

# O-1 Alien of Extraordinary Ability Information Packet



*University of Pittsburgh  
Office of International Services*





## Greetings

The Office of International Services (OIS) at the University of Pittsburgh (Pitt) has prepared this packet of information to assist foreign nationals and their hiring departments at Pitt with the process of preparing an application for O-1 status for adjudication by the U.S. Citizenship & Immigration Services (USCIS).

The process is lengthy and complex, potentially involving various state and federal government agencies. In order to ensure that everything goes smoothly, it is extremely important that you read the materials in this packet very carefully and that you follow the instructions. This will avoid delays in the processing of your case.

Please be advised, however, that any estimated processing times referenced in this packet are subject to change without notice due to changes in the regulations/laws and/or due to backlogs within a particular government agency. OIS cannot control delays of this nature.

## Commonly Used Acronyms or Abbreviations in the O-1 Request Packet

INA	Immigration and Nationality Act
Pitt	University of Pittsburgh
OIS	Office of International Services
RFE	Request for Evidence
USCIS	U.S. Citizenship & Immigration Services

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# General O-1 Status Information

## **What is O-1 Status?**

- The O-1 nonimmigrant classification is for the employment of foreign nationals who have achieved and sustained national or international acclaim for extraordinary ability in one of the five following broad areas [INA 101(a)(15)(O)]: Sciences, Arts, Education, Business, or Athletics. There are different standards of proof required to show extraordinary ability in the sciences, education, business, and athletics versus the proof required to show extraordinary ability in the arts.
- At the University of Pittsburgh, the most common O-1 filings are for extraordinary ability in the **sciences** or the **arts** category. The regulations define aliens of extraordinary ability in the **sciences** as follows: *“Extraordinary ability in the field of science . . . means a level of expertise indicating that the person is one of the small percentages who have arisen to the very top of the field of endeavor.”* The regulations define aliens of extraordinary ability in the **arts** as follows: *“To qualify as an alien of extraordinary ability in the field of arts, the alien must be recognized as being prominent in his or her field of endeavor.”*
- Each O-1 petition may be for an initial period of three years and is renewable for an indefinite period of one-year increments thereafter.
- O-1 status is employer-specific and position-specific. The international may only work for the employer that sponsors the O-1 petition, and only in the position specified in the petition.
- Dependent family members of an O-1 are granted O-3 status. While in O-3 status, dependents are *not* allowed to work under any circumstances.

## **Which Faculty/Staff Members Qualify for O-1 Status?**

- O-1 status has a high evidentiary standard – the international faculty/staff member must be able to establish that he or she is an Alien of Extraordinary Ability. See “Evidence: Qualifying as an Alien of Extraordinary Ability” on page 8 for more information about the required documentation.
- At the University of Pittsburgh, we typically recommend H-1B visa status over O-1 status for those who qualify. Consult your Immigration Specialist before requesting O-1 status.

## **Which Positions Qualify for O-1 Status?**

- The position must be a regular faculty or pre-faculty position at the University of Pittsburgh.

# Administrative Information

## ***Processing Times***

Your O request will go through two stages:

- OIS will prepare the O petition. This **takes up to six weeks after submission of complete paperwork** to OIS. Please note that OIS does not have any form of expedited or “premium processing” – our processing time is the same even if you have requested premium processing from the U.S. Citizenship and Immigration Services (USCIS).
- The USCIS will adjudicate the O petition. USCIS processing times vary, but typically an O-1 petition will take 3-4 months. If the university requests **premium processing**, the USCIS will adjudicate the petition within 15 calendar days or refund the premium processing fee.

