



McCandlish Holton
A PROFESSIONAL CORPORATION

Exceptional Ability and Advanced Degree Professionals

This category is reserved for persons holding advanced degrees (M.S., Ph.D., J.D., M.B.A., M.A.) or who can demonstrate exceptional ability in the sciences or business.

Examples:

- § A chemist with a Ph.D.;
- § An engineer with a B.S. in Mechanical Engineering and five (5) years of progressive experience equal to an M.S. in Engineering;
- § A highly compensated business executive with ten (10) years experience, who has been recognized for significant contributions to his industry.

Green Cards in this preference category can be issued to employees of U.S. operations who have ***no prior experience*** with the parent company abroad.

STRATEGY TIPS:

Before filing the Second Preference Petition, the employer must obtain Labor Certification, which requires advertising the position and showing that there are insufficient U.S. workers meet the position's minimum qualifications. This step can delay issuance of the Green Card by 6-18 months or more, depending on the state of employment.

There is an important exception to Labor Certification, which can eliminate much of the wait for the Green Card: the National Interest Waiver ("NIW"). The NIW is granted to business or research personnel of "exceptional ability" or with an advanced degree who can show that their activities will substantially benefit the U.S. national economy, health or welfare. The issuance of an NIW is a complex area but one of importance to a wide range of businesses, particularly high technology and scientific firms.