



U.S. Citizenship  
and Immigration  
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## Chapter 4 - O-1 Beneficiaries

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### A. Standard for Classification

In order to qualify as a person of “extraordinary ability” in the sciences, education, business, or athletics (commonly referred to as O-1A), or in arts (commonly referred to as O-1B (Arts)), a beneficiary must have “sustained national or international acclaim.”<sup>[1]</sup> With regard to classification to work in motion picture and television productions (commonly referred to as O-1B (MPTV)), a beneficiary must have a demonstrated record of extraordinary achievement.<sup>[2]</sup> In all cases, an O-1 beneficiary’s achievements must have been recognized in the field through extensive documentation.<sup>[3]</sup>

The regulations define “extraordinary ability” as applied to the O-1 classification as follows:

- In the field of science, education, business, or athletics: a level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor.<sup>[4]</sup>
- In the field of arts: distinction, defined as a high level of achievement in the field of arts, as 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.<sup>[5]</sup>

“Extraordinary achievement” in reference to persons in the motion picture or television industry (including both performers and others) means a very high level of accomplishment in the motion picture or television industry, as evidenced by a degree of skill and recognition significantly above that ordinarily encountered to the extent that the person is recognized as outstanding, notable, or leading in the motion picture or television field.<sup>[6]</sup>

### *Determining the Relevant Standard for Artists with Some Connection to MPTV*

Some petitions may have elements of both O-1B (Arts) and O-1B (MPTV) classifications and it may not be clear which O-1B classification and definitional standard an officer should apply. For instance, if the beneficiary would be coming to the United States to work as an artist, but some of the artist’s work will be in the motion picture or television industry, it might be unclear whether an officer should apply the requirements for O-1B (Arts) or O-1B (MPTV).<sup>[7]</sup> In addition, as new forms of media productions, including various types of internet content, emerge, it can be more difficult for officers to determine which productions constitute motion picture or television productions.

Analysis of whether a production is within the motion picture or television industry is not limited to whether it will air on a television screen or in a movie theater, as the industry has grown to encompass some online content. While static web materials and self-produced video blogs and social media content generally do not fall into the MPTV category, USCIS considers streaming movies, web series, commercials, and other programs with formats that correspond to more traditional motion picture and television productions to generally fall within the MPTV industry’s purview. This interpretation of whether a beneficiary is working on a motion picture or television production, and is therefore subject to the O-1B MPTV requirements, generally aligns with that of industry organizations.<sup>[8]</sup> Accordingly, USCIS may properly consider work on such productions to fall under the O-1B (MPTV) classification.

USCIS interprets the eligibility requirements for O-1B (MPTV) to apply if the beneficiary will perform services for motion picture or television productions while in the United States regardless of other prospective services outside the MPTV industry.<sup>[9]</sup> If, however, an artist’s work or appearance on an MPTV production is incidental to their non-MPTV work as an artist, the O-1B (MPTV) classification may not be appropriate, and the person may instead seek classification under O-1B (Arts). For example, USCIS does not necessarily consider artists who will be interviewed or will otherwise appear discussing, demonstrating, or promoting their work as an artist in an MPTV production to be working in the MPTV industry.<sup>[10]</sup> This interpretation reflects USCIS’ longstanding practice, and is consistent with the statute, which includes more stringent consultation requirements for persons “seeking entry for a motion picture or television production,” and describes eligibility for persons in this industry separately from those in the “arts,” notwithstanding the artistic nature of their work.<sup>[11]</sup>

USCIS generally does consider the people employed by the production company to conduct the interview, film the broadcasts, or otherwise perform as paid professionals, to be working in the MPTV industry. Similarly, USCIS considers persons such as hosts or judges cast in a reality-based production to be working in the MPTV industry whereas USCIS does not consider the contestants to be working in the MPTV industry.

## B. Determining Eligibility for O-1 Classification

For an O-1 Petition for a Nonimmigrant Worker ([Form I-129](#)), the officer must determine whether the beneficiary meets the relevant standard outlined in the statute and regulations.”<sup>[12]</sup> The regulations describe the various types of evidence the petitioner must submit in support of a petition for each type of O-1 beneficiary. In general, the petition must be accompanied by either evidence of receipt of (or in some categories nomination for) a qualifying award, or at least three alternate forms of evidence. However, an officer cannot make a favorable determination simply because the petitioner has submitted the forms of documentation described in the regulations.

As explained in the preamble to the final rule, the evidentiary requirements are not the standard for the classification, but are instead the mechanism for establishing whether the standard is met.<sup>[13]</sup> Accordingly, the fact that the petitioner has produced evidence satisfying at least three evidentiary criteria does not necessarily establish that the beneficiary is eligible for the O-1 classification.<sup>[14]</sup> Rather, USCIS must determine eligibility based on whether the totality of the evidence submitted demonstrates that the beneficiary meets the relevant standard.