When judging the total processing time of an O request, it is important to keep the following factors in mind:

- **Time to gather documents.** An O petition requires a large volume of documents needed to meet the high evidentiary standard for an Alien of Extraordinary Ability. It will likely take the international faculty/staff member a substantial amount of time to gather these documents. The academic department will also have to gather supporting documents. Remember that OIS’ six week processing time does not start until we receive complete paperwork.
- **Mailing time.** It typically takes 2-3 weeks to receive a notice of action or receipt notice from the USCIS. The exception is an approval notice in a premium processing case – OIS sends a UPS overnight waybill and envelope with the petition so that the USCIS may overnight the approval notice. Also, in cases of consular processing, OIS must mail the approval notice and supporting documents to the O-1 employee overseas, which typically takes 2-5 business days.
- **Requests for Evidence (RFE).** More information on Requests for Evidence can be found later in the packet, but be aware that an RFE will delay adjudication, possibly by several weeks or more.
- **Consular Processing.** Most initial O-1 petitions at the University of Pittsburgh will require consular processing, meaning that the prospective O-1 employee must obtain an O-1 visa at the U.S. embassy or consulate abroad. This step requires time. Wait times for visa interviews vary greatly from consulate to consulate, from same day visa interviews to 90-day waits and longer. Wait times for a particular consulate can be checked online. Also, be prepared for possible visa delays.

An Immigration Specialist can help you to determine a tentative timeline for a specific case.

## ***Fees***

When preparing to pay fees for an O petition, keep the following in mind:

- All fees associated with an O-1 petition must be paid, except where noted, in the form of a check or money order made payable to “**U.S. Department of Homeland Security.**” – do not use abbreviations.
- All checks or money orders should be submitted to OIS with all other application materials and should NOT be sent directly to USCIS.
- Separate checks must be submitted for each fee.

- For internal check processing purposes at Pitt, please use the following address information for all checks (but again, do NOT send checks directly to this address; send to OIS):

**USCIS Vermont Service Center  
75 Lower Weldon Street,  
St. Albans, VT 05479.**

- Unlike the application fee in an H-1B case, the O-1 application fee may be paid by the international employee.

**The fees for an O-1 petition are:**

- USCIS O-1 application fee: **\$340** (*usually paid by the international employee*)
- USCIS I-539 application fee for H-4 dependents: **\$300<sup>1</sup>** (if applicable) – only one I-539 and one application fee is required per family, not one per dependent.
- USCIS Premium Processing Fee: **\$1,000** (*optional*)
- OIS Cost Recovery Fee: **\$1000** (NO CHECK NECESSARY. This fee is processed via an internal transfer of funds using a department budget number. The department will be asked for this account number in the INS Zoom Department Questionnaire and will receive email confirmation of the charge.)

Please note that OIS does not charge a cost-recovery fee for O extensions, but the fees payable to the U.S. Department of Homeland Security remain the same.

**ALL USCIS FEES ARE SUBJECT TO CHANGE WITHOUT NOTICE**

***Premium Processing or Not?***

OIS recommends requesting an O petition six months in advance to ensure adequate time for processing. If a petition will be submitted significantly less than six months in advance, the department administrator or international faculty/staff member may wish to consult their Immigration Specialist to determine if premium processing is necessary or desirable.

**The 240-Day Rule**

Premium processing is rarely required in cases where the international faculty/staff member is already in O-1 status at the University of Pittsburgh. Individuals already employed at the University of Pittsburgh in O-1 status can typically benefit from the **240-day rule** and may continue to work up to 240 days *for the same employer* after the expiration date of his or her current O-1 status so long as an O extension has been timely filed. You will need a **240-day/portability memo** from your Immigration Specialist for I-9 purposes.

Please note that, unlike H-1B status, O-1 status is **not portable**. This means that an O-1 employee changing from a different employer to employment at the University of Pittsburgh must have an approval notice before starting employment.

A word of caution: O petitions take time to put together, receipt notices typically take 2-3 weeks to arrive and it's always possible that mailing errors or other delays could prevent the receipt notice from arriving

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<sup>1</sup> Only one I-539 and one application fee is required per family, not on per dependent. The Form I-539 must only include information about immediate family members (spouse and children) who are *inside* the United States at the time of filing. The Form I-539 may be downloaded from USCIS at <http://uscis.gov/graphics/formsfee/forms/index.htm>.

in a timely manner. OIS recommends requesting O petitions for individuals already in O status as early as possible rather than waiting until the last minute.

