

O1 Visa Guide: What You need to Know About the O1 Visa

The O1 visa may be a good option for you to consider if you have an extraordinary ability in the sciences, arts, business, athletics, or education, or if you have a history of extraordinary achievement in the motion picture industry or television industry.

With an O1 visa, you can live and work in the United States for extended periods of time AND your spouse and children may be able to accompany you as well.

In this guide, I'm going to explain what you need to know about the O1 visa.

If you have any questions about anything, please feel free to email me directly at Info@immigrationlawfirmtd.com.. I'm a US immigration lawyer, and I'd be happy to answer your questions.

Overview:

1. What is the O1 Visa?

2. What are the Benefits of an O1 Visa?

3. What are the O1 Visa Requirements?

4. What Documents are Needed to Apply for an O1 Visa?

5. How to Apply for an O1 Visa

6. How Hard is it to Get Approved for an O1 Visa?

7. How to Go From an O1 Visa to Green Card

8. Conclusion

1. What is the O1 Visa?

The O1 visa is a non-immigrant visa for gifted people who have a special ability of some kind. Specifically, the O1 visa is for people who have an extraordinary ability in either the sciences, arts, education, business, or athletics, or who have a record of extraordinary achievement in the motion picture or television industry.

With an O1 visa, you can live in the United States and work within your area of extraordinary ability. There is also no limit to the number of times you can extend your O1 visa, so with an O1 visa, you may be eligible to stay in the USA for extended periods of time.

With an O1 visa, your spouse and children may also qualify for immigration benefits to the USA.

In order to qualify for an O1 visa, you must prove that you have an extraordinary ability and that you are coming to the USA to work in your field of extraordinary ability.

The O1 visa petition must be filed by a US employer or agent. You cannot file an O1 visa petition on your own behalf, it is not eligible for self-petition. The US company or agent is the **petitioner** and the person receiving the O1 visa is the **beneficiary**.

Summary:

- The O1 visa is a non-immigrant visa for people with an extraordinary ability in certain fields.
- To get an O1 visa, you must prove that you have an extraordinary ability, and that you will work in your field of extraordinary ability upon coming to the USA.
- An O1 visa petition must be filed by a US company or agent.

2. What are the Benefits of an O1 Visa?

i. You Can Live and Work in the USA for Extended Periods of Time

- With the O1 visa, there is **no limit** to the number of times you can extend your status
- Once approved, your first O1 visa petition can give you lawful status in the USA for up to 3 years.
- You can then extend your status for up to 1 year at a time. There is no limit to the number of times you can extend your O1 status.
- For this reason, some people stay in the USA for 15 years or more with an O1 visa.

ii. Benefits for Your Immediate Family Members

- By getting approved for an O1 visa, your spouse and unmarried children under 21 years old are eligible to accompany you in the United States.
- Your spouse and unmarried children would obtain O3 status as your dependents.

- Your dependents are not permitted to work in the United States with O3 status, but they can attend US schools.

iii. You Can Work for Multiple Employers

- Another feature of the O1 visa is that it permits you to work for multiple different employers in the United States.

iv. O2 Visa Available for Your Assistants

- If you are approved for an O1 visa based on an extraordinary ability in the arts or athletics, or based on an extraordinary achievement in the motion picture or television industry, you may be able to bring workers to accompany and assist you in the United States.
- **These workers would apply for the O2 visa.**

v. O1 Visa Eligible for Premium Processing

- The O1 visa is eligible for premium processing.
- Premium processing is a service provided by USCIS where they expedite the processing of your O1 petition for an additional fee of \$1,410.

- With premium processing, USCIS will issue a response to your O1 petition in 15 days or less.

vi. No Annual Limit on the Number of O1 Visas Issued

- Another benefit of the O1 visa is that there is no annual cap on the number of O1 visas issued.
- This is contrary to other visas, such as the H-1B visa, which has an annual quota.

