

O-1A Visa: Individuals with Extraordinary Ability or Achievement in Business, Education, Science or other field different than in Arts or in Motion Picture or Television

The O-1A nonimmigrant visa is for the individual who possesses extraordinary ability in business, science, athletics, or other different than the arts or who has a demonstrated record of extraordinary achievement in the motion picture or television industry and has been recognized nationally or internationally for those achievements.

O-2 are those individuals who will accompany an O-1A, and whose assistance must be “essential” to the completion of the O-1A’s events. The O-2 worker has critical skills and experience with the O-1A that cannot be readily performed by a U.S. worker and which are essential to the successful performance of the O-1A

O-3 are those individuals who are the spouse or children (unmarried and under 21) of O-1A’s and O-2’s.

General Eligibility Criteria

To qualify for an O-1 visa, the beneficiary must demonstrate extraordinary ability by sustained national or international acclaim and must be coming temporarily to the United States to continue work in the area of extraordinary ability.

Extraordinary ability in the fields of science, education, business or athletics means a level of expertise indicating that the person is one of the small percentage who has risen to the very top of the field of endeavor.

Consultation

A written advisory opinion from a peer group (including labor organizations) or a person designated by the group with expertise in the beneficiary’s area of ability.

Exceptions to the Consultation Requirement:

If the petitioner can demonstrate that an appropriate peer group, including a labor organization, does not exist the decision will be based on the evidence of record.

Contract between petitioner and beneficiary

A copy of any written contract between the petitioner and the beneficiary or a summary of the terms of the oral agreement under which the beneficiary will be employed.

The summary of the terms of the oral agreement must contain:

- what was offered by the employer
- what was accepted by the employee

The summary does not have to be signed by both parties to establish the oral agreement. However, it must document the terms of the employment offered and that the beneficiary has agreed to the offer.

Itineraries

An explanation of the nature of the events or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events or activities. The petitioner must establish that there are events or activities in the beneficiary's field of extraordinary ability for the validity period requested, e.g. an itinerary for a tour or a series of events.

Agents

A U.S. Agent may be the actual employer of the beneficiary, the representative of both the employer and the beneficiary, or a person or entity authorized by the employer to act for, or in place of, the employer as its agent.

Please note that a petitioner who will be filing as an agent for multiple employers must establish that it is duly authorized to act as an agent for the other employers. Additionally, agents filing petitions for multiple employers must include with the petition:

- Supporting documentation including a complete itinerary of the event or events which specifies the dates of each service or engagement, the names and addresses of the actual employers, and the names and addresses of the establishments, venues, or locations where the services will be performed
- Contracts between the actual employers and the beneficiary; and
- An explanation of the terms and conditions of the employment with required documentation.

Evidentiary Criteria for O-1B

Evidence that the beneficiary has received, or been nominated for, significant national or international awards or prizes in the particular field, such as an Academy Award, Emmy, Grammy or Director's Guild Award, or evidence of at least (3) three of the following:

Evidence of at least three of the following:

1. Receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor. The evidence may include the following information:

- a. The award is internationally recognized in the field as one of the top awards for the field;
- b. The criteria used to grant the award;
- c. The significance of the award in the field;
- d. The reputation of the organization or the panel granting the award;
- e. Previous winners of the award who enjoyed international acclaim at the time of receiving the award;
- f. The award attracts competition from internationally recognized individuals in the field;
- g. Who is considered for the prizes or awards, including the geographic scope for which candidates may apply;
- h. How many prizes or awards are awarded each year.

Note: Academic Awards Not Generally Considered Nationally or Internationally Recognized

USCIS has found that prizes or awards received by the beneficiary while pursuing an education generally are not considered to be nationally or internationally recognized prizes or awards for excellence in the field of endeavor as they are generally given to students or early career professionals in the field and inherently exclude established professionals who have already risen to the top of the field of endeavor. If the petitioner believes the prizes or awards have significance in the field beyond being a student or early career award, the petitioner may submit additional evidence to confirm how the award(s) was/were given for excellence in the beneficiary's field.

2. Membership in associations in the field for which classification is sought which require outstanding achievements, as judged by recognized national or international experts in the field. The evidence must demonstrate:

- a. The associations require outstanding achievements of its members by showing the association's constitution or bylaws which discuss the criteria for membership for the beneficiary's level of membership in the association;
- b. The Beneficiary's Outstanding Achievements were the Basis for Granting Memberships as Judged by Recognized National or International Experts in their Disciplines or Field;
- c. Information to establish that the individuals who review prospective members' applications are recognized as national or international experts in their disciplines or fields;

- d. The section of the association's constitution or bylaws which discuss the qualifications required of the reviewers on the review panel of the association;
- e. Documentary evidence which describes the association's goals, mission, or target membership to confirm that the specific field.

3. Published material in professional or major trade publications, newspapers or other major media about the beneficiary and the beneficiary's work in the field for which classification is sought. To assist in determining that the publications qualify as professional or major trade publications or other major media, the petitioner may submit documentary evidence including:

- a. The title, date, and author of the published material; the circulation (online and/or in print); and, the intended audience of the publication. Note: The evidence submitted should be specific to the media format in which it was published. If the material was published online, the evidence should relate to the website. If it was published in print, the evidence should relate to the printed publication.