More specifically, an officer first determines whether the petitioner has submitted evidence meeting the minimum number of criteria or submitted evidence that the beneficiary received a qualifying award (or nomination, if applicable). If the petitioner meets the evidentiary requirements, the officer must then consider all the evidence in the record in its totality to determine if the beneficiary is a person of extraordinary ability or achievement as defined in [INA 101\(a\)\(15\)\(O\)\(i\)](#) and [8 CFR 214.2\(o\)](#).

### *Satisfying the Evidentiary Requirements*

The analysis in this step is limited to determining whether the evidence submitted is comprised of either a qualifying award (or nomination, if applicable), or at least three of the applicable alternate criteria. In determining whether an evidentiary criterion is met, an officer should evaluate the evidence to determine if it falls within the parameters of the applicable regulation. While an officer should consider whether the submitted evidence meets the language of the regulations to determine whether a particular regulatory criterion has been met, no determination is made during this step as to whether or not the evidence is indicative that the beneficiary meets the applicable definitional standard for the classification.<sup>[15]</sup>

### *Totality Determination*

Providing required evidence does not, in itself, establish that the beneficiary meets the standard for classification as a person of extraordinary ability or extraordinary achievement. Accordingly, when the evidentiary requirements specified above are satisfied, an officer proceeds to evaluate the totality of all the evidence in the record to determine whether it establishes that the:

- O-1A beneficiary has sustained national or international acclaim and is one of the small percentage who have arisen to the very top of his or her field;<sup>[16]</sup>
- O-1B (Arts) beneficiary has sustained national or international acclaim and has achieved distinction in the field of arts;<sup>[17]</sup> or
- O-1B (MPTV) beneficiary has a record of extraordinary achievement in the motion picture and television industry such that he or she has a very high level of accomplishment in the motion picture or television industry evidenced by a degree of skill and recognition significantly

above that ordinarily encountered to the extent that the person is recognized as outstanding, notable, or leading in the field.<sup>[18]</sup>

If the officer determines that the petitioner has failed to meet these standards, the officer should articulate the specific reasons as to why the petitioner, by a preponderance of the evidence, has not demonstrated that the beneficiary is a person of extraordinary ability or achievement based on the relevant statutory and regulatory language.

## C. O-1A Beneficiaries in Sciences, Education, Business, or Athletics

### 1. Establishing Eligibility

In support of an O-1A Petition for a Nonimmigrant Worker ([Form I-129](#)), the petitioner must establish that the beneficiary:

- Has extraordinary ability in the sciences, education, business, or athletics, which has been demonstrated by sustained national or international acclaim;
- Has achievements that have been recognized in the field through extensive documentation; and
- Is coming to continue work in the area of extraordinary ability (but not necessarily that the particular duties to be performed require someone of such extraordinary ability).<sup>[19]</sup>

### 2. Supporting Documentation

The supporting documentation for an O-1A petition must include evidence that the beneficiary has received a major internationally recognized award (such as the Nobel Prize) or at least three of the following forms of evidence:

- Documentation of the beneficiary's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
- Documentation of the beneficiary's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields;
- Published material in professional or major trade publications or major media about the beneficiary, relating to the beneficiary's work in the field for which classification is sought, which must include the title, date, and author of such published material, and any necessary translation;

- Evidence of the beneficiary's participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization for which classification is sought;
- Evidence of the beneficiary's original scientific, scholarly, or business-related contributions of major significance in the field;
- Evidence of the beneficiary's authorship of scholarly articles in the field, in professional journals, or other major media;
- Evidence that the beneficiary has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation; or
- Evidence that the beneficiary has either commanded a high salary or will command a high salary or other remuneration for services, as evidenced by contracts or other reliable evidence.<sup>[20]</sup>

Appendix: Satisfying the O-1A Evidentiary Requirements [\[2 USCIS-PM M.4, Appendices Tab\]](#) describes examples of evidence that may, in some circumstances, satisfy the O-1A evidentiary requirements, as well as considerations that are relevant to evaluating such evidence. While many of the listed examples and considerations are especially relevant to beneficiaries in fields related to science, technology, engineering, or mathematics (STEM),<sup>[21]</sup> the guidance in the appendix may be relevant to any O-1A petition, as the evidentiary requirements are the same for all persons in the sciences, education, business, and athletics.

### 3. Comparable Evidence

If the listed criteria are not readily applicable to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility.<sup>[22]</sup>

#### *When a Petitioner May Use Comparable Evidence*

Petitioners should submit evidence outlined in the evidentiary criteria if the criteria readily apply to the beneficiary's occupation.<sup>[23]</sup> However, if the petitioner establishes that a particular criterion is not readily applicable to the beneficiary's occupation, the petitioner may then submit evidence that is not specifically described in that criterion but is comparable to that criterion.<sup>[24]</sup>

A petitioner is not required to show that all or a majority of the criteria do not readily apply to the beneficiary's occupation before USCIS will accept comparable evidence. Instead, for comparable evidence to be considered, the petitioner must explain why a particular evidentiary criterion listed in the regulations is not readily applicable to the beneficiary's occupation, as well as why the submitted evidence is "comparable" to that criterion. A general unsupported assertion that the listed criterion does not readily apply to the beneficiary's occupation is not probative. However, a statement alone can be sufficient if it is detailed, specific, and credible.