3. What are the O1 Visa Requirements?

In order to get an O1 Visa, there are 6 main requirements:

- **Prove that You Have an Extraordinary Ability**
- **Your National or International Acclaim Must be Sustained**
- **You Must Work in Your Field of Extraordinary Ability**
- **Your Employment in the USA Must Qualify as an “Event”**
- **Your Petition Must be Filed by a US Employer, US Agent, or Foreign Employer Through a US Agent**

- **Must Have an Advisory Opinion from a Peer Group, Labor Organization, or Management Organization**

i. Prove that You Have an Extraordinary Ability

- The first requirement to get an O1 visa is that you must prove that you have an extraordinary ability.
- **The standard you need to meet depends on the field of your extraordinary ability.**
- If your field of extraordinary ability is in science, business, athletics, education, or art, you must show “sustained national or international acclaim.” **[8 CFR Section 214.2(o)(1)(ii)(A)(1)]**
- If your field of extraordinary ability is in the motion picture or television industry, you must show “a demonstrated record of extraordinary achievement.”

Because the standard for what you are required to prove is different depending on your field, I'm going to discuss each field separately.

Proving Extraordinary Ability in the Field of Education, Science, Athletics, or Business

- The O1 visa for the fields of science, education, athletics, and business are referred to as **O1A**.

- To meet the standard of extraordinary ability for an O1A visa (the sciences, education, athletics, or business), you are required to show that you have a level of expertise such that you one of the small percentage who have risen to the very top of your field.

There are 2 ways to meet this standard:

- One-Time Achievement;
- **Or** meeting at least 3 of evidentiary criteria for the O1A visa

One-Time Achievement

- A one-time achievement that would satisfy the extraordinary ability requirement for the O1A visa is if you are the recipient of a major, internationally recognized award, such as the Nobel Prize.
- If you haven't received such an award, you will have to satisfy at least 3 of the evidentiary criteria for an O1A visa.

Evidentiary Criteria for O1A Visa

If you haven't received a major internationally recognized award, you will have to satisfy at least 3 of the following criteria:

- You have received nationally or internationally recognized prizes or awards for excellence in your field.
- You've had membership in associations within your field which require outstanding achievements of their members, as judged by recognized national or international experts in the field.
- There is published material in professional or major trade publications or major media about you, relating to your work in the field.
- You have participated on a panel, or individually, as a judge of the work of others in your field.
- You have made original scientific, scholarly, or business-related contributions of major significance in your field.
- You have authored scholarly articles in your field, in professional journals, or other major media.
- You have been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation.
- You have either commanded or will command a high salary or other remuneration for services.

- If any of the above criteria do not apply to your field, you may submit comparable evidence in place of that criteria to prove your eligibility for an O1 visa.

Proving Extraordinary Ability in the Arts

- The O1 visa for the arts is referred to as **O1B**.
- Arts is defined as “any field of creative activity or endeavor such as, but not limited to, fine arts, visual arts, culinary arts, and performing arts. Aliens engaged in the field of arts include not only the principal creators and performers but other essential persons such as, but not limited to, directors, set designers, lighting designers, sound designers, choreographers, choreologists, conductors, orchestrators, coaches, arrangers, musical supervisors, costume designers, makeup artists, flight masters, stage technicians, and animal trainers.”
- To meet the standard of extraordinary ability for an O1B visa in the arts, you are required to show that you have achieved “distinction.”
- Distinction means “a high level of achievement in the field of arts, as evidenced by a degree of skill and recognition substantially above that ordinarily encountered to the extent that a person described as prominent is renowned, leading or well-known in the field of arts.” [8 CFR Section 214.2(o)(3)(ii)]

There are 2 ways to meet this standard:

- Nomination and or receipt of significant national or international awards or prizes;
- **Or** meeting at least 3 of evidentiary criteria for the O1B visa

Nomination and or Receipt of Significant National or International Awards or Prizes

- One way to satisfy the extraordinary ability requirement for the O1B visa is if you are nominated for and/or receive significant national or international awards or prizes in your field such as an Academy Award or a Grammy.
- If you haven't been nominated for and/or received such awards, you will have to satisfy at least 3 of the evidentiary criteria for an O1B visa.

Evidentiary Criteria for O1B Visa

If you haven't been nominated for and/or received significant national or international awards or prizes, you will have to satisfy at least 3 of the following criteria:

- You have 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.