Note: The Published Material should be about the Beneficiary and the Beneficiary's Work in the Field for which the Classification is Sought. The published material should be about the beneficiary's work in the field, not just about the beneficiary's employer or other organizations the beneficiary is associated with. Marketing materials created for the purpose of selling the beneficiary's products or promoting the beneficiary's services are not generally considered to be published material about the beneficiary. Unevaluated listings in a subject matter index or footnote, or reference to the beneficiary's work without evaluation are insufficient.

4. Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought:

- a. Please include evidence of participation as judge, the criteria used to be selected as judge of the works of others in the field.

5. Original scientific, scholarly, or business-related contributions of major significance in the field. The beneficiary's contributions must be considered to be of major significance in the field of endeavor. To assist in determining whether the beneficiary's contributions are original and of major significance in the field, the petitioner may submit:

- a. Objective documentary evidence of the significance of the beneficiary's contribution to the field;
- b. Documentary evidence that people throughout the field currently consider the beneficiary's work important;
- c. Testimony and/or support letters from experts which discuss the beneficiary's contributions of major significance;
- d. Evidence that the beneficiary's major significant contribution(s) has provoked widespread public commentary in the field or has been widely cited;
- e. Evidence of the beneficiary's work being implemented by others.

6. Evidence of the authorship of scholarly articles in the field in professional or major trade publications, journals or other major media:

- a. Please include copies of articles including information about the trade publication, date, author, whether print or online, circulation of publication and audience

7. Evidence of the display of the alien's work in the field at exhibitions, showcases or conferences:

- a. Please include copies of exhibitions including name of venue, date of exhibition

8. Employment in a critical or essential capacity for organizations and establishments that have a distinguished reputation.

If a leading role, the evidence must establish that the beneficiary is (or was) a leader. A title, with appropriate matching duties, can help to establish if a role is (or was), in fact, leading. If a critical role, the evidence must establish that the beneficiary has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities. A supporting role may be considered "critical" if the beneficiary's performance in the role is (or was) important in that way. It is not the title of the beneficiary's role, but rather the beneficiary's performance in the role that determines whether the role is (or was) critical. Documentary evidence may include:

- a. Letters from individuals with personal knowledge of the significance of the beneficiary's leading or critical role. The letters should contain detailed and probative information that specifically addresses how the beneficiary's role for the organization or establishment is or was leading or critical. Details should include the specific tasks or accomplishments of the beneficiary as compared to others who are employed in similar pursuits within the field of endeavor;

- b. Evidence must demonstrate the distinguished reputation of the organizations or establishments for which the beneficiary performed in leading or critical roles. The evidence should document the organizations or establishments eminence, distinction, or excellence.

9. A high salary or other remuneration for services as evidenced by contracts or other reliable evidence.

The evidence must demonstrate that the beneficiary's salary or remuneration is high relative to others working in the field. To assist in determining that the beneficiary's salary or remuneration is high relative to others working in the field, the petitioner may submit:

- a. Copies of the beneficiary's W-2 or 1099 forms for years in which the beneficiary has received a high salary in the field of endeavor. Alternatively, the petitioner may provide similar foreign tax documents which establish yearly wages earned outside the U.S.;
- b. Media reports of notably high salaries earned by others in the beneficiary's field;
- c. List compiled by credible professional organization(s) of the top earners in a field;
- d. Geographical or position appropriate compensation surveys;
- e. Organization justifications to pay above the compensation data;
- f. Information from the U.S. Department of Labor or similar sources that show the comparison of salaries within states, between states, etc. (see note below).

Note: U.S. Department of Labor prevailing wage rate information alone does not generally establish whether the salary or other remuneration is "significantly" higher than that of others in the field. If U.S. Department of Labor prevailing wage rate information is submitted, it should be accompanied by other corroborative evidence showing that the wage rate is high relative to others working in the field.

10. Evidence of Commercial Success in the Performing Arts

- a. Copies of box office information, sales receipts or other records of commercial success

11. The Beneficiary *may also* submit comparable evidence if the above does not readily apply to his her or occupation.

Period of Stay/Extension of Stay

The maximum allowed period for initial O-1B Petitions is three years. USCIS will determine time necessary to accomplish the initial event or activity in increments of up to 1 year. If a change of employer is applicable, a new three year period is allowed.

Family of O-1 and O-2 Visa Holders

Any accompanying or following to join spouse and children unmarried and under the age of 21 may be eligible to apply for an O-3 nonimmigrant visa, subject to the same period of admission and limitations as the O-1/O-2 nonimmigrant. They may not work in the United States under this classification, but they may engage in full or part time study on an O-3 visa.

Return Transportation

If the employment of an O nonimmigrant beneficiary is terminated for reasons other than voluntary resignation, the employer must pay for the reasonable cost of your return transportation to the O nonimmigrant's last place of residence before entering into the United States. If an agent filed the petition for the employer, the agent and the employer are equally responsible for paying these costs.