



Eugene Goldstein & Associates is a full service immigration law firm. Our experienced attorneys and knowledgeable support team have concentrated on U.S. immigration and nationality law for more than 40 years. We represent clients ranging from individuals and family-owned businesses to major international corporations and academic institutions. We frequently handle employment matters for business, healthcare, and academic institutions. We are regularly consulted by international students and scholars, performing and fine artists and entertainers, as well as clients with family-based and employment concerns.

Please feel free to call for an appointment so that we may evaluate your portfolio.

To learn more about us, please visit our website at www.eglaw-group.com.

O-1 Nonimmigrant Category

Our previous posting discussed the “Alien of Extraordinary ability” (EB 1-1) greencard for which an artist can self-petition. This posting discusses the “Alien of Outstanding Ability Visa” (O-1) nonimmigrant category, for those not in the motion picture/film industry.

The O-1 is an employment-based nonimmigrant status with an initial validity period of up to 3 years. It has many benefits over the professional worker H-1B category. These include an easier path to a greencard and, of particular benefit to artists, the potential ability to apply for many short-term employment engagements in the same petition. The immigration fees are also a lot cheaper than the H-1B.

There are two ways to qualify for an O-1 visa. The first is to be nominated for, or be the recipient of a significant national or international prize or award. Because most of us are not Academy, Emmy, or Grammy award winners or nominees, we must use the second way to qualify for an O-1, which means we must satisfy 3 of the 6 criteria listed by USCIS. The six criteria are designed to prove that the artist is outstanding – an overall showcase of the artist’s skills and talents. Two separate criteria are that an artist has performed in leading or critical roles in productions, which have a distinguished reputation; or has performed leading or critical roles in organizations and establishments which have distinguished reputations. Although these criteria are similar, and one event – such as a leading performance or critical role with a distinguished theatre company performed at Lincoln Center, or an artist’s showcase at the Guggenheim Museum – can satisfy both criteria, they can also be quite different, with the former geared toward performances or artist showcases, and the latter toward artists who might also work on the production or executive side of an organization.

There are two other criteria that are designed to show the respect and acclaim an artist has achieved/received within his or her own field. One of these criteria is to show national or international recognition of achievements through reviews or other published material about the artist. Since the goal is to demonstrate national or international recognition, the authors and publications should be from major media, rather than from upstart blogs or local publications. The other criterion is recognition from organizations, critics, government agencies, or others within the artist’s field. Again, these two criteria can overlap, but it is the latter that allows for more types of evidence, such as letters written by leaders in the applicant’s field which summarize the applicant’s already demonstrated accomplishments. Remember too, that the goal is to show that the artist is outstanding. We want to use material that looks professional to impress the examiner.



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O-1 Nonimmigrant Category - Continued...

The final two criteria are designed to show the success of the artist. The first is whether the artist's work has been an economic success as demonstrated by box office receipts, ratings, or reviews. The second is to show that the artist commands high compensation for his or her services. The determination is made relative to the artist's field. For example, a stage actor and a motion picture actor will show different amounts for what qualifies as high compensation.

As with the EB 1-1 there are many other forms of documentation that can be used to satisfy these categories. This is only a starting point to give you an idea of what is involved when filing an O-1 petition. Additionally, while we only need to satisfy three criteria to qualify, the more we are able to document, the more impressive (outstanding) the applicant will appear. From a strategic standpoint, attempting to satisfy more than three criteria gives the applicant some wiggle room, as it will still be approvable, even if USCIS finds the documentation submitted for one criterion is insufficient. The application is paper intensive and often demands a lot of work by the applicant. The trick is to find documentation that not only says how great you are, but which also fits correctly into the criteria.

For a complete list of O-1 criteria, click [here](#).

Immigration can be a confusing process. Depending on the client's particular situation, individuals may be prevented from working, traveling, or even remaining in the United States. Businesses may be prevented from their full potential.

Each client has their own unique goals and concerns. With over 40 years experience, we treat the immigration process as a jig-saw puzzle - where each client's goals and concerns represent individual puzzle pieces.

Our goal is to help you fit the pieces of your puzzle together, so that your big picture can become a reality.

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