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## EB-2 National Interest Waivers

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Submitted by admin on Feb 2nd 2009

**The new NIW Standards are at:**

**<http://www.immigration.com/blogs/new-standards-national-interest-waiver-...>** <sup>[2]</sup>

In 1998, a decision by the AAO elaborated the standards for National Interest Waiver of the job offer requirement.

The following criteria were established:

- (1) the person seeks employment in an area of substantial intrinsic merit;
- (2) the benefit provided by the beneficiary will be national in scope (serving a regional, local or private interest will not be sufficient); and
- (3) the national interest would be adversely affected if a labor certification were required, i.e. the benefit derived from the particular alien's unique skills in the national interest field of endeavor must considerably outweigh the inherent national interest in protecting U.S. workers through the labor certification process. The national interest exemption must be significantly higher than that required to establish prospective national benefit required for all persons seeking exceptional status.

To be exempt from the job offer requirement, the USCIS must determine that an exemption would be in the national interest. A labor certification is not required if a national interest waiver is granted.

Qualified alien physicians who will be practicing medicine in an area of the United States certified by the Department of Health and Human Services as underserved may also qualify for this classification. Such physicians should agree to work full time in a designated health professional shortage area (HPSA) or in a Veterans Administration (VA) hospital and a federal agency or state department of public health determines that the physician's work is in the public interest. The physician's full time work should be for an aggregate of five years (not including time on J-1) before he/she is eligible for an Adjustment of Status. These five years also should be completed within a six-year period from the time the employment is authorized

or if already employment was authorized, then from the time the Alien Immigrant petition (I-140) was approved. Petitions and Adjustment of Status can be filed prior to the date when the five-year service is completed. Note that the USCIS has determined that the physician who is an I-140 beneficiary with a national interest waiver [under section 212(e) waivers are granted to physicians practicing in family or general medicine, pediatrics, general internal medicine, obstetrics/gynecology, and psychiatry] may file his/her adjustment of status application even if he/she has not completed the three- or five-year medical service requirement in H1-B status. In such cases, USCIS may not approve the Adjustment of Status until the physician has completed the three- or five-year requirement.

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Rajiv S. Khanna Discussing Immigration Options for Top Performers in Sciences

### **Green Card:**

EB2 Green Card [3]

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### **Links:**

[1] <https://immigration.com/greencard/eb2-green-card/eb-2-national-interest-waivers>

[2] <http://www.immigration.com/blogs/new-standards-national-interest-waiver-dhanasar-case>

[3] <https://immigration.com/greencard/green-card/employment-based-green-cards/eb2-green-card>