

Establishing Eligibility as an Outstanding Professor or Researcher

8 C.F.R. § 204.5(i)(3)(i)

This document is a compilation of industry standards and USCIS policy guidance. Prior to beginning an Immigrant Petition with Georgia Tech, we ask that you review this document carefully to determine if you are eligible to meet at least 3 of the criteria.

Below you will find a description of each criterion, as well as examples of evidence. When available, you will also find guidance regarding the 2 step process explained above for each criterion ("Evaluation of the Evidence").

Proving International Recognition

Must prove that the alien is recognized internationally as outstanding in a specific academic area INA 203(b)(1)(B)(i), 8CFR204.5(i)(3)(i)

It is important to note here that the controlling purpose of the regulation is to establish international recognition, and any evidence submitted to meet these criteria must therefore be to some extent indicative of international recognition. More specifically, outstanding professors and researchers should **stand apart** in the academic community through eminence and distinction based on international recognition.

Proving Experience

Must prove at least 3 years of experience in teaching or research in the academic area (INA 203(b)(1)(B)(ii), 8CFR 204.5(i)(3)(ii))

- Experience gained as graduate student will only be acceptable . . . if he/she had full responsibility for the class taught or if the research . . . has been recognized within the academic field as outstanding¹ (expert opinion letters can address recognition garnered)
- Evidence . . . shall be in the form of letter(s) from current or former employer(s) and include . . . a specific description of the duties performed by the alien²
- If it has been less than 3 years since your terminal degree was conferred, you must document carefully with letters from prior employers, explaining teaching and research duties in a manner to meet the specific requirement stated in the regulations.

¹ (8 CFR 204.5(i)(3)(ii))

² (8 CFR 204.5(i)(3)(ii))

Proving a “Permanent” Position

Must prove tenured or tenure-track teaching position or comparable research position (INA 203(b)(1)(B)(iii), 8 CFR 204.5(i)(3)(iii))

- Permanent, in reference to a research position, means either tenured, tenure-track, or for a term of indefinite or unlimited duration, and in which the employee will ordinarily have an expectation of continued employment unless there is good cause for termination³
- Professor
 - Proof that position is tenure-track or tenured (job offer letter or contract) suffices and need not further establish permanence
- Researcher
 - A letter to USCIS from the Department Chair will suffice if it states that employment is for a term of indefinite or unlimited duration, in which the employee will ordinarily have an expectation of continued employment unless there is good cause for termination.⁴

All I-140 Petitions are evaluated by USICS in two steps⁵:

Part One: Evaluate Whether the Evidence Provided Meets any of the Regulatory Criteria.

The determination in Part One is limited to determining whether the evidence submitted with the petition is comprised of at least two of the six regulatory criteria listed at 8 CFR 204.5(i)(3)(i) as discussed below, applying a preponderance of the evidence standard.

Part Two: Final Merits Determination.

In Part Two of the analysis in each case, USCIS officers should evaluate the evidence together when considering the petition in its entirety to make a final merits determination of whether or not the petitioner, by a preponderance of the evidence, has demonstrated that the alien is recognized internationally as outstanding in a specific academic area.

(A) Documentation of the alien's receipt of major prizes or awards for outstanding achievement in the academic field

Documentation of the alien's receipt of major prizes or awards for outstanding achievement in the academic field (8 CFR 204.5(i)(3)(i)(A))

³ 8 CFR 204.5(i)(2)

⁴ 8 CFR 204.5(i)(2)

⁵ USCIS Policy Memorandum PM-602.005.1

Evidence Sub-Categories and Criteria

Prizes and Awards

- Receipt of major prizes or awards for outstanding achievement in the academic field.
- Relevant considerations include the criteria, number of awardees, and limits on competition (such as whether limited to employees of only one institution).
- Documentation should include a copy of the prize or award and a translation of the document, if it is not written in English.
- An expert letter can explain the significance of awards; a letter should explain the criteria for the award or prize and the significance of the award/prize on a national or international level.

