

Tab 1

A Quick Guide on Green Card Application During PhD Study

Disclaimer: the contents in this document are for informational purposes only and should not be treated as legal advice.

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Introduction

What are the benefits of a green card?

A green card grants you permanent resident status with the following benefits:

- You can freely travel in and out of the U.S., and some other countries like Canada, without a visa.
- There is no cap on the number of unemployment days you can accrue (whereas you have a max of 90 days on OPT and 60 days on H1B).
- You can apply to industry jobs more easily (many companies de-prioritize or decline to hire candidates that require sponsorship) or start your own company.
- After 3 or 5 years of getting a green card, you can apply for U.S. citizenship.

There are also small travel benefits (TSA Pre, Global Entry) and tax implications (FICA) that come with a green card.

How do you get a green card?

Not everyone who studies and works in the U.S. can become permanent residents (green card holders). To be eligible for a green card, you need to demonstrate that you are **special** in some ways, for example:

- You are a spouse or immediate relative of a U.S. citizen (F1) or permanent resident (F2)
- You are a celebrity or a top researcher in your field (EB-1)
- You hold an advanced degree or have exceptional abilities (EB-2)
- You are a skilled worker and your employer cannot find a U.S. citizen to fulfill your job (EB-3)
- You invested a lot of money in the U.S. (EB-5)
- You come from a low-admission foreign country (i.e., the U.S. has admitted 50,000 or fewer immigrants from your country in the past 5 years) and win the [Electronic Diversity Visa](#) lottery (DV).

USCIS defines these categories along with the degree of preference for each category [here](#). Each category has its own eligibility criteria, but most will require someone to sponsor the green card for you (family member, spouse, employer, or yourself). For international students enrolling in a PhD program, employer sponsor is not possible and spouse/family sponsor may not be applicable. Thus, the most common pathways are those that allow you to self-sponsor:

- EB-1A: have a very strong research profile with dozens of publications, citations and awards.
- EB-2 NIW: demonstrate that your research benefits the U.S.

Why should you get a green card during your PhD study?

The benefits of getting a green card during a PhD depend on your situation. Here are some factors to consider:

- If you are set on staying in academia, you don't actually need a green card during your PhD. You will get a guaranteed H1B after graduation (as a postdoc or professor), and then the school where you work should take care of your green card application.
- If you are unsure about academia vs industry, having a green card will open up the most opportunities. You can also work at a startup that typically doesn't have resources to sponsor employees.
- If you are from China or India, the green card timeline is very long, so it is unlikely that you will finish it before graduating. On the other hand, because the timeline is so long, there is an advantage to starting as early as possible.

In general, having a green card means that your staying in the U.S. is not tied to your employment or education, and you are not impacted by changes to immigration policies. Furthermore, you are free to travel outside the U.S. to attend conferences or visit family. In addition, you are no longer bound by F-1 restrictions: you can study remotely, or study and work at the same time.

Should you wait for an employer sponsor once you start working?

Traditionally, the most common way to get a green card is through an employer sponsor. In academia this should be guaranteed, although it may take a while to get the school's HR to start your case. In industry, several big tech companies also offer to start the green card process on day one. However, there are a number of complications to take into account:

- Day-one green card is the minority. The majority of companies will require you to work for a few years and secure an H1B before they sponsor you. H1B is particularly tricky because it is based on random lottery, and the selection rate has been declining in recent years (43.8% in 2022, 26.9% in 2023, 24.8% in 2024).
- Certain companies, like IBM, do not hire international students at all.
- Employer sponsors (in the EB3 category) can get interrupted. As part of this process (called PERM), the employer needs to demonstrate that they have attempted to find qualified U.S. citizens for your position but failed to do so, which is why you deserve a green card. Operationally, this involves making a (fake) job posting for your current job and then verifying that no U.S. applicants are qualified. However, companies cannot make new job postings if they are also laying off or freezing hiring, which is common in this economy (example: [Google and Amazon](#)).
- If you have to switch companies during the employer sponsor process, you likely need to restart this process with the new employer.

Overview of the Green Card Process

Primary steps: I-140 and I-485

There are two primary steps to get a green card.

Step 1 (Form I-140) is to demonstrate that you are eligible for a green card, i.e., someone is able to sponsor you. This could be your employer, family, or yourself. Self-sponsoring falls under the EB-1A or EB-2 category, as explained above. This is where you need to demonstrate your research excellence and impacts, by submitting research statements, recommendation letters, proof of awards and paper reviews, and so on. This step can take up to 2 years, but can be shortened to 45 days if you apply for Premium Processing (which costs \$2,800 more).

Step 2 (Form I-485) is to apply for the actual green card, once step 1 concludes and your turn has come up. This is mostly paperwork, you just need to submit birth certificates, medical records, past I-20s, and so on. The duration of this step depends on your country of origin and when you start Step 1 (i.e., your **priority date**, more on this below).

Once I-485 finishes, the green card will be mailed to you, and you are officially a permanent resident. Marriage-based green cards last for 2 years, and after 3 years you can apply to be a U.S. citizen. Employment-based green cards last for 10 years, and after 5 years you can apply to be a U.S. citizen.

