

The O-1 Visa

This information is to provide a general understanding of the O-1 visa and the eligibility requirements. It is for informational purposes only. If you believe you are a candidate or would like to employ a candidate for an O-1 visa, we strongly recommend that you seek the advice of an attorney.

For our office to provide realistic assessment of the prospect for O-1 qualification, it is necessary for us to review the curriculum vitae or resume of the applicant. If you decide to proceed with our services, we will provide you specific guidance as to the preparation of the case.

The O-1 is a non-immigrant status for foreign nationals with distinction in their field of expertise. This includes physicians and scientists, medical clinicians, researchers, management consultants, IT professionals and others with superior qualifications in their field of expertise. It is also a status that provides a great deal of flexibility for those with a two-year home residency requirement, or who are finishing their sixth year in H status and are exploring other nonimmigrant opportunities.

Information Specific to J-1 Visa Holders

With regard to those foreign nationals who have a two-year home residency requirement, please note the following:

1. The O-1 is available to J-1 visa holders and does not require a waiver of the two-year home residency requirement.
2. However, the O-1 is not a waiver. A waiver or fulfillment of the two-year home residency is required in order to be eligible for a "green card."
3. The two-year home residence requirement can be satisfied incrementally over a number of years.
4. The O-1 can be initially obtained for up to three years, and extended indefinitely in one-year increments.
5. The O-1 requires a job offer and an employer.

Information Specific to Physicians

1. The employer can be a hospital, research institution, private practice or corporation.
2. It is not necessary for the employer to be located in a Health Professional Shortage Area (HPSA) or Medically Underserved Area (MUA).
3. It is not necessary for the employer to advertise or recruit U.S. physicians.

4. The O-1 is available to primary care physicians, specialists, general scientists, as well as other professionals with distinction in their field.

Documentary Requirements

In order to prepare a petition for a nonimmigrant O-1 as an alien of extraordinary ability in the sciences, medicine or other profession, we require additional information about the alien's achievements and distinctions in his or her field. Specifically, for an O-1 visa to be approved, evidence must be submitted from at least two of the following categories:

1. Original contributions of major significance;
2. Material published about the alien;
3. Nationally recognized prizes, awards or distinctions;
4. Evidence of service in a leading or critical role for distinguished organizations;
5. Evidence of having served as a judge of the work of others;
6. High salary in comparison to others;
7. Authored scholarly articles, abstracts or presentations;
8. Membership in societies that demand outstanding achievement.

However, while the threshold requirement is two, we aspire to present evidence from as many of these categories as possible. Moreover, USCIS tends to look at the totality of evidence submitted, and does not merely "check off" that two or more criteria are met.

Preparing the Application

The first step in preparing the O-1 petition is to clearly articulate in layman's terms the foreign national's qualifications. In this regard, please note that the examiners at USCIS may have little or no advanced training in science, medicine or the relevant field of expertise. Therefore, it is essential that the area of special expertise of the alien be clearly explained, defined and articulated in a manner that the lay person can understand.

To provide evidence that the O-1 applicant meets these evidentiary requirements, our office will prepare sample support letters. These letters will guide persons familiar with the O-1's achievements in writing support letters that address each of the aforementioned categories. It is critical to the O-1 process to have a diversity of institutional letterheads to document the candidate's distinction. In order to prepare these letters, we request applicants to provide the following:

1. Significant Contributions

In lay terms that someone with only a high school education in science, business, IT or another field would understand, describe the most significant research or significant contributions to the field. Perhaps select two to three studies or projects for a one-to two-page summary of the research, including your contribution. Please indicate if you were the primary investigator or the lead, or if not the primary investigator, what your contribution was. For other research/publications, provide a brief paragraph describing in very basic terms what the paper is about and why it is significant. If the candidate is primarily a medical clinician or other type of professional, describe in detail the area of expertise, the degree of skill required for the field, why it is significant, and any developments the candidate initiated or developed in the field.

2. Honors, Awards and Distinctions

This can include any distinctions received while studying or training; any research or study grants; any prizes for presentations; any specialization certificates (M.R.C.P., M.D., competitive fellowships or residency positions, etc.) For each distinction, provide documentary evidence.

3. Publications, Presentations and Abstracts

Provide copies of all publications, abstracts and presentations (or the brochures from presentations/meetings). Explain the significance of the forum. If you are a co-author, explain your specific contribution to the research.

4. Leading and Critical Roles

To help us categorize the candidate's experience to suit this criterion, provide a detailed description of the responsibilities for these and other positions, including to whom you reported, how many people you supervised, any management, administrative or policy making roles, etc. Examples of leading and critical posts include primary researcher, consultant positions, project leader, etc.

5. Judge of the Work of Others

This often goes hand in hand with Leading and Critical Roles and includes all teaching positions. For example, teaching experience may include judging and evaluating the work of students, medical residents, fellows, etc. Also, who were the students in each teaching post? Other examples may include where the individual was in a position to supervise and evaluate the work of others, such as peer reviewer for journals, author of review articles, position on editorial boards, evaluating the work of junior staff.

6. Membership in Societies That Require Outstanding Achievements

Describe the criteria for each society in which you are a member that requires entrance exams, evaluation by the Board, nomination and election, significant publications, number of surgical procedures, etc. If possible, send us copies of the bylaws and membership certificates.

7. Materials About Alien

This can include any citations to the individual's work or acknowledgement of the individual's assistance in a project or study. Provide documentary evidence of where the work was cited.

8. High Salary in Comparison to Others

Provide evidence if this has been the case.

9. Narrow Description of Field

For this category, it is important to depict the individual as one of a few near the top of the field. In order to do this, we need a narrow description of the field of expertise.

With this information, our lawyers will draft sample support letters providing detailed evidence of the individual's distinctions in the field. Of course, these letters will be reviewed by both the foreign national and the referee for factual accuracy. Upon execution of testimonial letters on behalf of the foreign national (generally five letters) and receipt of the corroborating documentation, a cover letter is prepared by our lawyers summarizing the foreign national's distinctions and laying out the legal arguments. The application is then submitted to USCIS along with the I-129 petition.