Although officers do not consider comparable evidence if the petitioner submits evidence in lieu of a particular criterion that is readily applicable to the beneficiary's occupation simply because the beneficiary cannot satisfy that criterion, a criterion need not be entirely

inapplicable to the beneficiary's occupation. Rather, comparable evidence is allowed if the petitioner shows that a criterion is not easily applicable to the beneficiary's job or profession.<sup>[25]</sup>

As with all O-1A petitions, officers may consider comparable evidence in support of petitions for beneficiaries working in STEM fields. Specifically, if a petitioner demonstrates that a particular criterion does not readily apply to the beneficiary's occupation, the petitioner may submit evidence that is of comparable significance to that criterion to establish sustained acclaim and recognition.

For instance, if the publication of scholarly articles is not readily applicable to a beneficiary whose occupation is in an industry rather than academia, a petitioner might demonstrate that the beneficiary's presentation of work at a major trade show is of comparable significance to that criterion. As another example, if the petitioner demonstrates that receipt of a high salary is not readily applicable to the beneficiary's position as an entrepreneur, the petitioner might present evidence that the beneficiary's highly valued equity holdings in the startup are of comparable significance to the high salary criterion.

#### *Establishing Eligibility with Comparable Evidence*

A petitioner relying on evidence that is comparable to one or more of the criteria listed at [8 CFR 214.2\(o\)\(3\)\(iii\)\(B\)](#), must still meet at least three separate evidentiary criteria to satisfy the evidence requirements, even if one or more of those criteria are met through evidence that is not specifically described in the regulation but is comparable.<sup>[26]</sup> While a petitioner relying on comparable evidence is not limited to the kinds of evidence listed in the criteria, the use of comparable evidence does not change the standard for the classification. It remains the petitioner's burden to establish that the beneficiary has extraordinary ability in the beneficiary's field of endeavor.

## 4. Evaluating the Totality of the Evidence

When the evidentiary requirements specified above are satisfied, an officer proceeds to evaluate the totality of all the evidence in the record to determine whether the beneficiary has extraordinary ability with sustained national or international acclaim, as described in the O statute and regulations.<sup>[27]</sup>

At this step, officers may consider any potentially relevant evidence, even if such evidence does not fit one of the above regulatory criteria or was not presented as comparable evidence.

The following are examples of situations where evidence might not directly correspond to the above regulatory criteria or might not be presented as comparable evidence, but would nonetheless be potentially relevant towards demonstrating, in the totality of the evidence, that an O-1A beneficiary is among the small percentage at the top of the field and that the beneficiary has sustained national or international acclaim:<sup>[28]</sup>

- The record demonstrates that the beneficiary has published articles in particularly highly-ranked journals relative to other journals in the field, as demonstrated by, for example, evidence the petitioner provides regarding the journal's impact factor.<sup>[29]</sup> Depending on the level of recognition of the journals in question, as demonstrated by evidence in the record, there may be particular prestige or acclaim

associated with publication in such journals, especially if the beneficiary is the most significant contributor to the publication, a senior author, or the sole author of the article(s).

- The petitioner provides evidence demonstrating that the total rate of citations to the beneficiary's body of published work is high relative to others in the field, or the beneficiary has a high h-index<sup>[30]</sup> for the field. Depending on the field and the comparative data the petitioner provides, such evidence may indicate a beneficiary's high overall standing for the purpose of demonstrating that the beneficiary is among the small percentage at the top of the field.<sup>[31]</sup>
- The petitioner documents the beneficiary's employment or research experience is with leading institutions in the field (such as U.S. universities that have been recognized as having high or very high research activity by the Carnegie Classification of Institutions of Higher Education,<sup>[32]</sup> foreign universities with comparably high research activity, or a university that is highly regarded according to a widely recognized metric such as the QS World University Rankings<sup>[33]</sup>). Such employment or experience can be a positive factor toward demonstrating that the beneficiary is among the small percentage at the top of the field.
- The record establishes that the beneficiary has received unsolicited invitations to speak or present research at nationally or internationally recognized conferences in the field. Although such a role for the conference may not rise to the level of a critical or essential capacity, this type of invitation is generally indicative of a person's high standing and recognition for achievements in the field.
- The record establishes that the beneficiary is named as an investigator, scientist, or researcher on a peer-reviewed and competitively funded U.S. government grant or stipend for STEM research. This type of evidence can be a positive factor indicating a beneficiary is among the small percentage at the top of the beneficiary's field.