Priority date: when you can get the green card

The day USCIS receives your application for Form I-140 is your priority date. This date determines when you can file I-485 and when you can receive the final decision for I-485, per the [USCIS visa bulletin](#).

When your priority date is on or before the date listed in the visa bulletin for your category, the priority date is considered **Current**. As an example, to see when you are eligible to file for I-485, look at the **Dates for Filing** table:

Employment-based	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
1st	C	01JAN23	15APR22	C	C
2nd	01AUG23	01OCT20	01JAN13	01AUG23	01AUG23

Some example data from the table:

- **(Row 1, Column 3)** If you are from China, submitted an EB1 application, and your priority date is on or before 01/01/2023, you are eligible.
- **(Row 1, Column 4)** If you are from India, submitted an EB1 application, and your priority date is on or before 04/15/2022, you are eligible.
- **(Row 1, Column 2)** If you are from other countries and submitted an EB1 application, you are eligible regardless of your priority date.
- **(Row 2, Column 2)** If you are from other countries, submitted an EB2 application, and your priority date is on or before 08/01/2023, you are eligible.

To see when you are eligible to receive the final decision for I-485, look at the **Final Action Dates** table:

Employment-based	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
1st	C	08NOV22	01FEB22	C	C
2nd	15MAR23	22MAR20	15JUL12	15MAR23	15MAR23

Some example data from the table:

- **(Row 1, Column 3)** If you are from China, submitted an EB1 application, and your priority date is on or before 11/08/2022, you are eligible.
- **(Row 1, Column 4)** If you are from India, submitted an EB1 application, and your priority date is on or before 02/01/2022, you are eligible.
- **(Row 1, Column 2)** If you are from other countries and submitted an EB1 application, you are eligible regardless of your priority date.
- **(Row 2, Column 2)** If you are from other countries, submitted an EB2 application, and your priority date is on or before 03/15/2023, you are eligible.

Note that being eligible to receive the final decision does not mean you will receive the final decision in the near future; it may still take an indeterminate amount of time, depending on the USCIS backlog. But you definitely cannot get a decision if your priority date is not current based on the Final Action Date table.

If you are starting your green card application, the above table is useful to estimate your timeline. For example, let's say you are from China and plan to file EB-1. Chinese people who filed I-140 before Jan 2023 can file I-485 in Nov 2024, so there is a roughly 2-year gap. That means if you file I-140 in Nov 2024, you can expect to be eligible to file I-485 2 years later, around Nov 2026, assuming no significant changes occur.

How does green card filing impact my student visa?

Filing a green card can introduce conflicts with your F-1 visa, which is a non-immigrant visa (i.e., you are expected to leave the U.S. after your visa ends). That said, there are some nuances to keep in mind.

- Filing or receiving approval for I-140 *alone* does not invalidate your F-1 visa, because you cannot become an immigrant with only I-140. However, keep in mind the keyword *alone* – if you have performed other actions that can be linked to immigration intents (e.g., buying a house, starting a company), then these actions, together with I-140, may be considered “crossing the line” and lead to student visa termination.
- Filing for I-485 can invalidate your F-1 visa. In this case, you still keep your current status (F-1 / OPT), but your application for F-1 renewal or OPT / OPT extension may get rejected (if the school knows about your I-485 application). Furthermore, you may also get rejected when re-entering the U.S. on an F-1 visa after overseas travel.

While you lose the ability to work or travel abroad based on your F-1 visa after filing I-485, you can apply for these benefits again along with your I-485 application, by filing two additional forms: I-765 (employment authorization) and I-131 (travel parole). However, the timeline for these two forms may be very long, depending on the green card backlog¹. On the other hand, you are able to stay in the U.S. while your I-485 is under review – you just can't work/travel until you get I-765/I-131 approval.

Example green card filing timeline

Given the above restrictions, it is important to align your green card filing with graduation plan to make the most out of your F-1 benefits while also getting a green card as early as possible.

When should you file for I-140?

Do it as soon as your research profile is strong enough for the desired category (EB-1A or EB2 NIW). You can contact an immigration law firm for a free profile review. If the lawyer thinks you have sufficient credentials, they will offer a contract. The two most popular law firms for high-skilled immigrants are [Eliis Porter](#) and [WeGreened](#) (also known as Chen).

When should you file for I-485?

The first requirement is that your priority date must be current (see the [Priority Date section](#) from earlier). Otherwise, you need to continue waiting.

If there are still at least 2 years before graduation, you can file for I-485 right away, along with I-765 and I-131. While the green card approval may not finish by the time you graduate, you should be able to get I-765 and I-131 approval in time to work/travel after graduation.

If you are close to graduating, you may want to wait until you have received OPT approval before filing for I-485. In this way, you can still use OPT to work while waiting for your green card.

Below is my green card filing timeline for reference:

01/2023: Filed I-140

03/2023: Received I-140 approval

12/2023: Applied for F-1 OPT

01/2024: Defended PhD thesis + Filed I-485

02/2024: Graduated & Received F-1 OPT

07/2024: Received I-485 approval (green card)

¹ In my case, I only received I-765 approval two weeks before my green card approval, and never received I-131 approval (this application was terminated once I got my green card).

