



## O-1 ALIEN OF EXTRAORDINARY ABILITY

The O-1, for aliens of extraordinary ability in the sciences, education, business or athletics, is a nonimmigrant employment-based visa classification. It requires that the employer file a Petition for a Nonimmigrant Worker (Form I-129), along with evidence of the alien's extraordinary ability.

An initial O-1 petition can be filed for up to a 3-year maximum employment period. Subsequent extensions may be for no more than one year at a time. There is no limit to the number of such extensions possible. Individual's who **are** subject to the two year home country residence requirement under previous J-1/J-2 classification, are eligible to apply for the O-1. Such individuals, however, are not eligible for a change to O-1 status within the US, but must apply for the O-1 visa abroad, and re-enter the US in O-1 status. The ISSO will file this application for qualified individuals holding academic positions who may not otherwise qualify for H1B Temporary Worker status.

### Qualifications:

- 1) Employment in an academic position (most academic positions require a Ph.D.) Letter must specify the dates for which work authorization is being requested; no more than three years on initial applications, one year on all subsequent petitions.
- 2) A written consultation /advisory opinion from a peer group, **or** from recognized expert(s), in the field in the alien's area of ability: i.e. letters of support from renowned researchers (as evidenced by their curriculum vitae and publication list) that attest to the qualifications and value of work to be done by the O-1 petitioner.
- 3) Evidence that the professor or researcher is recognized nationally and internationally as outstanding in his/her academic field. This evidence should consist of at least three (**more than three recommended**) of the following:
  - Receipt of major prizes or awards for outstanding achievements in the academic field;
  - Membership in academic associations which require outstanding achievements of their members;
  - Participation on a panel, or individually, as the judge of the work of others in the same or an allied field;
  - Citations in professional publications, written by others about the individual's work in the field;
  - Authorship of scholarly books or articles, in journals with international circulation, in the field;
  - Original scientific or scholarly research contributions to the academic field;

- Evidence of previous employment in a critical or essential capacity for organizations having a distinguished reputation (e.g. NSF or Department of Defense research grants);
- Evidence of high salary or other significantly high remuneration for services in relation to others in the field.

## **Application Process**

**STEP 1.** Assemble supporting documentation for the I-129 O-1 petition. Supporting documentation can include the following list of items in the section below. You may reassemble the items in order to highlight the evidence that you feel is strongest first. Each section should be labeled and the contents explained on a piece of colored paper dividing sections. If subsections are used, use a different color divider to make it clear that the divider is dividing a subsection, rather than a whole section. Use no more than 2 colors – one dividing Sections, the other dividing Subsections.

Do not use tabs. Do not staple anything. Secure material with a jumbo clip or rubber bands.

### **Step 2: Submit draft of materials to ISSO for review.**

**Step 3:** Submit the final documentation **IN DUPLICATE** to ISSO, with the following:

- Data elements for Form I-129. ISSO will complete final copy (see attached data sheet)
- Check or money order for \$325 payable to USCIS
- An Original signed attestation (see attached) regarding ITAR and EAR regulations must be signed by the hiring supervisor or Chair, and submitted with your final materials.

## **The Petition Materials:**

**Employment Support Letter** - Support letter from department chair or host professor. This letter should both confirm permanent employment and provide a strong recommendation for permanent residence (i.e. must discuss applicants qualifications, experience and standing in the field).

### **Curriculum Vitae**

**Copies of degree(s)** - If the Ph.D. diploma is in a language other than English or Latin, it must be accompanied with a certified translation. Members of the Department of Modern Languages and Linguistics at Cornell will assist with translations and certifications. Any degree required for the position should be included. If only a Ph.D. is required, that will be sufficient.

**Support letters** - Supporting letters from other recognized leaders in the field or previous employers attesting to the applicant's "original scientific or scholarly research contributions." (6 – 12 letters recommended)

### **Applicant's participation in activity as the judge of work of others in the academic field - must provide evidence of activity, examples:**

- Copies of requests from editors who asked that you review an article for a scholarly journal, or memos confirming participation as a reviewer
- Copies of conference publications which show your participation as an organizer or reviewer
- Copies of documents that indicate committee assignments for professional assoc. in the field

- Documents proving that you've acted as a reviewer for grant proposals (i.e. USDA, NSF)
- Any other evidence which indicates that other people in the field are seeking your opinion.

**Membership in professional organizations that require outstanding achievements** – include evidence of membership

**Prizes and awards (including competitive grants)** - copies of first pages of documentation, the copies should include name, and name of grant or prize awarded. Whole grant proposals do NOT need to be included.

**Presentations at academic** - symposiums - include copies of abstracts, if available

**Peer-reviewed articles** - copies of the **first** pages of all published articles

**Evidence of citations** – Evidence from on-line citation indexes is sufficient as long as the evidence clearly shows **who** cited you, and in **what** publication.

