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## Policy Alert

SUBJECT: Evidentiary Requirements for O-1 Nonimmigrants

### 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 O-1A nonimmigrants of extraordinary ability, including adding examples of evidence for individuals in critical and emerging technologies.

### 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 demonstrated record of extraordinary achievement in the motion picture or television industry.<sup>1</sup>

On October 30, 2023, the President issued the Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence, which directed the Department of Homeland Security to “review and initiate any policy changes the Secretary determines necessary and appropriate to clarify and modernize immigration pathways for experts in AI and other critical and emerging technologies, including O-1A...”<sup>2</sup> USCIS subsequently received feedback from numerous stakeholder organizations and is integrating many of these suggestions into the Policy Manual.

This guidance, contained in Volume 2 of the Policy Manual, is effective immediately and applies to requests pending or filed on or after the publication date. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance.

### Policy Highlights

- Explains that a separate legal entity owned by the beneficiary, such as a corporation or limited liability company, may file a petition on the beneficiary’s behalf.
- Provides clarifying guidance regarding evidentiary criteria for O-1A and O-1B nonimmigrants.

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

<sup>2</sup> See Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence, [88 FR 75191](#) (Nov. 1, 2023).

- Adds examples of relevant evidence that may be submitted by an interested U.S. government agency.
- Provides an example of an occupational change within a technological field.
- Clarifies the circumstances under which USCIS limits an extension of stay to 1 year.

### **Summary of Changes**

#### Volume 2 > Part M > Chapter 3 > Section A, Eligible Petitioners

- Revises and adds a sentence to the last paragraph.

#### Volume 2 > Part M > Chapter 4 > Section C, O-1A Beneficiaries in Sciences, Education, Business, or Athletics

- Revises Subsection 2 (Supporting Documentation) throughout, including incorporating content from Appendix: Satisfying the O-1A Evidentiary Requirements, with revisions.
- In Subsection 4 (Evaluating the Totality of the Evidence), adds to fourth and sixth footnotes and adds new bullet to end of bulleted list.

#### Volume 2 > Part M > Chapter 4 > Section D, O-1B Beneficiaries in the Arts

- Revises Subsection 2 (Supporting Documentation) throughout, including incorporating content from Appendix: Satisfying the O-1B Evidentiary Requirements.

#### Volume 2 > Part M > Chapter 4 > Section E, O-1B Beneficiaries in Motion Picture or Television

- Revises Subsection 2 (Supporting Documentation) throughout.

#### Volume 2 > Part M > Chapter 4 > Section F, Continuing to Work in the Area of Extraordinary Ability or Achievement

- Revises second paragraph of Subsection 1 (O-1A Beneficiaries in Sciences, Education, Business, or Athletics and O-1B Beneficiaries in the Arts).

#### Volume 2 > Part M > Chapter 9 > Section B, Extension of Stay

- Revises section throughout.

USCIS may also make other minor technical, stylistic, and conforming changes consistent with this update.

### **Citation**

Volume 2: Nonimmigrants, Part M, Nonimmigrants of Extraordinary Ability or Achievement (O), Chapter 3, Petitioners [[2 USCIS-PM M.3](#)]; Chapter 4, O-1 Beneficiaries [[2 USCIS-PM M.4](#)]; and Chapter 9, Admission, Extension of Stay, Change of Status, and Change of Employer [[2 USCIS-PM M.9](#)].