

## Employment-Based Immigration: Second Preference EB-2 National Interest Waiver

The Immigration and Nationality Act permits the Attorney General to waive the requirements of a PERM application *“when the Attorney General deems it to be in the national interest”*. To qualify for a National Interest Waiver, it must be shown that the foreign national seeks employment in an area of substantial intrinsic merit; the proposed benefit will be national in scope; the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications. Furthermore, the foreign national must demonstrate exceptional ability in the sciences, arts or business through evidence of at least three of the following:

- An official academic record showing that the alien has an advanced degree relating to the area of exceptional ability;
- Evidence showing that the alien has at least ten years of full-time experience in the occupation for which he or she is being sought;
- A license to practice the profession or certification for a particular profession or occupation;
- Evidence that the alien has commanded a salary which demonstrates exceptional ability;
- Evidence of membership in professional associations;
- Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations;
- If the above standards do not readily apply to the beneficiary’s occupation, the petitioner may submit comparable evidence.

Those seeking a national interest waiver may self-petition (they do not need an employer to sponsor them) and may file their labor certification directly with USCIS along with their Form I-140, Petition for Alien Worker.

