

Extraordinary Ability Visas

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Introduction

The U.S. has multiple immigration options available for foreign nationals of “extraordinary ability” in a wide array of categories from arts to STEM to sports.

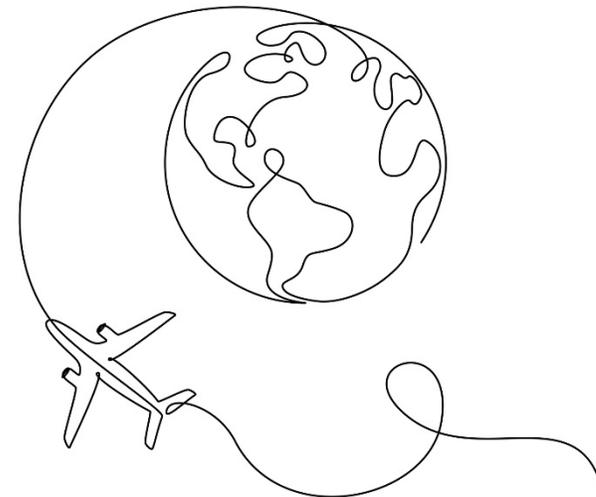
For employers whose employees missed the H-1B cap or those frustrated with U.S. visa options, extraordinary ability visas may be worth exploring.

Some of these visa categories require a U.S. employer sponsor while others allow self-sponsorship.

This webinar will explain the various immigration pathways for foreign nationals with outstanding careers, special skills, and formidable aspirations.

You will learn about:

- What are the extraordinary ability visa categories?
- Explanation of O-1 visas and EB-1 green cards.
- What is the difference between O-1A & O-1B?
- What is included in expert opinion letters?
- Which category should I apply for?
- Considerations when moving from a visa to a green card.



**EXTRAORDINARY ABILITY
VISA CATEGORIES**



O-1

(**non-immigrant visa**)

O-1B

Category	Description	Evidence
Extraordinary Ability	You must be able to demonstrate extraordinary ability in the sciences, arts, education, business, or athletics through sustained national or international acclaim.	You must meet at least 3 of the 10 criteria* below, or provide evidence of a one-time achievement (i.e., Academy Award, Emmy, Grammy, or Director's Guild Award) + evidence showing that you will be continuing to work in the area of your expertise No offer of employment or labor certification is required

* Criteria for Demonstrating Extraordinary Ability

- You have performed & will perform, services as a lead or starring participant in productions or **events** that have a distinguished reputation
- You have achieved national or international recognition for achievements as evidenced by the **media**
- You have performed & will perform, in a lead, starring, or **critical role** for organizations and establishments that have a distinguished reputation
- You have a record of major commercial or critically acclaimed **successes** (i.e.: national or international awards or prizes)
- You have received significant **recognition** for achievements from organizations, critics, government agencies, or other recognized experts in the field
- You have commanded a **high salary** or will command a high salary or other substantial remuneration for services in relation to others in the field

For more information on Extraordinary Ability, read our policy in [Volume 6, Part F, Chapter 2, of the USCIS Policy Manual](#).

O-1A

Category	Description	Evidence
Extraordinary Ability	You must be able to demonstrate extraordinary ability in the sciences, arts, education, business, or athletics through sustained national or international acclaim.	You must meet at least 3 of the 10 criteria* below, or provide evidence of a one-time achievement (i.e., Pulitzer, Oscar, Olympic Medal) + evidence showing that you will be continuing to work in the area of your expertise No offer of employment or labor certification is required

* Criteria for Demonstrating Extraordinary Ability

- You have received lesser nationally or internationally recognized **prizes or awards** for excellence
- You are a member of **associations** in the field which demand outstanding achievement of their members
- You have published material about you in professional or major **trade publications or other major media**
- You have been asked to **judge** the work of others, either individually or on a panel
- You have original scientific, scholarly, artistic, athletic, or business-related **contributions** of major significance to the field
- You **authored** scholarly articles in professional or major trade publications or other major media
- Your work has been displayed at artistic **exhibitions or showcases**
- You have performed in a leading or **critical role** in distinguished organizations
- You command a **high salary** or other significantly high remuneration in relation to others in the field
- You have commercial **successes** in the performing arts

For more information on Extraordinary Ability, read our policy in [Volume 6, Part F, Chapter 2, of the USCIS Policy Manual](#).

