

OVERVIEW OF O-1

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MELTZER HELLRUNG
IMMIGRATION SOLUTIONS

OVERVIEW OF O-1

The O-1A and O-1B nonimmigrant classifications are for individuals with extraordinary ability in the sciences, arts, education, business, or athletics, or who have demonstrated extraordinary achievement in the motion picture or television industry, and have been recognized nationally or internationally for those achievements. Individuals must demonstrate sustained national or international acclaim and must be coming to the United States to work in the field in which they have extraordinary ability.

Both O-1A and O-1B classifications require sponsors – either a traditional W-2 employer or an agent with a representation agreement. The agent relationship can be traditional, such as an actor and their agent, or can be less formal, such as a designated individual acting as an agent with the limited purpose of the O-1.

These classifications are initially granted for three years, and are renewable in one year increments, with no limit on renewals. Individuals in O-1 status cannot start employment until approval.

O-1A

This classification is for individuals with an extraordinary ability in the sciences, education, business or athletics.

IN ORDER TO QUALIFY, INDIVIDUALS MUST DEMONSTRATE THAT THEY HAVE RISEN TO THE VERY TOP OF THEIR FIELD OF ENDEAVOR THROUGH EITHER A MAJOR, INTERNATIONALLY-RECOGNIZED AWARD, SUCH AS A NOBEL PRIZE, OR AT LEAST THREE OF THE FOLLOWING CRITERIA:

- Receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor
- 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
- Published material in professional or major trade publications, newspapers or other major media about the candidate and the candidate's work in the field for which classification is sought
- Original scientific, scholarly, or business-related contributions of major significance in the field
- Authorship of scholarly articles in professional journals or other major media in the field for which classification is sought
- A high salary or other remuneration for services as evidenced by contracts or other reliable evidence
- Participation on a panel, or individually, as a judge of the work of others in the same or in a field of specialization allied to that field for which classification is sought
- Employment in a critical or essential capacity for organizations and establishments that have a distinguished reputation

0-1B

This classification is for individuals with an extraordinary ability in the arts, motion picture or television industry.

IN ORDER TO QUALIFY, INDIVIDUALS MUST DEMONSTRATE THAT THEY HAVE ATTAINED A HIGH-LEVEL OF ACHIEVEMENT TO BE RECOGNIZED AS OUTSTANDING, NOTABLE, OR LEADING IN THE FIELD OF ARTS THROUGH EITHER RECEIVING OR BEING NOMINATED FOR SIGNIFICANT AWARDS OR PRIZES SUCH AS AN ACADEMY AWARD, EMMY, GRAMMY OR DIRECTOR'S GUILD AWARD, OR EVIDENCE OF AT LEAST THREE OF THE FOLLOWING CRITERIA:

- Performed and will perform services as a lead or starring participant in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications, contracts or endorsements
- Achieved national or international recognition for achievements, as shown by critical reviews or other published materials by or about the candidate in major newspapers, trade journals, magazines, or other publications
- Performed and will perform in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation as evidenced by articles in newspapers, trade journals, publications, or testimonials
- A record of major commercial or critically acclaimed successes, as shown by such indicators as title, rating or standing in the field, box office receipts, motion picture or television ratings and other occupational achievements reported in trade journals, major newspapers or other publications
- Received significant recognition for achievements from organizations, critics, government agencies or other recognized experts in the field in which the candidate is engaged, with the testimonials clearly indicating the author's authority, expertise and knowledge of the candidate's achievements
- A high salary or other substantial remuneration for services in relation to others in the field, as shown by contracts or other reliable evidence

0-1 APPLICATION PROCESS OVERVIEW

1 Employer opens a case with Meltzer Hellrung



IN ORDER TO OPEN A CASE, WE NEED THE FOLLOWING INFORMATION:

- Name of candidate
- Email address
- Job title and description for offered position
- Offered salary
- Work location
- Resume
- Proposed start date

2 Meltzer Hellrung reaches out to the candidate to complete an online questionnaire and provide the required documentation



We will email the candidate with instructions to complete this step.

3 Letters of recommendation



O-1 visas typically include letters of recommendations from individuals who can speak to the extraordinary ability of the candidate. In many instances, these letters are drafted by the candidate to be signed by the letter writer. We will assist with the review of these letters.

4 Meltzer Hellrung drafts all necessary forms and letters to file the O-1 petition



We will forward these forms and letters to the employer for review. The employer may choose to share these draft documents with the candidate. This step may require multiple rounds of document edits depending on the complexity of the case. This step represents one of the most time-consuming portions of the process.

5 Consultation letter/written advisory opinion



The O-1 requires a written advisory opinion from a peer group (including labor organizations) or a person with expertise in the candidate's area of ability. If the O-1 petition is for an individual with extraordinary achievement in motion picture or television, the consultation must come from an appropriate labor union and a management organization with expertise in the candidate's area of ability.

Most peer group/labor organizations require a copy of the full petition in order to provide the consultation letter. Meltzer Hellrung will assist with acquiring this letter from the appropriate organization.

