

O-1 Visas for Extraordinary Ability

The O-1 visa is a temporary employment visa available for aliens of extraordinary ability in the arts, sciences, athletics, education or business. In practice, this includes nearly any field of endeavor: pupateers, figure skaters, scientific researchers, and more. The O visa can be a welcome option for highly talented individuals who are not eligible for another type of visa. O visas are granted for the duration of an "event" (i.e. a grant, project, tour, etc.) and for an initial period of no longer than three years. Extensions for the O visa are easy and unlimited, granted in increments of 1 year at a time.

Q: What is an O-1 Visa?

A: The O-1 visa is a temporary employment visa available for aliens of extraordinary ability in the arts, sciences, athletics, education or business. In practice, this includes nearly any field of endeavor: puppeteers, figure skaters, scientific researchers, and more. The O-1 visa can be a welcome option for highly talented individuals who are not eligible for any other type of visa.

Q: How long are O Visas granted for?

A: O-1 visas are granted for the duration of an "event" (i.e. a grant, project, tour, etc.) and for an initial period of no longer than three years. There is no limit on extensions for the O-1 visa, which are granted in increments of 1 year at a time.

Q: What are the benefits to an O visa?

A: There are a number of benefits to the O-1 visa

- The Department of Labor is not involved, therefore there is no prevailing wage issue.
- J visa holders who are subject to the 2-year home residency requirement (212e) are eligible for an O visa. They cannot change status in the United States, however, and must consular process.
- There is no cap to the number of O visas that may be granted in any fiscal year, like there is for H-1B visas.
- There is no minimum degree requirement.
- No license requirements: Often in areas that are desperate for people, license requirements are relaxed (i.e. teachers, social workers, doctors). H-1B petitions will frequently be denied on the grounds that a license is required, even if the hospital or school does not require a license. O visas cannot be denied on these grounds.
- Dual intent is essentially allowed: An individual does not have to keep a foreign residency, and filing for permanent residency does not disqualify them from obtaining an O visa.
- If an individual qualifies for an O-1 visa, they may be qualified to petition for permanent residency based on Extraordinary Ability, which does not require a permanent job offer and also bypasses the lengthy labor certification process.

Q: What are the requirements for O-1 Visa Petitions?

A: The O-1 visa requires a contract with a U.S. employer or agent, who acts as the sponsor for this visa. You may not self-petition for an O-1 visa.

The standards for an O-1 visa are similar to those of an Extraordinary Ability petition. An individual must show either a one-time achievement (such as receipt of a major internationally recognized award of the caliber of the Nobel Prize or an Olympic Medal), or satisfy at least 3 of the following qualifications:

- Receipt of lesser nationally and internationally recognized prizes or awards for excellence in the field of endeavor;
 - Membership in associations in the field which require outstanding achievements of their members, as judged by experts in the field;
 - Published materials about the individual in professional or major trade publications, or appearance/published materials about the individual in other major media;
 - Participation, either individually or as part of a panel, as a judge of the work of others in the field (including requests to serve as a reviewer/referee for articles to be published, invitations to serve on discussion and advisory panels, etc.);
 - Original scientific, scholarly, artistic, athletic or business-related contributions of major significance in the field;
 - Authorship of scholarly articles in the field, as published in professional or major trade publications or in other major media;
 - Display of the individual's work in the field at artistic exhibitions or showcases;
 - Serving in a leading or critical role for organizations or establishments that have a distinguished reputation;
 - Commanding a high salary or other significantly high remuneration for services, as compared to others in the field;
- and/or
- Commercial success in the performing arts, such as box office receipts or record, cassette, compact disk and video

sales.

The CIS may also accept additional types of documentation of extraordinary ability if the above mentioned factors do not readily apply to the individual's field of expertise.

O-1 visa petitions must also include an advisory opinion from a trade or consulting organization, or a reputable peer group stating that the individual does have a sustained reputation of extraordinary ability. If there is no applicable peer group, a number of strong and focused letters from experts in the field may be substituted for the advisory opinion. It is important to show that the individual has already achieved the top level in her or his field. For example:

- Good Letters: Use words such as "first", "best", "only", or some other ranking.
- Bad Letters: Use words such as "young" and "potential".

Q: What options are available for the spouse and children of an O visa?

A: O-2 visas are available to individuals that seek to accompany or assist an athletic or artistic event and the O-1 performer. O-3 visas are issued to the spouses and unmarried children of O-1 and O-2 visa holders. Please note that O-3 visa holders do not have work authorization.

See this recent Wall Street Journal article about performance groups applying for O and P visas here.