### **International Travel with a Pending USCIS Petition**

Once the petition has been filed with the USCIS, the international faculty/staff member cannot travel internationally until it is approved by USCIS **unless these travel plans were discussed and approved by an Immigration Specialist before the petition was filed.** In most cases, leaving the U.S. while a USCIS petition is pending is considered an abandonment of the petition. In some circumstances, exceptions are possible. However, premium processing may be needed to allow an international faculty/staff member to gain an approval before a necessary trip abroad.

### **Effect of a Permanent Residency Application on O-1 Status**

Individuals in O-1 status are not permitted the full scope of dual intent provisions, unlike individuals in H1B1 status. Therefore, please consult with an Immigration Specialist prior to filing any permanent residency petition, and discuss any travel plans that you may have.

### ***O-1 Process Overview***

Please be aware of the steps required by both you and your Immigration Specialist must take to petition for O-1 status. Also, please be aware that the processing times referenced below are government processing times and are subject to change without notice.

#### **Part 1: Threshold Analysis**

The O-1 application process begins with a “threshold analysis” by OIS. The international and/or faculty sponsor must make an appointment to meet with his or her Immigration Specialist (see <http://www.ois.pitt.edu/pdf/SchoolDeptAssign.pdf> for a complete listing of assignments) to review the international’s eligibility for O-1 status pursuant to University policy, as well as the requirements of USCIS. If the international is found to be eligible for sponsorship, the O-1 process can move forward.

#### **Part 2: Submission**

The designated administrator in the sponsoring department selects the appropriate OIS O-1 Cover Sheet and fills in the required information (cover sheets available on the OIS web site at <http://www.ois.pitt.edu/Forms.html#department>). The administrator compiles all supporting documents listed on the cover sheet and submits them, with the cover sheet, to OIS.

#### **Part 3: Questionnaires**

Once the Immigration Specialist receives complete materials, he or she will send emails to both the department administrator and the international beneficiary with links to online questionnaires. Follow the instructions in the email to complete and submit the questionnaires.

#### **Part 4: Petition Preparation**

OIS will analyze and organize all application materials, and prepare the Form I-129 with O-1 Supplement. With all documentation received from the applicant and the department, OIS can submit the application to USCIS for adjudication.

#### **Part 5: Approval**

If approved, OIS will notify the international and provide him/her with the Form I-797 Approval Notice, along with other documentation to either finalize the change of status process inside the U.S. or to instruct the international regarding travel to secure the O-1 visa and re-entry (**NOTE**: This latter option is required if the international held prior J-1 Exchange Visitor status and is still subject to the “two-year home country physical presence requirement” [INA 212(e)].)

#### **Part 6: Extensions**

For extensions of O-1 status, the international should submit all of the documentation detailed in “Document Checklist: O-1 Extension” on page **Error! Bookmark not defined.** Please note that OIS charges no additional cost-recovery fee for O extensions, but the fees payable to the U.S. Department of Homeland Security remain the same (see “Fees” on page 4 for more information).

**PLEASE SUBMIT ALL DOCUMENTATION AND FORMS TO:**

*Office of International Services  
708 William Pitt Union, Pittsburgh, PA 15260*

# Applicant Information and Responsibility

## ***Required Documents***

A document checklist is available through your immigration specialist in the O-1 Request Cover Sheets. Please note that the applicable cover sheet and required documents should be submitted to OIS through the designated department administrator, not the international employee.

## ***Consular Processing (Applicant is outside the U.S.)***

Please contact the U.S. Embassy/Consulate where you will be getting the visa and find out what documentation is required at the time of application and how far in advance you must make an appointment, if at all. Please note that **Canadian** citizens are exempt from visa requirements.

Most prospective O-1 employees at the University of Pittsburgh are subject to the Two-Year Home Residency Requirement, 212(e), based on a previous stay in the U.S. in J-1 or J-2 status. Note that if you are subject to 212(e), you may not change status to O-1 from within the U.S. We must request consular processing and you must depart the U.S., obtain an O-1 visa abroad, and re-enter the U.S. in O-1 status. Consult your Immigration Specialist for more information.