If no peer group exists, then we can move forward with the petition without including the consultation letter, but need to include documentation that such an organization does not exist.

6 Once all forms and letters have been finalized and all required documentation provided, Meltzer Hellrung will ship the completed petition to USCIS



We can also prepare dependent O-3 petitions for all dependent family members (spouse and children under 21 years of age) of the applicant. An I-539 petition will need to be filed with USCIS on behalf of his/her dependents that are currently in the U.S.

7 USCIS review of the O-1 petition



Generally, USCIS takes several months to process O-1 petitions unless the employer chooses to add premium processing for an additional government filing fee, which requires USCIS to issue a response within 15 calendar days. Once filed USCIS may not immediately approve a petition. USCIS may first issue a Request for Evidence ("RFE"). Should an RFE be issued, USCIS provides about three months to respond. If we receive an RFE, we will analyze the RFE and reach out to the respective parties with a list of documents needed. Once received, we will draft the response and submit to USCIS. Once submitted, USCIS typically issues a decision within 60-90 days, unless premium processing has been added. For O-1 petitions with premium processing, USCIS will issue a decision within 15 days of receiving the RFE response.

8 Post filing outcomes

Approval

USCIS will approve O-1 petition and will issue an I-797 approval notice.



If the approval notice is issued on Form I-797A, it will have an I-94 located on the bottom of the notice. Visa stamping is not required unless the candidate has a trip abroad scheduled and does not have a valid O-1 visa stamp in his/her passport.

If the approval was issued on Form I-797B for consular processing and does not have the I-94 on the bottom of the notice, the candidate will need to attend a visa stamping interview abroad, obtain the O-1 visa stamp, and enter the U.S., presenting that stamp, in order to utilize O-1 status.

The employer will receive an I-797C, a courtesy copy informing employer of the approval.

Denial

USCIS can determine that the O-1 petition is not approvable. Typically, an RFE is issued prior to a denial. If USCIS denies the O-1 petition, a written decision is issued outlining the reasons for denial. If a denial is received, Meltzer Hellrung, candidate, and employer will have a post-decision call to determine if there were any deficiencies in the application and the recommended next steps for moving forward.



O-1 APPLICATION DOCUMENT REQUEST OVERVIEW



O-1A Extraordinary Ability in the Sciences, Education, Business or Athletics Document Requests

DOCUMENTS TO BE PROVIDED BY CANDIDATE:

- Non-blank pages of passport
- Documentation of any previous U.S. immigration status (I-797 approval notices, electronic I-94 if already in the U.S.)
- Resume
- Employment contract
- Awards received
- Recommendation letters from other respected members of the field highlighting the original contributions and/or extraordinary ability of the candidate
- Any articles or publications in major trade/professional publications, newspapers or other major media written about the candidate
- Any articles or publications in major trade/professional publications, newspapers or other major media written by the candidate
- Evidence of participation as a judge of others – this can include emails inviting candidate to peer review publications, judging competitions, etc.
- Evidence of memberships in associations and the requirements for membership
- Other relevant documentation determined on a case-by-case basis

DOCUMENTS TO BE PROVIDED BY COMPANY:

- Documents regarding marketing materials, presentations, press releases, pitch slide decks, brochures, process outlines, etc.
- Recent financial documents, such as tax return, audited financial statement, SEC 10-K filing, or profit and loss statement

O-1 APPLICATION DOCUMENT REQUEST OVERVIEW (continued)



O-1B Extraordinary Ability in the arts or extraordinary achievement in motion picture or television industry:

DOCUMENTS TO BE PROVIDED BY CANDIDATE:

- Non-blank pages of passport
- Documentation of any previous U.S. immigration status (I-797 approval notices, electronic I-94 if already in the U.S.)
- Resume
- Employment contract
- Recommendation letters from other respected members of the field highlighting the original contributions and/or extraordinary ability of the candidate
- Any articles or publications in major trade/professional publications, newspapers or other major media written about the candidate
- Evidence of lead or starring roles in productions and events with distinguished reputations.
- Evidence of commercial success such as box office sales, book sales, etc.
- Other relevant documentation determined on a case-by-case basis

DOCUMENTS TO BE PROVIDED BY COMPANY:

- Documents regarding marketing materials, presentations, press releases, pitch slide decks, brochures, process outlines, etc.
- Documents about company financials

DOCUMENTS REQUIRED FROM CANDIDATES CURRENTLY IN THE U.S. AS A DEPENDENT:

- Spouse's passport
- Spouse's I-94
- Spouse's I-797 approval notice(s)
- Spouse's last two paystubs
- Marriage certificate

O-1 APPLICATION DOCUMENT REQUEST OVERVIEW (continued)



DOCUMENTS REQUIRED FOR O-3 VISAS FOR DEPENDENT SPOUSE AND CHILDREN UNDER 21:

- Passport for each person, including U.S. visa stamps
- I-94 for each person
- EAD card, if any
- Marriage certificate for spouse
- Birth certificate for child