In all cases, the petitioner has the burden of providing sufficient context regarding the above evidence and considerations to demonstrate that the evidence meets the relevant criteria and to establish the beneficiary's extraordinary ability in the totality of the circumstances.

## D. O-1B Beneficiaries in the Arts

### 1. Establishing Eligibility

In support of an O-1B (Arts) Petition for a Nonimmigrant Worker ([Form I-129](#)), the petitioner must establish that the beneficiary:

- Has extraordinary ability in the arts which has been demonstrated by sustained national or international acclaim;
- Has achievements that have been recognized in the field through extensive documentation; and
- Is coming to work in the area of extraordinary ability (but not necessarily that the particular duties to be performed require someone of such extraordinary ability).<sup>[34]</sup>

## 2. Supporting Documentation

The supporting documentation for an O-1B (Arts) petition must include evidence that the beneficiary has received, or been nominated for, a significant national or international award or prize in the particular field (such as an Academy Award, Emmy, Grammy, or Director's Guild Award) or at least three of the following forms of evidence:

- Evidence that the beneficiary has performed, and will perform, services as a lead or starring participant in productions or events that have a distinguished reputation, as evidenced by critical reviews, advertisements, publicity releases, publications, contracts, or endorsements;
- Evidence that the beneficiary has achieved national or international recognition for achievements, as evidenced by critical reviews or other published materials by or about the beneficiary in major newspapers, trade journals, magazines, or other publications;
- Evidence that the beneficiary has performed, and will perform, in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation, as evidenced by articles in newspapers, trade journals, publications, or testimonials;
- Evidence that the beneficiary has a record of major commercial or critically acclaimed successes, as evidenced by such indicators as title, rating, standing in the field, box office receipts, motion pictures or television ratings, and other occupational achievements reported in trade journals, major newspapers, or other publications;
- Evidence that the beneficiary has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field in which the beneficiary is engaged. Such testimonials must be in a form which clearly indicates the author's authority, expertise, and knowledge of the beneficiary's achievements; or
- Evidence that the beneficiary has either commanded a high salary or will command a high salary or other substantial remuneration for services in relation to others in the field, as evidenced by contracts or other reliable evidence.<sup>[35]</sup>

The Appendix: Satisfying the O-1B Evidentiary Requirements [\[2 USCIS-PM M.4, Appendices Tab\]](#) describes examples of evidence that may, in some circumstances, satisfy the O-1B evidentiary requirements, as well as considerations that are relevant to evaluating such evidence.

## 3. Comparable Evidence

If the criteria are not readily applicable to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility.<sup>[36]</sup>

### *When a Petitioner May Use Comparable Evidence*

Petitioners should submit evidence outlined in the evidentiary criteria if the criteria readily apply to the beneficiary's occupation.<sup>[37]</sup> However, if the petitioner establishes that a particular criterion is not readily applicable to the beneficiary's occupation, the petitioner may then use the



comparable evidence provision to submit additional evidence that is not specifically described in that criterion but is comparable to that criterion.

A petitioner is not required to show that all or a majority of the criteria do not readily apply to the beneficiary's occupation before USCIS will accept comparable evidence. Instead, for comparable evidence to be considered, the petitioner must explain why a particular evidentiary criterion listed in the regulations is not readily applicable to the beneficiary's occupation as well as why the submitted evidence is "comparable" to that criterion. A general unsupported assertion that the listed criterion does not readily apply to the beneficiary's occupation is not probative. However, a statement alone can be sufficient if it is detailed, specific, and credible.

Although officers do not consider comparable evidence if the petitioner submits evidence in lieu of a particular criterion that is readily applicable to the beneficiary's occupation simply because the beneficiary cannot satisfy that criterion, a criterion need not be entirely inapplicable to the beneficiary's occupation. Rather, comparable evidence is allowed if the petitioner shows that a criterion is not easily applicable to the beneficiary's job or profession.<sup>[38]</sup>

#### *Establishing Eligibility with Comparable Evidence*

A petitioner relying on evidence that is comparable to one or more of the criteria listed at [8 CFR 214.2\(o\)\(3\)\(iv\)\(B\)](#), must still meet at least three separate evidentiary criteria to satisfy the evidence requirements, even if one or more of those criteria are met through evidence that is not specifically described in the regulation but is comparable.<sup>[39]</sup> While a petitioner relying on comparable evidence is not limited to the kinds of evidence listed in the criteria, the use of comparable evidence does not change the standard for the classification. It remains the petitioner's burden to establish that the beneficiary has extraordinary ability in the beneficiary's field of endeavor.

## 4. Evaluating the Totality of the Evidence

When the evidentiary requirements specified above are satisfied, an officer proceeds to evaluate the totality of all the evidence in the record to determine whether the beneficiary has extraordinary ability with sustained national or international acclaim, as described in the O statute and regulations.<sup>[40]</sup>

At this step, officers may consider any potentially relevant evidence, even if such evidence does not fit one of the above regulatory criteria or was not presented as comparable evidence.