- You have achieved national or international recognition for achievements in your field, evidenced by critical reviews or other published materials by or about you in major newspapers, trade journals, magazines, or other publications.
- You have performed and will perform in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation evidenced by articles in newspapers, trade journals, publications, or testimonials.
- You have a record of major commercial or critically acclaimed successes as evidenced by title, rating, standing in the field, box office receipts, motion picture or television ratings, and other occupations achievements reported in trade journals, major newspapers, or other publications.
- You have received significant recognition for your achievements from organizations, critics, government agencies, or other recognized experts in your field.
- You have commanded a high salary or will command a high salary or other substantial remuneration for your services compared to others in your field.
- **If any of the above criteria do not apply to your field, you may submit comparable evidence in place of that criteria to prove your eligibility for an O1 visa.**

Proving Extraordinary Achievement in the Motion Picture or Television Industry

- The O1 visa for the motion picture and television industry is classified as O1B.
- To meet the standard of extraordinary achievement for an O1B visa in the motion picture or television production industry, you are required to show “a very high level of accomplishment in the motion picture or television industry evidenced by a degree of skill and recognition significantly above that ordinarily encountered to the extent that the person is recognized as outstanding, notable, or leading in the motion picture or television field.” [8 CFR Section 214.2(o)(3)(ii)]

There are 2 ways to meet this standard:

- Nomination for and/or receipt of significant national or international awards or prizes
- Or meeting at least 3 of evidentiary criteria for the O1B visa

Nomination for and/or Receipt of Significant National or International Awards or Prizes

- One way to satisfy the extraordinary achievement standard for an O1 visa is to show that you have been nominated for, or have received significant national or international awards or prizes in your field, such as an Academy Award or a Grammy.
- If you haven't been nominated for and/or received such awards or prizes, you will have to satisfy at least 3 of the evidentiary criteria for an O1B visa.

Evidentiary Criteria for O1B Visa

If you haven't been nominated for and/or received significant national or international awards or prizes, you will have to satisfy at least 3 of the following criteria:

- You have 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.
- You have achieved national or international recognition for achievements evidenced by critical reviews or other published materials by or about you in major newspapers, trade journals, magazines, or other publications.
- You have performed and will perform in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation evidenced by articles in newspapers, trade journals, publications, or testimonials.
- You have a record of major commercial or critically acclaimed successes as evidenced by title, rating, standing in the field, box office receipts, motion picture or television ratings, and other occupations achievements reported in trade journals, major newspapers, or other publications.
- You have received significant recognition for your achievements from organizations, critics, government agencies, or other recognized experts in your field.

- You have commanded a high salary or will command a high salary or other substantial remuneration for your services compared to others in your field.

ii. Your National or International Acclaim Must be Sustained

- Another requirement to get an O1 visa is to show that your national or international acclaim was sustained.
- For every field except the motion picture and television industry, you must show that you **sustained** national or international acclaim in your field.
- This means that you must have maintained your acclaim in your field throughout the years.
- The evidence that you submit to prove your extraordinary ability may very likely also show that you have sustained your national or international acclaim. **However, if it doesn't, make sure to submit evidence that shows that your acclaim has been sustained.**

iii. Work in Your Field of Extraordinary Ability

- Another requirement to get an O1 visa is that you must work in your field of extraordinary ability.

- The field that you plan to work in in the United States should be the same as your field of extraordinary ability (or as close as possible).
- It is very important to clearly define your field of extraordinary ability, so that you can show that you will continue to work in the same field.

iv. Your Employment in the USA Must Qualify as an “Event”

- Another requirement to get an O1 visa is that you must be coming to the United States to participate in an “event.”
- **With an O1 visa, you are not allowed to be self-employed or freelance. Instead, you must participate in an “event.”**
- An “event” is a very broad term and can mean many things, such as a conference, lecture series, academic school year, or a traditional job. A group of related activities can also qualify as an “event.”
- **Example:** For a professional athlete seeking an O1 visa, the “event” can be their contract with their sports team.
- An event doesn't have to be of a short duration. Remember, your first O1 can give you lawful status for up to 3 years.

- The terms of your employment (such as an employment contract or a written summary of the terms of your employment) must be submitted along with your O1 petition.

v. Your Petition Must be Filed by a US Employer, US Agent, or Foreign Employer Through a US Agent

- Another requirement to get an O1 visa is that your petition must be filed by a US employer, US agent, or a foreign employer through a US agent.
- **You cannot self-petition for an O1 visa.**
- The US employer, US agent, or foreign employer through US agent will be the **petitioner** and you will be the **beneficiary**.