**Any additional evidence: i.e. patents, computer programs, any other materials that demonstrate standing in the field!**

### **Data Elements for Form I-129:**

1. First Name:
2. Middle Name:
3. Last Name:
4. Local US Address:
5. Email Address:
6. Daytime Phone:
7. Date of Birth (mo/day/year):
8. City/Town/Village of Birth:
9. State/Province of Birth:
10. Country of Birth:
11. Country of Citizenship/Birth:
12. US Social Security Number:
13. Date of Last Arrival to US (mo/day/year):
14. I-94 Number:
15. Current Nonimmigrant Status:
16. Date Status Expires:
17. Last Country of Residence:
18. Foreign Residence:

## **O-1 Support Letters:**

The O-1 is a visa category set aside for those who have extraordinary ability in the arts, sciences, education, business and athletics and is intended for those individuals who have risen to the top of their field. The USCIS standard for this category is quite high, **The petitioner must demonstrate that the person is “one of a small percentage who have risen to the top of the field of endeavor” (8CFR214.2(o)(3)(ii).**

The O-1 petition requires that an advisory opinion from a peer group, labor organization or management organization be obtained to prove the employee’s recognition in the field. Since most academic professionals do not typically belong to a recognized group of this type, letters from experts in the field are submitted to satisfy this requirement. Letters should describe the employee’s ability and achievement in the field. Overly technical descriptions can be counterproductive. INS adjudicators evaluating the petitions are not experts in the field. Therefore, it is important to bring the level of discussion down to a level where a reasonably intelligent lay person can understand the significance of the work and the individual’s contributions to the field. Those writing letters are also advised to submit a copy of their CV.

Again, it must be stressed that this classification is for those who are already considered to be at the top of their field (can be fairly narrowly defined, if need be), nationally and internationally. USCIS will not approve O-1 petitions simply because an individual has the **potential** to rise to the top of their field.

A basic letter format is outlined below. Please keep in mind that there is no recommended length. In addition, letters are read very carefully, so some diversity in length and format is beneficial. Petitions submitted with “carbon copy” letters are likely to be returned with a request for more evidence. Generally, your own standard recommendation letter, with a few additions, should suffice. The letter should **NOT** be mailed directly to USCIS, rather it should be sent to the O-1 applicant for inclusion in the O-1 petition to USCIS.

Vermont Service Center  
US Citizenship and Immigration Service  
75 Lower Weldon Street  
St. Albans, VT 05479-9129

Dear USCIS Adjudicator,

Paragraph 1: Why you are writing:

**Sample:** I am writing this letter on behalf of Dr. X, Assistant Professor, Department of X at Cornell University. I can attest to X’s outstanding qualifications as a world leader XXX. In my opinion, he/she clearly meets the standard for O-1, Alien of Extraordinary Ability status.

Paragraph 2: Who you are, why you are qualified to make a judgment about Dr. X’s standing in the field (i.e. describe your own standing in the field.).

Paragraph 3 & Paragraph 4: A description of Dr. X’s work/achievements/publications in the field & an analysis of Dr. X’s standing in the field. This is the place to elaborate on the nature of Dr. X’s work and its relevance to the field and to the world.

Dr. X is clearly recognized as one of the world’s leading authorities on XXX.....etc.

Paragraph 4: Conclusion.

## **Certification Regarding the Release of Controlled Technology or Technical Data to Foreign Persons In the US.**

There is a new federal requirement that employer's certify that they have reviewed the **Export Administration Regulations (EAR)** and the **International Traffic in Arms (ITAR)** and have determined whether a license is required from The US Department of Commerce or the US Department of State to allow an employee access to controlled technology. This attestation is REQUIRED for all H1B petition and O-1 petitions.

Please take some time to review the information on US export\* controls at Cornell University's Office of Research Integrity and Assurance: <http://www.oria.cornell.edu/export/>

The hiring supervisor, Department Chair, or other appropriate University authority responsible for oversight of an employee's work and access to technology, must attest to one of the following two statements in order for the ISSO to process the H1B or O-1 petition.

Please understand that a license may be required. Questions on Export License's and EAR and ITAR requirements should be directed to the Office of Research Integrity and Assurance, after a thorough review of the information published on their web site.

### **Attestation (appropriate Cornell authority must check one and sign):**

\_\_\_\_ I certify that a license **is not required** from either the U.S. Department of Commerce or the U.S. Department of State to release such technology (as described in EAR and ITAR) to the foreign person, or

\_\_\_\_ I certify that a license **is required** from either the U.S. Department of Commerce or the U.S. Department of State to release such technology (as described in EAR and ITAR) to the foreign person and I will prevent access to the controlled technology or technical data until the required license or other authorization has been obtained.

\_\_\_\_\_  
(Name, please print)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\* Technology and technical data provided to a foreign national within the US is considered an export