

Strategies to Overcome Low Citation Counts in EB-1 and NIW Petitions
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As many of our readers are aware, citations to an EB-1 or NIW petitioner's peer-reviewed publications are one of the primary forms of objective evidence to demonstrate a petitioner's impact on his or her field. In certain cases, a petitioner may be well qualified for approval, but may not have a particularly strong citation list to indicate objective influence in the field. In the next two articles, we will explore some of the successful strategies our office has employed to overcome this apparent shortcoming.

When discussing citations, the type of field that a petitioner works in is one of the fundamental indicators of how many potential citations a petitioner may have. It is widely accepted that petitioners in the life sciences will usually have more citations than a petitioner in the electronic engineering field due to the rich culture of citations that has traditionally been fostered by the life sciences, and the proprietary issues that usually accompany new discoveries in electronic engineering. This distinction was expressly recognized by the USCIS Nebraska Service Center ("NSC") in a November 2009 Liaison Meeting with the American Immigration Lawyers Association. When asked if it recognized differences between fields for publication and citation rates, the NSC explained that it did indeed recognize that some fields would have higher publication/citations rates than others and adjust its adjudication accordingly. The NSC also added that it had compiled its own guidelines on how much a typical researcher might cite or publish for a particular field.

While the NSC did not indicate which specific sources it consults for publication/citation data, our office submits a report compiled by one of the leading scientific publishers to demonstrate the publication and citation expectations for a particular field if warranted by the case. Using one recent NIW case as an example:

The petitioner was a materials scientist who worked for a private company. She had a solid background with some recognition in the field but only had 13 total citations to her 5 peer-reviewed publications published in the last few years.

To overcome this low citation count, we submitted a citation report which showed that for the years 2007 and 2008, articles in the materials sciences averaged 1.18 and 0.17 citations per year respectively. By demonstrating that the petitioner's citation count was actually higher than the expected average, we were able to turn an apparent shortcoming into a strength. This case was approved in eight months from original submission after receiving an RFE. In another recent example:

The petitioner was a neuroscientist who was working on pharmaceuticals to inhibit certain receptors in the brain to help with pain tolerance. In addition to his fundamental research, he was working on a drug that was being tested in clinical trials at the time of submission. He had 6 publications in the field and a total of 26 citations.

For this case, the petitioner could have fairly been classified as either a researcher in the neurosciences or a researcher in clinical medicine. While deciding which type of field to classify him in, we noticed that articles in clinical medicine had an average citation rate of 9.49 citations per year, while the neurosciences had an average rate of 17.82 citations per year. Due to his low citation count, we presented him as a researcher in clinical medicine, which brought his average citation count well above the yearly average for the field. This case was approved in approximately 6 months without an RFE.

As the above examples demonstrate, it is possible to get approvals for cases with low citation counts if you strategically use the petitioner's field to its best effect. In our next article, we will explore several other methods our office has used to win approvals for EB-1 and NIW cases with a low citation history.

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