US Employer

- If you are going to be working for a single US employer, they will most likely be the entity filing your petition.
- The US employer should be an established business with a business license.
- If you will be working for more than 1 US employer, they must all file O1 petitions, or a US agent can file the O1 petition on behalf of all the employers.

US Agent

- If you will be working for multiple US employers, a US agent can file your petition on behalf of all your employers (instead of having each employer file a separate petition).
- The US agent will have to submit a document explaining the terms and conditions of your employment.

Foreign Employer Through US Agent

- If you will be working for a foreign employer, your petition will likely be filed by a US agent acting on the foreign employer's behalf.

vi. Must Have an Advisory Opinion from a Peer Group, Labor Organization, or Management Organization

- Another requirement to get an O1 visa is that you must receive an advisory opinion from a peer group, labor organization, or management organization.
- A peer group is “a group or organization which is comprised of practitioners” within your field. **[8 CFR Section 214.2(o)(3)(ii)]**

- A peer group can also be a person or group of people with experience in the field.
- This letter must discuss the work that you will be doing in the US and should also discuss your qualifications.
- The advisory opinion can either be favorable to your petition being approved, not favorable to your petition being approved, or state no objection to your petition being approved.
- **An exception to this requirement is if there is no appropriate peer group or labor organization. If there is no peer group or labor organization, you can submit evidence showing that one does not exist.**

Now that we've talked about the requirements to get an O1 visa, lets talk about what documents you need to get an O1 visa.

4. What Documents are Needed to Apply for an O1 Visa?

- **The evidence that you submit with your O1 petition is extremely important to getting your visa approved.**
- The documents that you will need to submit depends on your particular qualifications. Your immigration lawyer can help you determine exactly which documents you will need to provide, based on your particular case.

With that disclaimer, here is a general list of documents you should expect to provide to your immigration lawyer:

- Your resume or CV
- Copies of your passport for you and your family
- Evidence of your extraordinary ability or history of extraordinary achievement (such as awards, publications, etc.)
- Letters of recommendation and endorsement from experts and professionals in your field
- Advisory Opinion from a Peer Group, Labor Organization, or Management Organization
- The employment contract between you and your US employer/US agent or a breakdown of the terms of your employment
- An explanation of the specific work you will be doing in the United States.

5. How to Apply for an O1 Visa

Here's a simplified breakdown of the process of getting an O1 Visa:

Step 1 - Hire an Immigration Lawyer

- The O1 visa is an extremely complex visa category that requires experience and strategy.
- Your immigration lawyer will walk you through the process step-by-step, conduct and in-depth consultation with you, and provide you with a detailed list of the documents they need to prepare your O1 visa petition.

Step 2 - Document Gathering

- At this stage, you will gather all the necessary documentation identified by your immigration lawyer, including your awards, publications, other evidence of your extraordinary ability, and the documents identified in section 4 above.

Step 3 - File Form I-129 and O Supplement

- The Form I-129 is the Petition for a Non-immigrant Worker.
- This is the Form your immigration lawyer will file to qualify you for an O1 visa.

- Your immigration lawyer will also file the O-supplement along with the I-129.
- All of the supporting documents, such as your evidence of extraordinary ability, CV, etc. will also be included with the I-129.
- Once your I-129 is approved, you are eligible to apply for an O1 visa.
- **If you are doing a Change of Status, your steps are complete upon I-129 approval.**

Step 4 - Apply for O1 Visa

- If you are not doing a Change of Status, then you will likely be applying for your O1 visa at the Consulate of your home country.
- Upon approval of your I-129, you are eligible to apply for your O1 visa.
- Your immigration lawyer can assist you with scheduling an interview at the Consulate and preparing the necessary documents.

6. How Hard is it to Get Approved for an O1 Visa?

- While the standards of extraordinary ability and extraordinary achievement for an O1 visa are very high, the O1 visa is attainable for the right candidate.
- If your field of extraordinary ability is in science, business, athletics, education, or art, you must show “sustained national or international acclaim.”
- If your field of extraordinary ability is in the motion picture or television industry, you must show “a demonstrated record of extraordinary achievement.”
- While there is no such thing as a guarantee of approval in US immigration law, your immigration lawyer should be able to estimate your chances of success early on in your case.

