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Policy Alert

SUBJECT: Evaluating Eligibility for O-1B Visa Classification

Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the [USCIS Policy Manual](#) to clarify how USCIS evaluates evidence to determine eligibility for the O-1B visa classification for nonimmigrants of extraordinary ability in the arts and nonimmigrants of extraordinary achievement in the motion picture or television (MPTV) industry.

Background

Under the Immigration and Nationality Act (INA), O-1 nonimmigrant status is available to persons of extraordinary ability in the sciences, arts, business, education, and athletics, and persons with a record of extraordinary achievement in the motion picture or television (MPTV) industry.¹

This update provides additional guidance regarding evaluation of evidence submitted in support of O-1B petitions. USCIS is providing this clarifying guidance based, in part, on stakeholder comments regarding the need for predictable and transparent application of the O-1B evidentiary requirements.²

This guidance, contained in Volume 2 of the Policy Manual, is effective immediately. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance on the topic.

Policy Highlights

- Adds chart in an appendix to describe examples of evidence that may satisfy the O-1B evidentiary criteria, as well as considerations that are relevant to evaluating such evidence.
- Updates guidance on comparable evidence for O-1B petitions for beneficiaries in the arts for improved readability and to emphasize that a criterion need not be entirely inapplicable to the beneficiary's occupation in order to use comparable evidence.

Summary of Changes

Affected Section: Volume 2 > Part M > Chapter 4, O-1 Beneficiaries

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

² Includes comments received in response to the request for public input, "Identifying Barriers Across U.S. Citizenship and Immigration Services (USCIS) Benefits and Services; Request for Public Input," [86 FR 20398](#) (May 19, 2021).

- Adds new subsection headings 1-4 and two new italicized subheadings to existing content in Section D (O-1B Beneficiaries in the Arts) and relocates some content about comparable evidence to the main text from existing footnote 38.
- Adds new Appendix (Satisfying the O-1B Evidentiary Requirements) to Chapter 4.
- Adds new subsection headings 1-3 to existing content in Section E (O-1B Beneficiaries in Motion Picture or Television).
- Adds cross references to new appendix and other content and makes minor stylistic and technical edits throughout.

Citation

Volume 2: Nonimmigrants, Part M, Nonimmigrants of Extraordinary Ability or Achievement (O), Chapter 4, O-1 Beneficiaries [[2 USCIS-PM M.4](#)].