

How to Evaluate an EB 5 Attorney Track Record

A comprehensive guide from EB5 Attorneys

Selecting an EB 5 attorney based on marketing claims alone is risky. Attorneys advertise high approval rates and extensive experience, but few investors know how to verify those claims independently. This guide provides a practical, step by step framework for evaluating an EB 5 attorney's actual track record, including petition volume, approval rates, professional affiliations, published work, and disciplinary history.

Contents

1. Why Track Record Matters in EB 5 Cases
2. Evaluating I 526E Petition Volume and Approval Rates
3. AILA Membership and EB 5 Committee Involvement
4. Published Articles, Speaking Engagements, and Thought Leadership
5. Client References and Testimonials
6. Bar Disciplinary History and Malpractice Insurance
7. Verifying Claims Attorneys Make About Their Track Record
8. Building Your Evaluation Scorecard
9. Frequently Asked Questions

Why Track Record Matters in EB 5 Cases

EB 5 cases involve a minimum investment of \$800,000 (for TEA projects) or \$1,050,000 (for non TEA projects) as of April 2026, making the financial stakes among the highest in immigration law. Under INA Section 203(b)(5) and the EB 5 Reform and Integrity Act of 2022, the legal requirements for source of funds documentation, business plan preparation, TEA designation, and job creation analysis are technically demanding. An attorney who has successfully guided hundreds of investors through the I 526E petition process (Form I 526E, filed with USCIS) will recognize issues that a less experienced attorney might miss entirely. Track record is not a vanity metric. It directly correlates with the attorney's ability to anticipate USCIS adjudication patterns, prepare documentation that withstands scrutiny, and respond effectively to Requests for Evidence (RFEs). USCIS data shows that I 526E petitions with well documented source of funds narratives receive fewer RFEs, and RFE response quality is often the determining factor in whether a petition is ultimately approved or denied. The attorney you choose will handle documents touching your life savings, your family's immigration future, and a multi year legal process. Verifying their track record is due diligence, not optional.

Evaluating I 526E Petition Volume and Approval Rates

The most direct measure of an EB 5 attorney's experience is the number of I 526E petitions they have filed and the outcomes of those cases. During your initial consultation, ask the attorney directly: How many I 526E petitions have you personally prepared and filed? What is your approval rate, and how do you calculate it? How many of your petitions received RFEs, and what was the outcome after the RFE response? Have any of your I 526E petitions been denied, and if so, why? Be cautious about attorneys who cite their firm's statistics rather than their personal numbers. A large firm may have filed hundreds of petitions, but the specific attorney handling your case may have worked on only a handful. Similarly, be skeptical of attorneys who claim 100% approval rates. Very high approval rates may indicate that the attorney is highly selective about which cases they accept (which is not inherently bad), but it may also indicate a small sample size or selective reporting. A more meaningful metric is the attorney's RFE rate and RFE response success rate. An attorney who files a high volume of petitions with a low RFE rate demonstrates strong initial preparation, while a high RFE response success rate shows the ability to recover when USCIS raises concerns. USCIS does not publish attorney specific approval data, so you must rely on the attorney's self reporting. Ask for specifics: approximate numbers, not percentages alone.

AILA Membership and EB 5 Committee Involvement

The American Immigration Lawyers Association (AILA) is the primary professional organization for immigration attorneys in the United States. AILA membership alone does not guarantee competence, but active participation in AILA's EB 5 focused committees and practice groups indicates that the attorney stays current on developments in EB 5 law and policy. AILA maintains several committees and liaison groups relevant to EB 5, including the EB 5 Committee, the USCIS Liaison Committee, and the Department of State Liaison Committee. Attorneys who serve on these committees participate in direct dialogue with USCIS and State Department officials about EB 5 policy, processing issues, and regulatory changes. This level of engagement provides practical insight that an attorney working in isolation does not have. To verify AILA membership and committee involvement, ask the attorney directly and cross reference with AILA's online member directory at aila.org. Committee participation is typically listed on the attorney's AILA profile. You can also check whether the attorney has spoken at AILA conferences or contributed to AILA practice resources and publications. Another relevant organization is the Association to Invest in the USA (IIUSA), the industry trade association for EB 5 regional centers. Attorneys who are active members of IIUSA and participate in its annual EB 5 Industry Forum demonstrate engagement with the broader EB 5 ecosystem, including regional center compliance and securities law considerations.

