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Human Resources: O-1 Workers of Extraordinary Ability

The O-1 visas are available to applicants who have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and who are coming temporarily to the United States to continue work in the area of extraordinary ability.

An alien subject to 212(e) 2-year residence requirement is eligible for O-1 classification. They are not eligible for a change of staus within the U.S.; they will have to apply for the visa abroad and re-enter the U.S. in O-1 status.

The O-1 visa holder may remain in the US until the event; project or activity for which the alien is admitted is completed. The initial period of stay can be sought for three years and thereafter extensions in one-year increments may be sought to complete the activity, event or project.

O-1 status is employer and employment specific, but it is possible to have multiple employers as long as each employer files a separate O-1 petition. The alien may not begin work until the O-1 request is approved and O-1 status has been granted.

In order for USCIS to grant the O-1 status, the alien must demonstrate that he or she has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise. Extraordinary ability may be demonstrated by evidence of a one-time achievement (such as a major, internationally recognized award), or evidence of at least three of the following:

- Receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field;
- Membership in associations which require outstanding achievement of their members, as judged by recognized national or international experts in their disciplines or field;
- Published material in professional or major trade publications written by others about the scholar's work in the field, which should include the title, date, and author of the material, and any necessary translation.
- Participation on a panel, or individually, as a judge of the work of others in the same field of specialization;
- Original scientific, scholarly, artistic, athletic or business-related contributions of major significance in the field;
- Authorship of scholarly books or articles in the field;
- Employment in a critical or essential capacity for organizations and establishments that have a distinguished reputation;
- Evidence that the applicant has commanded a high salary or other significantly high remuneration for services in relation to others in the field.

If the above standards do not readily apply to the applicant's occupation, the petitioner may submit comparable evidence to establish eligibility.

WHOI Policy

It is the policy of the Woods Hole Oceanographic Institution to generally sponsor O-1 visa petitions on behalf of its Scientific and Technical Staff.

Procedures

In the case of an O-1 visa, the employer is always the petitioner and it is the Human Resources designee who signs the petition sent to the U.S. Citizenship and Immigration Services (USCIS), on behalf of the Institution. The Human Resources designee works directly with the Institution's Immigration Attorney and the foreign national to process all O-1 visa petitions.

Although the processing time for an O-1 visa is somewhat less than the processing time for an H-1B, a minimum of three to four months' lead time should still be given to allow sufficient time to obtain the necessary supporting documentation and to complete the application process.

- Once the determination is made that the alien qualifies under the regulatory definition of "outstanding", supporting documentation is assembled. In addition, an advisory opinion from a "peer group" must be obtained.
- The employer then files Form I-129 "Petition for a Nonimmigrant worker" along with all supporting documentation to the USCIS Vermont Service Center.
- If USCIS approves the petition, the alien can obtain O-1 status through visa application process or change of status procedures.

Procedures to file for an Extension of Stay of O-1 Status

O-1 extensions can be granted in one-year increments. Extension of stay in O-1 status may be filed up to 6 months prior to the expiration of the underlying O-1 petition. If the purpose of the extension is to complete the same activity as described in the original petition, the petitioner only needs to file:

- Form I-129 and O Supplement to Form I-129
- Letter requesting the extension including the need/purpose for the extension

- Applicable filing fee
- Documents establishing the current O-1 status (copy of Form I-94 and current and all prior O-1 I-797 approval notices.
- Although not required by regulation, the USCIS may request supporting documents of the alien's qualifications and the advisory opinion/consultation.

O-3 Dependents

The O-3 visa is for the dependent (spouse and unmarried children under 21 years of age) of an O-1 visa holder. No employment is permitted for O-3 visa holders. O-3 dependents may attend school so long as the educational program does not include paid employment.

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