Difference between O-1A & O-1B

- O-1A
 - Science, business, education or athletics
 - Higher standard than O-1Bs
 - Means a level of expertise indicating that the person is **one of the small percentage** who has risen to the **very top** of the field of endeavor.
- O-1B
 - Arts, motion pictures and TV
 - Chefs, Pastry Chefs, Sommeliers, Service Directors/Culinary Experience Designers.
 - Means distinction. Distinction = a high level of achievement in the field of the arts evidenced by a degree of skill and recognition substantially above that ordinarily encountered to the extent that a person described as prominent is renowned, leading, or well-known in the field of arts.



Immigrant Visa



EB-1A *Extraordinary Ability*

Category	Description	Evidence
Extraordinary Ability	You must be able to demonstrate extraordinary ability in the sciences, arts, education, business, or athletics through sustained national or international acclaim.	You must meet at least 3 of the 10 criteria* below, or provide evidence of a one-time achievement (i.e., Pulitzer, Oscar, Olympic Medal) + evidence showing that you will be continuing to work in the area of your expertise No offer of employment or labor certification is required.

* Criteria for Demonstrating Extraordinary Ability

- You have received lesser nationally or internationally recognized **prizes or awards** for excellence
- You are a member in **associations** in the field which demand outstanding achievement of their members
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- You have been asked to **judge** the work of others, either individually or on a panel
- You have original scientific, scholarly, artistic, athletic, or business-related **contributions** of major significance to the field
- You **authored** scholarly articles in professional or major trade publications or other major media
- Your work has been displayed at artistic **exhibitions or showcases**
- Your performance of a leading or **critical role** in distinguished organizations
- You command a high salary or other significantly **high remuneration** in relation to others in the field
- You have commercial **successes** in the performing arts

<https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-first-preference-eb-1>

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EB-1B *Outstanding Researcher*

- You have international recognition as outstanding in a specific academic field
- You have at least 3 years of teaching or research in that field
- 3 options:
 - The offer of a tenured or tenure-back teaching position, or the offer of a comparable research position, or
 - The offer of a research position having no fixed term & in which the employee will ordinarily have an expectation of permanent employment, or
 - The offer of a comparable research position with a private employer if the employer has at least 3 full-time researchers and documented accomplishments in the research field

EB-2 *National Interest Waiver (NIW)*

- For green card, normally a job offer requirement & arduous labor market test
- For NIW, ask that the job offer requirement (aka labor certification) be waived, because it's in the U.S. national interest
- Undefined by statute, defined by case law (Dhanasar)
 - The person's proposed endeavor has both substantial merit and national importance;
 - The person is well positioned to advance the proposed endeavor; and
 - It would be beneficial to the U.S. to waive the job offer and thus the permanent labor certification requirements
- Preponderance of the evidence standard

NIW and Pilots

- **There has been a rumor in the past few years that pilots are “automatically” qualified for NIW or have some special consideration. This is not true.**
- Pilots are subject to the same standards as other professionals when applying for a NIW
- Key factors considered by USCIS for a NIW application include education, experience, licenses, salary, and professional recognition
- Many experienced pilots can meet these criteria due to their extensive flight experience & qualifications
- But being an experienced pilot alone does not guarantee approval of a NIW application
- Applicants must also demonstrate a proposed endeavor in the U.S. with substantial merit & national importance
- Merely seeking employment as a commercial pilot for an existing airline may not meet these criteria
- Success on a NIW application may require plans for substantial contributions to the U.S., e.g.: starting an air travel charter company or a flight school



Preparing a Petition

Create A User-Friendly Filing

- Make it easy for the examiner – organize documents, track criteria of the category in your cover letter or exhibit list, use colored dividers, highlight important content
- While the volume of the filing might vary (only sampling of documents versus kitchen sink approach) be sure your filing is well-organized
- Examiners will have limited time to review and will not read hyper technical evidence – use objective metrics to demonstrate the importance of the technical evidence

Deciding on the Types of Documents to Include



- Know the field of expertise and be able to explain it simply
- Conduct online search of your petitioner and beneficiary
- Review the beneficiary's achievements to make a roadmap for examiner

Independent, Objective Documents

- Independent, objective documents are imperative
- Any document not in English must be translated



Testimonial Letters (tips)

- Summarize your accomplishments
- Ensure accuracy and honesty of statements
- Expert letters should attest to things the expert could reasonably know about
- Do not overinflate your accomplishments or the meaning of them
- Critically evaluate each piece of evidence, does this reflect extraordinary ability?
- Advocate and push for angles on how to present achievements
- How was it distinguished?
 - Cooking for a product launch
 - Working at a fundraising dinner
 - Teaching a cooking class
 - Leading a wine seminar
 - ...

