

SANTA ROSA OFFICE
131 A STONY CIRCLE
SUITE 500
SANTA ROSA, CA. 95401
TELEPHONE: (707) 433-2060

KEROSKY PURVES & BOGUE
ATTORNEYS AT LAW
AN ASSOCIATION OF ATTORNEYS

SAN FRANCISCO OFFICE
785 MARKET STREET
15TH FLOOR
SAN FRANCISCO, CA. 94103
TELEPHONE: (415) 777 4445

ckerosky@youradvocate.net
www.YourAdvocate.net

ckerosky@youradvocate.net
www.YourAbogado.net

Please respond to San Francisco address

The “O” category of visas is a special category for highly talented or nationally or internationally acclaimed foreign nationals who may not qualify for other types of work-related visas. This category is often used by artists, athletes, entertainers, skilled high-end chefs, and business professionals who lack professional degrees. The O category can be a useful alternative to the H-1B program because it lacks many of the restrictive features and has no cap. This article will give a general introduction to O visas. You should see a qualified immigration attorney before proceeding with an O visa or any other type of application with Citizenship and Immigration Services (“CIS”).

Who qualifies for an O visa?

The O category is not for everyone. O-1 beneficiaries in the sciences, arts, education, business, or athletics must demonstrate extraordinary ability, as shown by “sustained national or international acclaim.” This is a high standard where business persons, scientists, educators, and athletes are concerned. But “extraordinary ability” is a much lower standard as applied to artists and entertainers. You must also show that you are coming to the U.S. to continue working in your area of extraordinary ability.

What achievements show extraordinary ability?

Individuals applying based on achievements in the sciences, arts, education, business, or athletics must show “a level of expertise indicating that the person is one of the small percentage who have arisen [sic] to the very top of the field of endeavor.” This means showing evidence either of the beneficiary’s receipt of a “major, internationally recognized award, such as the Nobel Prize,” or documentation of at least three achievements, such as:

- Receipt of nationally or internationally recognized prizes/awards for excellence in the field;
- Membership in associations in the field that require outstanding achievement of their members, as judged by recognized national or international experts; or
- Published material in professional or major trade publications or major media about the alien.

For those in the arts, “extraordinary ability” means “distinction, which 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.” The arts are broadly defined to include “any field of creative activity or endeavor such as, but not limited to, fine arts, visual arts, culinary arts, and performing arts.” These applicants must show either that the beneficiary has been nominated for or has received a significant national or international award or prize, such as an “Academy Award,” or meet at least three additional criteria, including performances in a critical production; national or international recognition for achievements; and/or demonstrating a record of major commercial or critically acclaimed success.

How long can I stay on an O visa?

There is no limit on the amount of time you can stay on an O visa, except that the stay is authorized for the period of the “event” that is the basis for the trip. CIS will grant O visas initially for an initial period of up to three years to complete the event or activity in question. Extensions are then available for one year at a time.

Can I get a green card?

It is possible to apply for permanent residence through another channel without risking losing O-1 status. However, O-2 holders can only come to the United States temporarily and must maintain a residence abroad they do not intend to abandon.

How do I apply?

A U.S. employer or U.S. agent must petition for the foreign worker. The foreign worker must provide extensive documentation of her accomplishments. Also, a consultation from a labor union is required before an O petition may be adjudicated if a union has a collective bargaining agreement in the field that the O petitioner seeks to work in.

Can I bring my family with me?

O-1 visa holders can bring their spouse and children through the O-3 category. In addition, the O-2 category is for certain aliens accompanying O-1 aliens in the arts or athletics who will assist in the O-1’s performance.