

# **Employment-Based Immigration: Second Preference EB-2 Requirement**

You may be eligible for an employment-based, second preference visa if you are a member of the professions holding an advanced degree or its equivalent, or a person who has exceptional ability. Below are the occupational categories and requirements:

<b>Sub-Categories</b>	<b>Description</b>	<b>Evidence</b>
Advanced Degree	The job you apply for must require an advanced degree and you must possess such a degree or its foreign equivalent (a baccalaureate or foreign equivalent degree plus 5 years of post-baccalaureate, progressive work experience in the field). You must meet any other requirements specified on the labor certification as applicable as of the priority date.	<p>Documentation, such as an official academic record showing that you have a U.S. advanced degree or a foreign equivalent degree, or an official academic record showing that you have a U.S. baccalaureate degree or a foreign equivalent degree and letters from current or former employers showing that you have at least 5 years of progressive post-baccalaureate work experience in the specialty.</p> <p>If a doctoral degree is customarily required, you must have a United States doctorate or foreign equivalent degree</p>

Exceptional Ability	You must be able to show exceptional ability in the sciences, arts, or business. Exceptional ability “means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business.” You must meet any requirements specified on the labor certification as applicable.	You must meet at least three of the criteria below.
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## Eligibility Criteria

- Official academic record showing that you have a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to your area of exceptional ability
- Letters from current or former employers documenting at least 10 years of full-time experience in your occupation
- A license to practice your profession or certification for your profession or occupation
- Evidence that you have commanded a salary or other remuneration for services that demonstrates your exceptional ability
- Membership in a professional association(s)
- Recognition for your achievements and significant contributions to your industry or field by your peers, government entities, professional or business organizations
- Other comparable evidence of eligibility is also acceptable.

Labor Certification and Ability to Pay. Employment-based, second-preference petitions must usually be accompanied by a certified Application for Permanent Employment Certification from the Department of Labor (DOL) on ETA Form 9089, however, DOL provides for a blanket (Schedule A) certification in certain situations. As part of the application process, your employer must be able to demonstrate an ability to pay the offered wage as of the priority date and continuing until you obtain lawful permanent residence status. Your employer may use an annual report, federal income tax return, or audited financial statement to demonstrate a continuing ability to pay your wage. Finally, you may request a waiver of this requirement in the national interest through the

petition filed with USCIS. Because the national interest waiver waives the job offer, you do not need to demonstrate an employer's ability to pay a wage.

## **National Interest Waiver**

Those seeking a national interest waiver are requesting that the job offer, and thus the labor certification, be waived because it is in the interest of the United States. The endeavors that qualify for a national interest waiver are not defined by statute; instead, **USCIS considers the 3 factors below.**

Those seeking a national interest waiver may self-petition (they do not need an employer to sponsor them).

### **Factors USCIS Considers for National Interest Waiver**

- The proposed endeavor has both substantial merit and national importance.
- You are well positioned to advance the proposed endeavor.
- On balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus the labor certification.