**Persuasively Presenting Supporting
Evidence For Artists
(including Culinary Artists) –**

EB-1A

&

*O-1B Extraordinary Ability
Filings*

Restaurant or Hotel Manager / Chef / Sommelier – Types of Documents

- CV and copies of degrees related to the hospitality field
- Existing contracts or endorsements
- Testimonial letters (include bios)
- Media coverage (look for print, audio and video, and circulations/audience)
- Critical reviews, advertisements, publicity releases, articles, photos featuring you working at the establishment and documentation showing its distinguished nature
- Certificate of participation in events, publicity releases, invitations, thank you email/letter and documentation showing its distinguished or industry nature of the event
- Copy of the prizes and awards (certificates, medals, trophies)
- Official and/or personal photos
- Photos of the dishes/service
- Professional membership certificate



Persuasively Presenting Supporting Evidence For Scientists And Business Executives –

- *EB-1A and O-1A Extraordinary Ability Filings,*
- *EB-1B Outstanding Researcher & EB-2 National Interest Waiver Filings*

The Scientist – Types of Documents

- CV, personal statement of research, statement of proposed endeavor – know your category
- Testimonial letters (include bios)
- Academic credentials – include FEE if highest degree is from abroad
- Research experience verification (if EB-1B)
- Employment information (tech ladder/compensation)
- Publications and patents (first page/rankings/journal and conference info)
- Citations (GS profile/sampling)
- Downloads and reads (include but know they are less meaningful)
- Media coverage (include transcripts, prestige/reach of media outlet, and downloads)
- Presentations (oral and invited weigh more/travel grant/comparable evidence)
- Reviewer (many ways to prove – leadership role weighs more – is activity routine)
- Honors, awards, and leadership roles
- Professional memberships (pros and cons)



The Business Executive – Types of Documents

- CV, personal statement, statement of proposed endeavor – know your category
- Testimonial letters
- Academic credentials (include certifications, continuing education (e.g. executive MBA))
- Employment information (focus on key role within the company: published organizational chart, client list, letters from clients, press releases quoting beneficiary, promotions, internal awards, proof of strong compensation package with bonuses, proof of secured outside funding)
- Speaking engagements (how big is audience, how prominent is meeting, is there a cost for admission)
- Media coverage (look for print, audio and video) (look for usage statistics)
- Leadership roles (professional organizations of industry)
- External business awards
- Proof of job offers
- Guest teaching



**CONSIDERATIONS WHEN
MOVING FROM A VISA TO
A GREEN CARD**



Other Statuses

- **Coming from J-1 Status**
 - 2-year Home Residency Requirement
 - Description of J-1 activities in the O-1 petition and supporting evidence
- **EB-1-1**
 - Can self-petition
 - Careful with AOS filing and travel (O-1 is not dual intent)
- **Maintain legal status while preparing the green card**

Helpful Resources

How Beneficiary can bolster his/her evidence:

- Create a Google Scholar profile (instructions on how to create one - <https://libraries.ou.edu/content/create-google-scholar-profile>)
- Check publication ranks at English Google Scholar Metrics (ranking of publications in variety of fields) (https://scholar.google.com/citations?view_op=top_venues&hl=en) and Scimago Journal and Country Rank (<https://www.scimagojr.com/journalrank.php>)
- Create a Publons profile (part of Web of Science) (<https://publons.com/in/researcher/>)
- IEEE Xplore (check citations and usage of papers published by IEEE (can search by author) (<https://ieeexplore.ieee.org/Xplore/home.jsp>)
- Check Fortune 500 (check if petitioning employer or clients are listed)(<https://fortune.com/fortune500/>)
- “How to become extraordinary” article by Becki Young (<https://www.restaurant-hospitality.com/legal/how-become-extraordinary>)

Questions?