Published Articles, Speaking Engagements, and Thought Leadership

Attorneys who publish articles, present at industry conferences, and contribute to legal education in the EB 5 space typically have deeper knowledge than those who do not engage in these activities. Publishing and presenting require the attorney to articulate their understanding of EB 5 law in a way that peers and the public can evaluate, which creates accountability. When evaluating published work, look for: articles in legal journals or industry publications (such as AILA publications, ILW.com, EB5Investors.com magazine, or law reviews); presentations at AILA conferences, IIUSA forums, or bar association events; CLE (Continuing Legal Education) courses that the attorney has taught or authored; and case studies or practice advisories that demonstrate applied expertise. The substance of the publications matters more than the volume. An attorney who has written a detailed analysis of USCIS adjudication trends for I 526E source of funds cases is demonstrating practical knowledge directly relevant to your case. An attorney whose publications are limited to general marketing content or blog posts that restate basic program requirements is demonstrating less. Search for the attorney's name on Google Scholar, Westlaw, LexisNexis, the AILA InfoNet, and general web searches. Review their firm's website for a publications or media section. Check LinkedIn for presentations, articles, and professional activity. If the attorney claims to be a recognized authority on EB 5, there should be a verifiable public record of that recognition.

Client References and Testimonials

Direct references from former EB 5 clients provide perspective that no other source can match. While attorneys cannot share client names without permission (due to attorney client privilege and confidentiality obligations), many attorneys have clients who have agreed to serve as references for prospective clients. During your evaluation, ask the attorney: Can you provide references from former EB 5 clients whose cases are complete? Can you provide references from clients whose cases involved RFEs or other complications? Can you provide references from clients with similar backgrounds or source of funds profiles to mine? When speaking with references, ask about: the attorney's communication and responsiveness; whether the attorney explained the process and set realistic expectations; how the attorney handled unexpected issues (RFEs, delays, or changes in circumstances); the overall timeline from engagement to conditional green card; and whether the reference would hire the same attorney again. Online reviews on Google, Avvo, Martindale Hubbell, and other legal directories provide additional data points, though keep in mind that online reviews can be gamed in both directions. A pattern of consistent positive reviews over several years is more meaningful than a handful of recent five star ratings. Be cautious about attorneys who have no references or who refuse to provide them. While confidentiality constraints are real, an established EB 5 practice should have at least some clients willing to speak on the attorney's behalf.

Bar Disciplinary History and Malpractice Insurance

Every licensed attorney in the United States is subject to oversight by the bar association of the state(s) where they are admitted to practice. Bar associations maintain disciplinary records that are publicly searchable, and checking these records should be a standard part of your evaluation. To check disciplinary history: identify the state(s) where the attorney is admitted; visit the state bar's website and use the attorney lookup or member search tool; review the attorney's status (active, inactive, suspended, disbarred) and any public disciplinary actions. Most state bar websites provide this information for free. For example, the State Bar of California's website at calbar.ca.gov allows you to search by attorney name and view their status, admission date, and any disciplinary history. The New York State Unified Court System provides similar searches, as do most other state bars. A clean disciplinary record does not guarantee competence, but any history of discipline (public reprimand, suspension, or disbarment) is a significant red flag that warrants further investigation or disqualification. You should also ask whether the attorney carries professional liability (malpractice) insurance. While malpractice insurance is not required in all states, an attorney who handles cases involving investments of \$800,000 or more should carry adequate coverage. The absence of malpractice insurance may indicate either financial instability or a lack of professional precaution that is inconsistent with the level of responsibility EB 5 representation entails.

Verifying Claims Attorneys Make About Their Track Record

Some attorneys make claims about their track record that are difficult to verify independently. Common claims include: "We have filed over 1,000 EB 5 petitions" or "Our approval rate is 99%." While these claims may be accurate, you should apply a critical eye. Ask clarifying questions: Does the number include the entire firm's history, or just the attorney who will handle your case? Does the approval rate include cases that were withdrawn, abandoned, or are still pending? Does the rate include cases that were initially denied but later approved on appeal or motion to reopen? Over what time period does the track record span, and does it include petitions filed under the pre 2022 regulations (which had different requirements)? Also consider the attorney's experience with the EB 5 Reform and Integrity Act of 2022, which significantly changed program requirements. An attorney who filed hundreds of petitions under the old rules but has limited experience with the current I 526E petition form and updated regulatory framework may not be as current as their historical numbers suggest. If an attorney claims a specific result or outcome, ask them to explain how they achieved it. A competent attorney should be able to describe their approach in specific terms rather than vague generalities. If the attorney cannot articulate a clear methodology for source of funds analysis, business plan review, or RFE response strategy, their claimed track record may not reflect the level of expertise you need.