## E. O-1B Beneficiaries in Motion Picture or Television

### 1. Establishing Eligibility

In support of an O-1B (MPTV) Petition for a Nonimmigrant Worker ([Form I-129](#)), the petitioner must establish that the beneficiary has demonstrated a record of extraordinary achievement in motion picture or television productions and is coming to continue to work in such productions. <sup>[41]</sup> However, the productions need not require someone with a record of extraordinary achievement.

## 2. Supporting Documentation

The supporting documentation for an O-1B (MPTV) petition must include evidence that the beneficiary has received, or been nominated for, a significant national or international award or prize in the particular field (such as an Academy Award, Emmy, Grammy, or Director's Guild Award) or at least three of the following forms of evidence:

- Evidence that the beneficiary has performed, and will perform, services as a lead or starring participant in productions or events that have a distinguished reputation, as evidenced by critical reviews, advertisements, publicity releases, publications, contracts, or endorsements;
- Evidence that the beneficiary has achieved national or international recognition for achievements, as evidenced by critical reviews or other published materials by or about the beneficiary in major newspapers, trade journals, magazines, or other publications;
- Evidence that the beneficiary has performed, and will perform, in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation, as evidenced by articles in newspapers, trade journals, publications, or testimonials;
- Evidence that the beneficiary has a record of major commercial or critically acclaimed successes, as evidenced by such indicators as title, rating, standing in the field, box office receipts, motion pictures or television ratings, and other occupational achievements reported in trade journals, major newspapers, or other publications;
- Evidence that the beneficiary has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the beneficiary's field. Such testimonials must be in a form that clearly indicates the author's authority, expertise, and knowledge of the beneficiary's achievements; or
- Evidence that the beneficiary has either commanded a high salary or will command a high salary or other substantial remuneration for services in relation to others in the field, as evidenced by contracts or other reliable evidence. <sup>[42]</sup>

Appendix: Satisfying the O-1B Evidentiary Requirements [[2 USCIS-PM M.4, Appendices Tab](#)] describes examples of evidence that may, in some circumstances, satisfy the O-1B evidentiary requirements, as well as considerations that are relevant to evaluating such evidence.

Petitioners for beneficiaries working in motion picture or television productions must submit evidence that applies to the criteria listed above; they may not rely on comparable evidence. <sup>[43]</sup>

## 3. Evaluating the Totality of the Evidence

When the evidentiary requirements mentioned above are satisfied, an officer proceeds to evaluate the totality of all the evidence in the record in order to determine whether the beneficiary has extraordinary achievement in the motion picture and television industry as described in the O statute and regulations. [\[44\]](#)

At this step, officers may consider any potentially relevant evidence, even if such evidence does not fit one of the above regulatory criteria.

## F. Continuing to Work in the Area of Extraordinary Ability or Achievement

### 1. O-1A Beneficiaries in Sciences, Education, Business, or Athletics and O-1B Beneficiaries in the Arts

In addition to demonstrating the beneficiary's extraordinary ability and recognition in the field, a petitioner must demonstrate that an O-1A or O-1B (Arts) beneficiary is coming to the United States to continue work in the "area of extraordinary ability." [\[45\]](#)

When considering a petition for a beneficiary who is transitioning to a new occupation (for instance, an acclaimed athlete coming to be a coach, a renowned STEM professor or academic researcher coming to work for a private company, or an acclaimed dancer coming to be a dance teacher or choreographer), it can be unclear whether the proposed work in the United States is within the "area of extraordinary ability," as required.

There is no statutory or regulatory definition of the term "field" or the phrase "area of extraordinary ability." For purposes of evaluating an O-1A or O-1B (Arts) beneficiary's extraordinary ability in the field, USCIS interprets the term "field" to allow consideration of acclaim and recognition for achievements in multiple related occupations (that is, those involving shared skillsets, knowledge, or expertise). Similarly, in the O-1A or O-1B (Arts) context, USCIS interprets the phrase "area of extraordinary ability" broadly to include not only the specific occupation(s) in which the beneficiary has garnered acclaim, but also other occupations that involve shared skillsets, knowledge, or expertise. [\[46\]](#)

Accordingly, when determining whether the beneficiary is coming to work in the beneficiary's "area of extraordinary ability," officers focus on whether the prospective work or services involve skillsets, knowledge, or expertise shared with the occupation(s) in which the beneficiary has garnered acclaim. In evaluating whether occupations involve shared skillsets, knowledge, or expertise to an extent that they may be considered within the same area of extraordinary ability, officers evaluate the totality of information and evidence presented. Relevant factors include, but are not limited to:

- Whether the past and prospective occupations are in the same industry or are otherwise related based on shared duties or expertise;
- Whether the prospective occupation is a supervisory, management, or other leadership position that oversees the beneficiary's previous position or otherwise requires shared knowledge, skills, or expertise; and

- Whether it is common for persons in one occupation to transition to the other occupation(s) based upon their experience and knowledge.