Grants

- Include competitive grants of high amounts or major grant awards which indicate outstanding work; many are based on prior outstanding achievements and are carefully peer-reviewed.
- Relevant considerations include the criteria, number of awardees, and limits on competition (such as whether limited to employees of only one institution)
- An expert letter can explain the significance of grants; a letter should explain the criteria for the grant and the significance of the grant on a national or international level.

Other Considerations

- Student prizes, awards, and fellowships do not meet this criterion: teaching assistant awards, dean's list, elected student leader positions, examination scores, travel grants, and even research grants are not acceptable evidence.
- USCIS reads "major" to mean "international"
- Major awards and prizes are rare for professors and researchers in the early stages of their career

(B) Documentation of the alien's membership in associations in the academic field which require outstanding achievements in the academic field

Documentation of the alien's membership in associations in the academic field which require outstanding achievements of their members (8 CFR 204.5(i)(3)(i)(B))

Evidence Criteria

- Memberships in associations in the academic field that require outstanding achievements of their members, requires nomination or election and/or are extremely restrictive in their membership requirements.
- Documentation should include proof of membership in the form of a membership card, proof of payment or dues, etc.
- Evidence must include the criteria for membership and/or the steps that must be taken to become a member, and.

- Include statistics on membership; the total number of members of each association, the number of applicants, etc.

Other Considerations

- Professional associations in which membership is granted for the payment of a membership fee are not acceptable evidence
- Membership requirements based on employment or activity in a given field, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues do not satisfy this criterion.
- Still, probably good idea to submit proof of

(C) Published material in professional publications written by others about the alien's work in the academic field. Such material shall include the title, date, and author of the material, and any necessary translation

Published material in professional publications written by others about the alien's work in the academic field. Such material shall include the title, date, and author of the material . . . (8 CFR 204.5(i)(3)(i)(C))

Evidence Sub-Categories and Criteria

- Include organized list of publications and copies.
- Documentation should include the date and author of such published material and any necessary translations.

Reviews of the beneficiary's work

- Publications reviewing the work of the beneficiary in detail.

Research continuing from (or inspired by) the beneficiary's work

- Research that directly uses technology or theories developed by the beneficiary.

Other Considerations

- Establish the publications' circulation, intended audience, and show title, author, and date
- Standard academic citations (especially passing citations) do not suffice
- Articles that cite the alien's work as one of multiple footnotes or endnotes are generally not "about" the alien's work
- USCIS is not persuaded that citations of an article authored by the beneficiary constitute published material about the alien's work

(D) Evidence of the alien's participation as the judge of the work of others in the same or an allied academic field

Evidence of the alien's participation, either individually or on a panel, as the judge of the work of others in same or allied academic field (8 CFR 204.5(i)(3)(i)(D))

Evidence Sub-Categories and Criteria

- Participation on a panel or individually as a judge of the work of others in the same or allied field.
- Documentation must include a complete list of all journals, conferences, etc. for which you have participated in a reviewer role.

Journal Review

- Documentation may include review articles written by the beneficiary and published in professional journals
- Documentation should include evidence that the beneficiary completed the requested task; letters of invitation may not be sufficient to demonstrate that the beneficiary agreed and completed the task.
- Include proof that the review was actually completed, not just the invitation

Editorial Board

- Letters from journal editorial review boards acknowledging that you have served as a reviewer of manuscripts for publication in peer-reviewed journals

Conference Panel

- Conference panels or conference organizing committees (reviewing submissions/proposals)
- Documentation should include letters of invitation and conference programs with your name and role highlighted.

Other Committees

- Letters or other written documentation attesting that you have served as a judge of a scientific competition
- Letters from universities attesting that you have served on dissertation or thesis committees

Other Considerations

- Reviewing once or twice might not pass the final merits determination.
- Peer review is routine in most fields; however not every peer reviewer enjoys international recognition. Without evidence that sets you apart from others in your field, such as evidence that you have reviewed manuscripts for a journal that credits a small, elite group of referees, received independent requests from a substantial number of journals, or served in an editorial position for a distinguished journal, there is no evidence that your judging experience is indicative of or consistent with international recognition.