Building Your Evaluation Scorecard

To organize your evaluation, create a simple scorecard that rates each prospective attorney across the key dimensions discussed in this guide. A practical scorecard might include the following categories, each rated on a scale of 1 to 5: I 526E petition volume (how many petitions filed personally); approval and RFE rates (what outcomes do they report, and do the numbers hold up under questioning); AILA and industry involvement (active committee participation versus basic membership); published work and speaking engagements (substantive contributions versus marketing content); client references (availability, relevance, and quality of references provided); bar standing and disciplinary history (clean record, active license, malpractice insurance); experience with your specific situation (country of origin, source of funds type, investment structure); communication quality (responsiveness, clarity, willingness to answer detailed questions); and fee transparency (clear engagement letter, defined scope, no hidden costs). No attorney will score a perfect 5 in every category, and the relative weight of each factor depends on your priorities. An investor with a straightforward case may prioritize fee transparency and communication, while an investor with a complex multi country source of funds narrative may prioritize demonstrated expertise in that area. The scorecard approach helps you compare attorneys objectively rather than relying on subjective impressions from a single consultation. Interview at least two or three attorneys before making your decision, and use the same questions with each one so you can compare their answers directly.

Frequently Asked Questions

1. Can I verify an EB 5 attorney's approval rate independently?

USCIS does not publish attorney specific approval data, so you cannot independently verify an attorney's claimed approval rate through government sources. You must rely on the attorney's self reporting, supplemented by client references, online reviews, and the attorney's professional reputation within the EB 5 community. Ask for specifics rather than accepting percentages at face value, and note how the attorney responds to detailed follow up questions about their numbers.

2. How many I 526E petitions should an attorney have filed to be considered experienced?

There is no official threshold, but attorneys who have personally prepared and filed at least 50 I 526E petitions (or their predecessor I 526 petitions) have generally encountered a wide enough range of issues to handle most case types competently. More important than raw volume is the attorney's experience with cases similar to yours in terms of country of origin, source of funds complexity, and investment structure. An attorney who has filed 30 petitions, all involving complex multi country source of funds, may be better equipped for your case than one who has filed 200 straightforward cases.

3. Is AILA membership required to practice EB 5 immigration law?

No. AILA membership is voluntary and is not a licensing requirement. An attorney can practice immigration law, including EB 5 cases, without being an AILA member. However, AILA is the primary professional association for immigration lawyers, and active AILA involvement, particularly in EB 5 specific committees, demonstrates a commitment to staying current on developments in the field. The absence of any professional association involvement may indicate that the attorney is less connected to the EB 5 practice community.

4. What should I do if I find disciplinary actions on an attorney's bar record?

Review the specific nature of the disciplinary action. A minor admonition for an administrative issue (such as late filing of bar fees) is very different from a suspension or disbarment for client fund mishandling or fraud. If you find any disciplinary history, ask the attorney to explain the circumstances. If the discipline involved dishonesty, misappropriation of client funds, or failure to competently represent clients, you should strongly consider selecting a different attorney. Your state bar's website typically provides details about the nature and outcome of disciplinary proceedings.

5. Should I choose an attorney based primarily on the lowest fee?

No. EB 5 legal fees typically range from \$15,000 to \$50,000 or more depending on case complexity, and the variation reflects differences in experience, service scope, and case handling capacity. An attorney who charges significantly less than the market range may be cutting corners on case preparation, outsourcing work to less experienced staff, or compensating through volume at the expense of individual attention. Conversely, the highest fee does not guarantee the best outcome. Evaluate fees in the context of the full picture: experience, track record, communication quality, and the scope of services included in the engagement.

6. How do I evaluate an attorney who primarily handles EB 5 cases for a single regional center?

An attorney who works primarily with one regional center may have deep knowledge of that center's projects and documentation requirements, which can be an advantage. However, this relationship also raises potential conflict of interest questions. Ask whether the attorney is paid by the regional center or by you, and whether the attorney has ever advised a client against investing in that regional center's project. An attorney whose livelihood depends on referrals from a single regional center may not provide fully independent advice. Ideally, your attorney should represent your interests exclusively, with no financial relationship with the regional center beyond the legal work on your petition.

Disclaimer: This guide is provided for general informational purposes only and does not constitute legal advice. Every immigration case is unique. Consult a qualified immigration attorney for advice specific to your circumstances.

© 2026 EB5 Attorneys. All rights reserved.

Source: <https://eb5attorneys.com/guides/eb5-attorney-track-record-evaluation>