## 2. O-1B Beneficiaries in Motion Picture or Television

In addition to demonstrating the beneficiary's extraordinary achievement in MPTV productions and recognition in the field, a petitioner must demonstrate that an O-1B (MPTV) beneficiary is coming to the United States to continue work in the "area of extraordinary achievement."<sup>[47]</sup>

For a beneficiary with a record of extraordinary achievement in motion picture or television (MPTV) productions, USCIS interprets the beneficiary's "area of extraordinary achievement" to include any proposed work within the MPTV industry.<sup>[48]</sup> In addition to being consistent with longstanding agency practice, USCIS believes this industry-focused interpretation for the O-1B (MPTV) classification is consistent with statute and regulations, which discuss MPTV petitions separately from other types of O petitions and specifically focus on achievement in MPTV "productions" and the "industry."<sup>[49]</sup>

## Footnotes

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<sup>[^ 1]</sup> See [INA 101\(a\)\(15\)\(O\)\(i\)](#). "Sustained" national or international acclaim means that a beneficiary's acclaim must be maintained. (According to Black's Law Dictionary (11th ed. 2019), the definition of sustain is "(1) to support or maintain, especially over a long period of time; ... (6) To persist in making (an effort) over a long period.") However, the word "sustained" does not imply an age limit on the beneficiary. A beneficiary may be very young in his or her career and still be able to show sustained acclaim. There is also no definitive time frame on what constitutes "sustained." If a person was recognized for a particular achievement, the officer should determine whether the person continues to maintain a comparable level of acclaim in the field of expertise since the person was originally afforded that recognition. A person may have achieved national or international acclaim in the past but then failed to maintain a comparable level of acclaim thereafter.

<sup>[^ 2]</sup> See [INA 101\(a\)\(15\)\(O\)\(i\)](#).

<sup>[^ 3]</sup> See [INA 101\(a\)\(15\)\(O\)\(i\)](#).

<sup>[^ 4]</sup> See [8 CFR 214.2\(o\)\(3\)\(ii\)](#).

<sup>[^ 5]</sup> See [INA 101\(a\)\(46\)](#). See [8 CFR 214.2\(o\)\(3\)\(ii\)](#).

<sup>[^ 6]</sup> See [8 CFR 214.2\(o\)\(3\)\(ii\)](#).

<sup>[^ 7]</sup> Other non-exhaustive examples include actors, writers, composers, or set designers seeking to come to the United States to do some work within the MPTV industry while also seeking to work in live theater or perform other work as an artist outside the MPTV industry.

[^ 8] This is consistent with the [Academy of Television Arts & Sciences](#)' consideration of series, commercials, and other programs that air by "broadband" to be among the productions eligible for Primetime Emmy Awards. See [73rd Primetime Emmy Awards 2020-2021 Rules and Procedures \(PDF\)](#) (accessed on January 5, 2022). In addition, the Alliance of Motion Picture and Television Producers discusses beneficiaries working on a "web series/program" and a "web commercial" among those for whom it provides opinions, but lists "static web content" as an example of a project that is "not part of motion picture and television production." See [AMPTP Guidelines for O-1 Visa Advisory Opinion Letter Requests \(PDF\)](#) (accessed on January 5, 2022).

[^ 9] USCIS provided this interpretation in its policy guidance on January 13, 2022, to provide increased clarity for officers, to promote consistent adjudications, and to increase transparency for prospective petitioners.

[^ 10] Other non-exhaustive examples of artists whose MPTV work is incidental to their artistic work include musicians or other artists performing live on television or filmed for television "specials," persons appearing as themselves in documentaries, and composers or musicians who license their music to films or television. In contrast, composers who are engaged to score MPTV productions are directly working in the MPTV industry.

[^ 11] See [INA 101\(a\)\(15\)\(O\)\(i\)](#). See [INA 214\(c\)\(3\)](#).

[^ 12] See [INA 101\(a\)\(15\)\(O\)\(i\)](#). See [8 CFR 214.2\(o\)\(3\)\(ii\)](#).

[^ 13] See [59 FR 41818 \(PDF\)](#), 41820 (Aug. 15, 1994).

[^ 14] See [Matter of Chawathe \(PDF\)](#), 25 I&N Dec. 369, 376 (AAO 2010) ("[T]ruth is to be determined not by the quantity of evidence alone but by its quality. Therefore, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true").

[^ 15] For example, authorship of scholarly articles in the field in professional journals or other major media, alone, regardless of caliber, would satisfy the criterion at [8 CFR 214.2\(o\)\(3\)\(iii\)\(B\)\(6\)](#). Analysis of whether those publications are consistent with a finding that the beneficiary has sustained acclaim and is among the small percentage at the top of the field would be addressed and articulated in the totality determination.

