

SHAWN QUINN
Attorney at Law – Avocat à la Cour
32 rue des Bas Rogers
92800 Puteaux (Paris La Défense)
Tél : +33 1 41 38 98 05

The O Visa Category (Persons of Extraordinary Ability and Support Staff)

By: Shawn Quinn, Esq.

The O visa category is reserved to persons with “extraordinary ability” in his or her field of endeavor. The fields in this category include:

- Sciences;
- Arts;
- Education;
- Business;
- Athletics; or
- Motion Picture or Television Industry

What level of achievement is needed for O visa purposes?

U.S. Immigration laws require that it is demonstrated that such person has achieved either national or international success. Assuming that the person has achieved either national or international success *in his or her field* (not necessarily national or international notoriety by the general public), such person may be eligible for an O-1 visa classification.

In general, the O visa is divided into three categories: 1) O-1 visa for person with extraordinary ability; 2) O-2 visa for support personnel of the Principal O-1 visa holder; and 3) O-3 visa for spouses and children under 21 years of age of the Principal O-1 visa holder. The visa allows the O-1 visa holder and any O-2 support personnel to enter the United States to engage in an “event” that can be up to 3 years (ex. A U.S. film company that would like to hire a well-known foreign actor/actress to be filmed in a movie).

Shawn QUINN – Attorney at Law – Avocat à la Cour
aux barreaux de New York (USA) et des Hauts-de-Seine (France)
contact@cabinetquinn.com
N° SIRET 538 941 378 00019 N°
TVA FR 16 538941378
Membre d’une association agréée
Toque 237 Hauts-de-Seine

Moreover, with very limited exceptions, the O visa category cannot be self-sponsored. That is, the person with extraordinary experience is not able to submit the application him or herself. Rather, there needs to be a U.S. employer that submits the petition. In cases where it is customary in the field to use agents, a U.S. agent is able to submit the petition on behalf of the foreign person.

Procedurally, United States Citizenship and Immigration Services (“USCIS”) has exclusive jurisdiction over the adjudication of O-1 visa petitions. Therefore, once a U.S. employer or agent has been located and the petition is ready it is mailed directly to USCIS for adjudication. If the foreign person is already in the United States and is in a situation where he or she can change status to that of an O-1 visa, then a change of status application can be made directly in the United States. However, for the majority of cases, the foreign person will be outside the United States. As a result, once the petition is approved, then the foreign person will undergo the second step in processing, applying for an O visa at a U.S. Embassy or Consulate. Upon obtaining the O visa, the foreign person can immediately travel to the United States and begin working.

As a note, given the often time sensitive business needs for O visa holders to be in the United States, USCIS adjudicates these petitions much quicker compared to other visa categories. Nevertheless, I strongly urge O-1 visa applicants and their U.S. employers to begin preparation in as much advance time as possible. This is especially true for those individuals in the television and motion pictures where the individual needs to be in the United States on certain dates for filming.

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*For more information concerning O visas, please do not hesitate to contact the
Law Firm of Shawn Quinn – Attorney at Law.*