with a significant, outstanding record in an academic discipline. Before going into the specific requirements about the quality of the employee’s work, there are several general requirements that must be met. The employee must have:

- ∞ an advanced degree; and
- ∞ at least three years of experience in teaching and/or research in the academic field. Experience in teaching or research while working on an advanced degree will only be acceptable if the employee already acquired the degree, and if the teaching duties were such that he or she had full responsibility for

the class taught or if the research conducted toward the degree has been recognized within the academic field as outstanding; and

- ∞ a job offer - The employer must have a department in the academic field which relates to the employee's background, or it may be a comparable research position with a private employer if the employer has at least three persons full-time in research positions, and the employer must have achieved documented accomplishments in an academic field. The job offer for an Outstanding Professor must be tenured or tenure-track.

The standard for qualifying as an Outstanding Professor/Researcher is that the **employee is already recognized internationally as outstanding in the academic field specified in the petition.** This does not mean that the employee shows great promise in the area, but that he or she is already established as being in the top of his or her field. Some benefit can be gained by choosing a very narrow field of study and research. Generally, this type of petition is only successful for those who have at least a Ph.D. and a significant number of years of research or teaching experience. In order to prove that the employee is in the top of his/her field internationally, we must collect evidence that generally falls into the following categories:

- (A) Documentation of employee's receipt of major prizes or awards for outstanding achievement in the academic field (the certificates themselves or letters from organizations);
- (B) Documentation of employee's membership in associations in the academic field which require outstanding achievements of their members (association membership cards or letters from officers of the association);
- (C) Published material in professional publications written by others about the employee's work in the academic field (copies of the articles are best, also good is the list of publications that cite the employee's work from the Citation Index);
- (D) Evidence of employee's participation, either individually or on a panel, as the judge of the work of others in the same or an allied academic field (such as invited lectures or supervision of Master's or Ph.D. work);
- (E) Evidence of employee's original scientific or scholarly research contributions to the academic field (letters from prominent scientists, doctors or Professor/Researchers in the field attesting to your major accomplishments and achievements in the field); and
- (F) Evidence of employee's authorship of scholarly books or articles (in scholarly journals with international or national circulation) in the academic field (copies of the first pages of such articles are helpful).

In order to prepare the petition, the employee should prepare a one or two page narrative of his or her past research, employment, and education, with

emphasis on outstanding achievements at each step of his or her career (written in simple terms that the USCIS can understand). The employee should also gather together all books, chapters and articles written by the employee; any reviews or articles about the employee's work; and other documents to support any of the points set forth in Items A through F above. Last, the employee should identify 6-10 persons who will be able to submit letters in support of the application. These should be persons familiar with the employee's work and qualified to characterize it as outstanding and original. Ideally, these persons will come from a variety of sources, e.g., current colleagues, former colleagues, current and former supervisors, etc.

All of the evidence will be enumerated in a Main Supporting Letter or Advocacy Index that must be signed by the employer. At the same time, we will assist the foreign national in obtaining the necessary documentation to file the Application to Adjust Status (Green Card Application) or to obtain an immigrant visa at an Embassy. Time frames for the entire process vary depending on the region of the country, the nationality of the foreign national and whether the employee applies for the green card in the U.S. or goes through the consular process at an Embassy. However, almost every employee should count on waiting at least 18 to 24 months before s/he actually receives the green card from the USCIS.

To assist you further in beginning the process of gathering recommendation letters, you will find below a set of support letter guidelines. If you identify the individuals and perhaps write the responses yourself (as if you were speaking for those people), I can draft the letters to be sent to the recommendors.

GUIDELINES FOR SUPPORTING LETTERS FOR OUTSTANDING PROFESSOR/RESEARCHERS

In order to qualify for lawful permanent resident status in the outstanding Professor/Researcher category, an individual must demonstrate that he or she has already achieved international recognition as outstanding in a specific academic field.

_____ is seeking to qualify in this category.

Your assistance in providing a support letter for presentation to the U.S. Citizenship and Immigration Services in support of the Petition on Dr. _____'s behalf will be deeply appreciated.

Your letter may include the following information:

- ∞ A brief description of your own background and qualifications;
- ∞ An explanation of how you know the individual and/or his work;
- ∞ A brief description or summary of the individual's accomplishments and contributions to his field;
- ∞ The reasons why her achievements should be deemed to satisfy the above criteria.

If appropriate, it would also be quite helpful for you to provide your curriculum vitae describing your background and qualifications for submission to the USCIS along with your letter.