[^ 16] See [INA 101\(a\)\(15\)\(O\)\(i\)](#). See [8 CFR 214.2\(o\)\(3\)\(ii\)](#).

[^ 17] See [INA 101\(a\)\(15\)\(O\)\(i\)](#). See [INA 101\(a\)\(46\)](#). See [8 CFR 214.2\(o\)\(3\)\(ii\)](#) ("Distinction means a high level of achievement in the field of 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").

[^ 18] See [INA 101\(a\)\(15\)\(O\)\(i\)](#). See [8 CFR 214.2\(o\)\(3\)\(ii\)](#).

[^ 19] See [INA 101\(a\)\(15\)\(O\)\(i\)](#). See Section F, Continuing to Work in the Area of Extraordinary Ability or Achievement [[2 USCIS-PM M.4\(F\)](#)] for more information.

[^ 20] See [8 CFR 214.2\(o\)\(3\)\(iii\)](#).

[^ 21] “STEM” is not defined in the regulations for the O classification, but officers may refer to the regulatory definition found in the context of STEM optional practical training for students for guidance. See [8 CFR 214.2\(f\)\(10\)\(ii\)\(C\)\(2\)\(i\)](#). Due to the highly technical nature of STEM fields and the complexity of the evidence that is often submitted, USCIS has chosen to highlight examples and considerations that are likely to come up in this context in this guidance.

[^ 22] See [8 CFR 214.2\(o\)\(3\)\(iii\)\(C\)](#).

[^ 23] See [8 CFR 214.2\(o\)\(3\)\(iii\)](#).

[^ 24] The comparable evidence provision was intended as a “catch-all” to allow for additional evidence to be considered when the other enumerated criteria do not readily apply, in whole or in part, when evaluating whether the beneficiary has extraordinary ability. See [59 FR 41818 \(PDF\)](#), 41820 (August 15, 1994). While alternative interpretations of the regulation are possible, USCIS believes that the best interpretation as a matter of policy is to allow for consideration of comparable evidence on a criterion-by-criterion basis. This interpretation is supported by the fact that the O regulations do not explicitly mandate a showing that a certain number of criteria do not apply before a petitioner may submit comparable evidence. These provisions do not include a qualifier such as “all” or “the majority of” before “criteria.” It is unclear if the use of the term “criteria” was intended to require a showing that all or a majority of the criteria do not readily apply, or if the use of the word “criteria” was merely a reference to the multiple evidentiary options listed in the regulations. This interpretive policy resolves that ambiguity.

[^ 25] Consistent with a plain language reading, “readily” means “easily” or “without much difficulty.” See Merriam-Webster Dictionary’s [definition of “readily.”](#) The term “occupation” is defined as “the principal business of one’s life.”

[^ 26] For example, a petitioner who establishes that [8 CFR 214.2\(o\)\(3\)\(iii\)\(B\)\(2\)](#) is not readily applicable to the beneficiary’s occupation may submit evidence showing that two other criteria under [8 CFR 214.2\(o\)\(3\)\(iii\)\(B\)](#) have been met, along with an additional form of evidence of comparable significance to that in [8 CFR 214.2\(o\)\(3\)\(iii\)\(B\)\(2\)](#), to establish sustained acclaim and recognition.

[^ 27] See Section B, Determining Eligibility for O-1 Classification [[2 USCIS-PM M.4\(B\)](#)]. The same totality analysis described in Section B applies regardless of whether comparable evidence was relied upon to satisfy the evidentiary requirements.

[^ 28] Not all cases will have such evidence, nor does a case need such evidence for the petitioner to demonstrate eligibility. Additionally, the list below is a non-exhaustive list of examples, and while the listed factors may be especially relevant to beneficiaries in STEM fields, the guidance applies to all O-1A petitions.

[^ 29] Impact factor is commonly used as a measure of a journal's influence; it represents the average number of citations received per article published in that journal during the 2 preceding years. See Garfield, E, [The History and Meaning of the Journal Impact Factor](#), *Journal of the American Medical Association*, Vol. 295, Iss. 1, p. 90 (2006).

[^ 30] The h-index is a tool for measuring a researcher's output and impact. It is based on the highest number of the researcher's publications that have been cited at least that same number of times. For example, if a researcher has an h-index of 10, it means the researcher has 10 publications that have 10 or more citations each (but not 11 publications with at least 11 citations each). See Hirsch, J, [An Index to Quantify an Individual's Scientific Research Output \(PDF\)](#), *Proceedings of the National Academy of Sciences of the United States of America*, Vol. 102, Iss. 46, p. 16569 (2005).

[^ 31] This factor is less relevant for beneficiaries early in their career, as such persons have had less time to accumulate citations but may nevertheless have garnered acclaim and risen to the small percentage at the top of the field as demonstrated by other evidence in the record. As stated above, none of the listed factors are required to demonstrate eligibility.

