

MOST COMMON U.S. VISAS

O & P VISAS

2022

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COMMON NON-IMMIGRANT VISAS

O & P VISAS

ENTERTAINERS, ATHLETES, AND CERTAIN EXTRAORDINARY PERSONS have the ability to temporarily enter the United States with an O or P nonimmigrant visa. The O visa category enables foreign nationals who have demonstrated extraordinary ability or extraordinary achievement in certain fields, or those who have critical skills and experience with such an individual, to obtain a temporary working visa.

The P nonimmigrant visa is available to foreign entertainment groups, athletes, or entertainers who wish to enter the United States temporarily to perform under a reciprocal exchange program or a program that is culturally unique.

This brochure provides a brief description of some of the requirements and procedures relating to O and P visas. It should not be taken as legal advice. To be certain your individual situation is handled properly, be sure to consult with an attorney experienced in immigration matters.

Who Qualifies for an O Visa?

The O visa category is for highly talented or acclaimed foreign nationals who may not qualify in other work-related nonimmigrant categories such as H, L, or J, or who wish to avoid those classifications for various reasons. Especially helpful to artists, athletes, entertainers, high-end chefs, and business people lacking professional degrees, the O classification can be useful and flexible alternative to the H-1B program.

The O visa is available for:

- A foreign national who has demonstrated extraordinary ability the sciences, arts, education, business, or athletics (or extraordinary achievement in the fields of film or television), proven by sustained national or international acclaim or the receipt of internationally recognized awards;
- An individual who has the critical skills and experience necessary to assist in the artistic or athletic performance of an O visa holder for a specific event, and is an integral part of the actual performance; or

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- A dependent spouse or child of an O visa holder. Dependents in this derivative visa category are not authorized to work while in the United States.

What Are “the Arts”?

The law broadly defines the term “arts” to include any field of creative activity or endeavor, including (but not limited to) fine arts, visual arts, culinary arts, and performing arts. Persons engaged in the field of arts include not only the principal creator and performers, but other essential persons such as directors, set designers, lighting designers, choreographers, conductors, orchestrators, coaches, makeup artists, and animal trainers.

What is Extraordinary Ability?

In the field of arts, it means a high level of achievement evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such a prominent foreign national is described as “renowned, leading, or well-known in the field of arts.”

In the field of science, education, business, or athletics, it means a level of expertise sufficient to put the petitioner among “the small percentage who have arisen to the very top” of his or her field of endeavor.

With respect to motion picture and television production, it is evidenced by a degree of skill and recognition significantly above that ordinarily encountered, to the extent that the foreign national is recognized as “outstanding notable, or leading in the motion picture or television field.”

Who Qualifies for a P Visa?

The P visa is another category available for athletes, as well as for members of entertainment groups. In general, P visas are more appropriate than O visas for group artists entering the United States on trips of limited duration. And, for many athletes, P visas are easier to obtain. More specifically, the P visa may be issued to a foreign national who is temporarily coming to the United States:

- ✓ To perform with an entertainment group that has been internationally recognized in its field, provided the individual has had at least a one-year relationship with the group as a performer or provides functions integral to the performance;

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- ✓ To perform with an entertainment group that has been internationally recognized in its field, provided the individual has had at least a one-year relationship with the group as a performer or provides functions integral to the performance;
 - ✓ To perform in a reciprocal exchange program between a U.S. organization and one or more foreign exchange organizations that provide for the exchange of artists and entertainers; or
 - ✓ To perform, teach, or coach as an individual or part of a group on a program that is culturally unique.

Dependents of a P visa holder can also obtain P VISA. These derivative visa holders are not authorized to work while in the United States.

What Must the Employer Do?

Petitions for O and P visas may be filed by a U.S. company or an authorized U.S. agent with a U.S. Citizenship and Immigration Services (USCIS) service center having jurisdiction over the place of intended employment. U.S. agents may file petitions on behalf of those who are traditionally self-employed, on behalf of those who use agents to arrange short-term employment with numerous employers, and on behalf of foreign employers. The petitions must be filed with accompanying documentation to prove that the individual is qualified for the visa. In most cases, the employer must also obtain a consultation from an appropriate union or peer group (and management organization for motion picture and television cases) regarding the nature of the work to be done and the qualifications of the foreign national.

How Long Can the Employee Stay in the United States?

An O visa may be granted for the period of time required for the event(s) or activities stated in the petition, but may not exceed three years. Further extensions are available. P visas may be granted for the period required to complete the competition or event. The maximum initial term allowable for an individual athlete is five years, for a total period of stay not exceed 10 years. The maximum initial term for athletic teams, entertainers, and entertainment groups is one year. Extensions in these categories may be granted increments of one year to continue or complete the activity or event for which they were admitted.