(E) Evidence of the alien's original scientific or scholarly research contributions to the academic field

Evidence of the alien's original scientific or scholarly research contributions to the academic field (8 CFR 204.5(i)(3)(i)(E))

Evidence Sub-Categories and Examples

Expert Opinion Letters

- Letters or affidavits from recognized experts in your field of endeavor commenting on your achievements in the field that clearly and specifically demonstrate how your achievements elevate you to the status of outstanding researcher with or international recognition.
- Letters that lack specifics and simply use hyperbolic language do not add value, and are not considered to be probative evidence.
- Letters that primarily contain bare assertions of widespread recognition and vague claims of contributions without specifically identifying contributions and providing specific examples of how those contributions have influenced the field will be discounted.
- These letters should include information about the writer's qualifications for commenting on your achievements, how long, and in what capacity the writer has known you.
- The letters should include a condensed C.V. or a biographical paragraph in the letter
- Number of Letters
 - The recommended number of letters is 6 – 10.
 - About half of these should come from international sources.
- Authors
 - The authors do not have to be academics.
 - Those not closely associated with you are considered most objective, but close associates may provide best information. The key is to get a variety.

Proof of participation in professional conferences and meetings

- Copies of the conference agenda or program with alien's name and contribution.
- Must include a complete list of all participation in professional conferences and meetings.
- Include evidence that demonstrates the importance of each conference and/or the prestigious nature of the conference.

Approved patents may serve as evidence of original scientific research

- Patents should be considered evidence of an original contribution, but may not be very helpful at Step 2 unless widely used
- Include a copy of the approved patent
- Include testimony or other evidence that the patent is used and/or demonstrates the importance of the patent

Footnoted acknowledgment of data from the beneficiary's publications

- Citations and footnotes from the beneficiary's publications.

- Must include citation report from an online source (GoogleScholar, SciFinder, or the Web of Science)
- Citation record can help USCIS understand that the field has acknowledged the research detailed in the article and perhaps elevate it to an original research contribution

Other Considerations

- EB-1 RFEs and denial notices have stated that "assertions about the value of the beneficiary's work" do not in themselves establish international recognition without adequate documentary evidence. Letters should be from objective, established experts in the field.
- May be helpful to propose draft text for the writer to consider using, revising, or even discarding (if not the qualitative part, at least the facts), but make sure author realizes request is not simply to sign the draft or standard letter of recommendation.
- Including the full C.V. of each expert and/or extensive description of achievements can be problematic, since USCIS may compare beneficiary's achievements with those of the experts.

(F) Evidence of the alien's authorship of scholarly books or articles (in scholarly journals with international circulation) in the academic field

Evidence of the alien's authorship of scholarly books or articles (in scholarly journals with international circulation) in the academic field (8 CFR 204.5(i)(3)(i)(F))

Evidence Sub-Categories and Examples

- Evidence of scholarly books or articles, in scholarly journals with international circulation in the academic field
- Must include a complete list of all publications to date.

Books

- Books you have authored and published.
- Include copies of the cover page of each book, with English translations as appropriate
- Include copy of book cover and title page
- Include any additional information about the circulation of the book

Book Chapters

- Book chapters you have authored and published.
- Include copies of the cover page of each article, book chapter or book, with English translations as appropriate.

Journal Articles

- Journal articles you have authored and published.
- Include copies of the cover page of each article, with English translations as appropriate, with your name highlighted.

- ISI ranks journals, and many journals rank most downloaded articles
- In cases where you are not the primary author of articles, provide documentation in the form of a letter(s) from the primary author(s) that advises whether your involvement in the article(s) included any notable function within either the research or writing teams (leadership, control, design, etc).

Other Considerations

- Establish that circulation is international and intended audience (often journals' websites provide such data)
- As in other categories, USCIS will look for distinction at Step 2
- Expert opinion letters can discuss significance of publications
- Seminal articles and widely used books especially powerful at Step 2