[^ 32] The Carnegie Classification of Institutions of Higher Education uses the R1 and R2 doctoral university designations to recognize institutions as having "very high" or "high" research activity, respectively, based on publicly available federal government data regarding the number of doctoral degrees awarded and the amount of total research expenditures. See the Carnegie Classification of Institutions of Higher Education's [Basic Classification Description](#) webpage.

[^ 33] The QS World University Rankings annually evaluate universities according to a methodology based on six consistent and empirical metrics: academic reputation (40%), employer reputation (10%), faculty to student ratio (20%), citations per faculty (20%), international faculty ratio (5%), and international student ratio (5%). These metrics are used to rank universities, as well as capture and assess university performance. See the QS World University Rankings [Methodology](#) webpage.

[^ 34] See [INA 101\(a\)\(15\)\(O\)\(i\)](#). For more information, see Section F, Continuing to Work in the Area of Extraordinary Ability or Achievement [[2 USCIS-PM M.4\(F\)](#)]. For information about determining whether an O-1B beneficiary falls under the arts or MPTV classification, see Section A, Standard for Classification [[2 USCIS-PM M.4\(A\)](#)].

[^ 35] See [8 CFR 214.2\(o\)\(3\)\(iv\)](#).

[^ 36] See [8 CFR 214.2\(o\)\(3\)\(iv\)\(C\)](#). See the discussion of comparable evidence in Section C, O-1A Beneficiaries in Sciences, Education, Business, or Athletics [[2 USCIS-PM M.4\(C\)](#)] for more information.

[^ 37] See [8 CFR 214.2\(o\)\(3\)\(iv\)](#).

[^ 38] Consistent with a plain language reading, "readily" means "easily" or "without much difficulty." See Merriam-Webster Dictionary's [definition of "readily."](#) The term "occupation" is defined as "the principal business of one's life."

[^ 39] For example, a petitioner who establishes that [8 CFR 214.2\(o\)\(3\)\(iv\)\(B\)\(2\)](#), is not readily applicable to the beneficiary's occupation may submit evidence showing that two other criteria under [8 CFR 214.2\(o\)\(3\)\(iv\)\(B\)](#) have been met, along with an additional form of evidence of comparable significance to that in [8 CFR 214.2\(o\)\(3\)\(iv\)\(B\)\(2\)](#), to establish sustained acclaim and recognition.

[^ 40] See Section B, Determining Eligibility for O-1 Classification [[2 USCIS-PM M.4\(B\)](#)]. The same totality analysis described in Section B applies regardless of whether comparable evidence was relied upon to satisfy the enumerated evidentiary requirements.

[^ 41] See [INA 101\(a\)\(15\)\(O\)\(i\)](#). See Section F, Continuing to Work in the Area of Extraordinary Ability or Achievement [[2 USCIS-PM M.4\(F\)](#)] for more information. For information about determining whether an O-1B beneficiary falls under the arts or MPTV classification, see Section A, Standard for Classification [[2 USCIS-PM M.4\(A\)](#)].

[^ 42] See [8 CFR 214.2\(o\)\(3\)\(v\)](#).

[^ 43] See [8 CFR 214.2\(o\)\(3\)\(v\)](#).

[^ 44] See Section B, Determining Eligibility for O-1 Classification [[2 USCIS-PM M.4\(B\)](#)].

[^ 45] See [INA 101\(a\)\(15\)\(O\)\(i\)](#). See [8 CFR 214.2\(o\)\(1\)\(ii\)\(A\)\(1\)](#).

[^ 46] USCIS updated its policy guidance to provide this interpretation on January 21, 2022, to promote clarity, consistency, and transparency in O-1 adjudications. USCIS notes that this policy guidance relates only to the adjudication of O-1 nonimmigrant petitions. For policy guidance on eligibility determinations in E11 (immigrant of extraordinary ability) petitions, which, while similar to O-1, require that the beneficiary's entry will "substantially benefit prospectively the United States," see Volume 6, Immigrants, Part F, Employment-Based Classifications, Chapter 2, Extraordinary Ability [[6 USCIS-PM F.2](#)].

[^ 47] See [8 CFR 214.2\(o\)\(1\)\(ii\)\(A\)\(2\)](#).

[^ 48] USCIS updated its policy guidance to provide this interpretation on January 21, 2022, to promote clarity, consistency, and transparency in O-1 adjudications. USCIS notes that this policy guidance relates only to the adjudication of O-1B (MPTV) petitions.

[^ 49] See [INA 101\(a\)\(15\)\(O\)\(i\)](#). See [8 CFR 214.2\(o\)\(1\)](#). See [8 CFR 214.2\(2\)\(iii\)\(B\)](#). See [8 CFR 214.2\(3\)](#).

Current as of April 11, 2023



