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# O, P, Q VISA CLASSIFICATION OVERVIEW



**VERMONT SERVICE CENTER OPEN HOUSE**

9/15/2017

# O – Petition for Aliens of Extraordinary Ability or Achievement



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- The O visa classification was created by the Immigration Act of 1990 (IMMACT 90) and further amended under the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991.
- Previously, people who fit this classification were approved under the H-1 visa classification.

# O Visa Classifications



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The O visa classification is divided into the following categories:

- O-1A – Extraordinary ability in the sciences, education, business, or athletics, meaning the beneficiary is one of the small percentage who have risen to the very top of the field of endeavor
- O-1B – Extraordinary ability in the arts, a distinction where the beneficiary is described as prominent in the field of endeavor
- O-1B - Motion picture or television industry, where the beneficiary has a demonstrated record of extraordinary achievement

## O Visa Classifications (continued)



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- O-2 – Support staff who accompany an O-1 nonimmigrant with extraordinary ability in the arts or athletics or extraordinary achievement in the motion picture or television industry and are coming to the U.S. to provide essential support services in a specific event or performance.
- O-3 – Spouse and unmarried child under the age of 21 of an O-1 or O-2 nonimmigrant who is accompanying or following to join the O-1 or O-2.

# **P – Petition for Certain Artists, Athletes, and Entertainers**



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- The P visa classification was established by the Immigration Act of 1990 (IMMACT 90), and further amended under the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991.
- Previously, people who fit this classification were approved under the H-1 visa classification as “Aliens of Distinguished Merit and Ability.”



## P Classifications

The P classification is divided into six categories:

- P-1A – Three categories of athletes
- P-1B – Members of an internationally recognized entertainment group
- P-2 – Artist or entertainer under a reciprocal exchange program
- P-3 – Artist or entertainer in culturally unique program
- P-1S/P-2S/P-3S – Essential support personnel
- P-4 – Spouse and unmarried minor children of a P-1, P-2, or P-3 nonimmigrant

# Additional Requirements & Considerations for O and P Petitions



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O and P petitions generally require written advisory opinions from a U.S. organization with expertise in the nonimmigrant's area of ability, if one exists.

- O-1A petitions and O-1B petitions in the arts must include an advisory opinion from a peer group (may include labor organization) or from person(s) with expertise in the area of the foreign national's ability.
- O-1B petitions in motion picture and television must provide a written advisory opinion from both a labor organization and a management organization.

# Additional Requirements & Considerations for O and P Petitions (continued)



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- All O-2 petitions must have an advisory opinion from an appropriate labor organization.
- O-2 petitions in the motion picture or television industry require advisory opinions from both labor and management organizations.
- All P petitions must contain an advisory opinion from an appropriate labor organization, unless the petitioner establishes that one does not exist.

## Q – Petition for International Cultural Exchange Visitor



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- Coming temporarily to participate in an international exchange program approved for the purpose of providing practical training and employment, and the sharing of the history, culture, and traditions of the beneficiary's country of nationality.
- Program activities must take place in a school, museum, business, or other establishment where the American public, or a segment of the public sharing a common cultural interest, is exposed to aspects of a foreign culture as part of a structured program.

## Q- Petition for International Cultural Exchange Visitor (cont.)



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- Program's cultural component must be an essential and integral part of the employment or training, and designed, on the whole, to exhibit or explain the attitude, customs, history, heritage, philosophy, or traditions of the alien's country of nationality.
- Program's work component must serve as the vehicle to achieve the objectives of the cultural component.

# Filing Tips for Form I-129 O, P, Q Petitions



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- General Information
- Filing as an Agent
- Contracts and Itineraries

# Filing Tips for Form I-129 O, P, Q Petitions



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- Evidentiary Criteria
- Classification
- Consultations
- Documentation

# Recent Draft Policy Memos



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- [“Updates to the November 20, 2009 Memorandum on Requirements for Agents and Sponsors Filing as Petitioners for the O and P Visa Classifications”](#) posted for public comment on July 16, 2015.
- [“Comparable Evidence Provision for O Nonimmigrant Visa Classifications”](#) posted for public comment on January 21, 2016.
- Updates

# Executive Order 13788, Buy American and Hire American



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On April 18, 2017, President Trump signed the Buy American and Hire American Executive Order (BAHA EO), which among other things, seeks to:

- Create higher wages and employment rates for U.S. workers and to protect their economic interests by rigorously enforcing and administering our immigration laws.
- **Propose new rules and issue new guidance, to supersede or revise previous rules and guidance if appropriate, to protect the interests of United States workers in the administration of our immigration system, including through the prevention of fraud or abuse.**

# Buy American and Hire American (continued)



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- To implement the BAHA EO, USCIS is working on a combination of rulemaking, policy memoranda, and operational changes (e.g. fraud prevention).
- Programs being reviewed include E-Verify, employment-based immigration categories, and employment authorization documents.

# Buy American and Hire American (continued)



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- On July 25<sup>th</sup> USCIS launched a new USCIS web page on BAHA EO initiatives.
- The BAHA EO web page will be periodically updated with new information.
- The BAHA EO website includes:
  - Information for the public on how to report fraud
  - Datasets
  - EAD reports
  - Policy Memoranda
- On July 26<sup>th</sup> USCIS hosted a public listening session on how USCIS can better protect U.S. workers and their wages.

# Questions?



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## Pre-submitted question – Deference

# About This Presentation



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