Although it is not officially required, it appears that USCIS takes a 2-step approach when deciding whether to approve an O1 petition:

- Step 1 - Evidentiary Threshold
- Step 2 - Final Merits Determination

Step 1 - Evidentiary Threshold

- Here, USCIS determines whether you have provided sufficient evidence to satisfy the evidentiary criteria for an O1 visa.

- At this stage, USCIS is checking whether you satisfy at least 3 of the categories listed above.

Step 2 - Final Merits Determination

- Here, USCIS critically evaluates the evidence you've submitted to determine if you meet the standards to qualify for an O1 visa.
- If your field of extraordinary ability is in the sciences, athletics, business, or education, USCIS is determining whether you have a level of expertise such that you one of the small percentage who have risen to the very top of your field.
- If your field of extraordinary ability is in the arts, USCIS is determining whether you have achieved "distinction" at this stage.
- If your field of extraordinary achievement is in the motion picture or television industry, here, USCIS is determining whether you have "a very high level of accomplishment in the motion picture or television industry evidenced by a degree of skill and recognition significantly above that ordinarily encountered to the extent that the person is recognized as outstanding, notable, or leading in the motion picture or television field."

7. How to Go From an O1 Visa to Green Card

- The O1 visa is a non-immigrant visa category. This means that the O1 visa is temporary and does not directly lead to a green card.
- In order to go from an O1 visa to a green card, you will have to either apply for an adjustment of status, or apply for an immigrant visa abroad.

Adjustment of Status

- An adjustment of status is when you go from non-immigrant status to immigrant status.
- In order to do an adjustment of status, you must be lawfully present in the United States.
- The entire adjustment of status process is done within the United States and you are not required to go abroad.

Apply for Immigrant Visa

- Alternatively, you can choose to apply for an immigrant visa abroad.
- This process is referred to as Consular Processing, Visa Processing, or Immigrant Visa Processing.

Regardless of which route you choose, you will have to apply for and qualify for an immigrant classification. Here are some potential options:

EB1A

- The EB1A visa is an immigrant visa classification for people with extraordinary abilities
- The EB1A visa is very similar to the O1 visa, however it is a more exacting standard to meet.
- You can apply for an EB1A visa through self-petition (without a company sponsor).

Work Sponsorship

- Another option is that your employer can sponsor you for a green card through a job offer.
- In order to do this your employer will have to apply for and get approved for a Labor Certification, which certifies that they attempted to and were unable to find a qualified US worker for the position they are offering you.

EB-5

- The EB-5 visa is an investment-based immigrant visa.
- To qualify for an EB-5 visa, you must invest a minimum of \$1 Million (or \$500,000 in certain economically depressed areas) in a US business.
- You must also create a minimum of 10 full-time jobs for US workers among other requirements.

Marriage

- Entering into a legitimate, bona-fide, marriage with a US citizen or lawful permanent resident can also enable you to apply for a green card.

8. Conclusion

- The O1 visa is a great option for people who have an extraordinary ability in either the sciences, arts, athletics, business, or education, or who have a history of extraordinary achievement in the motion picture or television industry.
- With an O1 visa, you can live and work in the United States for extended periods of time, and there is no limit to the number of times you can extend your O1 visa.
- **Please note:** The process of getting an O1 visa is highly complex. Please be sure to consult with a qualified immigration lawyer as soon

as you possible. Your immigration lawyer will help you decide the best course of action to take based on your circumstances and qualifications.

Quick Recap

At this point, you should have a much better understanding of:

- What the O1 Visa is
- The Benefits of an O1 Visa
- The Requirements to Get an O1 Visa
- The Documents that are Needed to Apply for an O1 Visa
- How to Apply for an O1 Visa
- How Hard is it to Get Approved for an O1 Visa
- How to Go From an O1 Visa to Green Card

This is an immense amount of information to understand. If you have any questions about this information or about anything relating to US immigration, please feel free to email me directly at Info@immigrationlawfirmltd.com. I'm a US immigration lawyer, and I would be very happy to answer your questions.