## ***Dependent Documents***

If you are currently in the U.S. and extending your O-1 status or changing status to O-1, your dependents (spouse and children under the age of 21) will need to file a Form I-539 to change status to O-3 or to extend their O-3 status. Only dependents currently in the U.S. must be included on the I-539. Submit the I-539 and supporting materials to OIS so that we can file the I-539 along with your H-1B petition. An O-3 Coversheet is included with the O-1 Coversheets referenced above.

## ***Evidence: Qualifying as an Alien of Extraordinary Ability***

The first step in the O-1 process should be for the international and/or faculty sponsor to make an appointment with an Immigration Specialist to determine if the international might qualify as an Alien of Extraordinary Ability. The document checklists at the end of this packet provide a detailed list of the required documentation for the petition, but this section of the packet provides additional insight into the documents required to meet the O-1 evidentiary standard.

## ***Alien of Extraordinary Ability in the Sciences***

To qualify for O-1 status as an alien of extraordinary ability in the sciences, education, business, or athletics, the international must either:

1. Present evidence of receipt of a major internationally recognized award such as the Nobel Prize [8 CFR 214.2(o)(3)(A)].

**(HELPFUL HINT:** If the international wishes to prove extraordinary ability on this basis, the prize actually has to have been awarded (i.e., not just a nomination), and it does have to be the Nobel Prize or other prize that is of similar international standing. It is rare to qualify for O-1 status on this basis.)

**OR**

2. Present evidence in *at least three* of the following categories [8 CFR 214.2(o)(B)-(C)]:

- Receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor.**

(HELPFUL HINT: These are awards that are prestigious, although they do not have to be quite the caliber of a Nobel or Pulitzer Prize. It may be necessary to explain the significance of these prizes and awards. In general, please be aware that the awarding of a “postdoctoral fellowship” is not considered to be nationally or internationally prestigious enough to qualify as acceptable evidence. Student awards, unless nationally or internationally recognized, should not be included. Grant awards may be included, depending upon the international’s role in obtaining the grant.)

- 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 the field.**

(HELPFUL HINT: USCIS is looking for memberships that are above and beyond the “run-of-the-mill, pay-your-dues-and-you’re-a-member” sort of memberships. The regulations clearly state that the organizations should “require outstanding achievements of their members,” as judged by experts. Leadership positions in professional associations are especially helpful.)

- Published material in professional publications written by others about the alien’s work in his/her field.**

(HELPFUL HINT: Complete copies of articles, reviews, etc. about the individual’s work should be submitted. Citation listings alone do not constitute the level of proof required to meet this criterion.)

- Evidence of the alien’s participation as the judge of the work of others in the same or an allied academic field.**

(HELPFUL HINT: A “judge” of the work of others can include serving as a reviewer for a professional journal, judging papers, etc. Evidence of this can be provided in several ways. Individuals knowledgeable about the circumstances could write letters attesting to this fact. Alternatively, copies of letters asking the individual to judge an event or a paper or thanking them for doing this can be submitted.)

- ❑ **Evidence of the alien’s original scientific or scholarly research contributions to the academic field.**

(HELPFUL HINT: Documentation of this can take many forms. Copies of patents or other recognition of a contribution or achievement can also be included with the petition. Letters from experts in the field are essential for helping to document this.)

- ❑ **Evidence of the alien’s authorship of scholarly books or articles (in scholarly journals with international circulation) in the academic field.**

(HELPFUL HINT: Copies of articles should be included, although if the alien has a long list of publications, a list with complete citations and copies of some representative samples would suffice. The quality and distribution of the publication does make a difference since the regulation requires the publication to have “international circulation in the field.”)

- ❑ **Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation.**

- ❑ **Evidence that the alien has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence.**

### **Alien of Extraordinary Ability *in the Arts***

To qualify for O-1 status as an alien of extraordinary ability in the arts<sup>2</sup>, the international must either:

1. Present evidence of receipt of a major nationally or internationally recognized award such as an Academy Award, an Emmy, a Grammy, or a Director’s Guild Award [8 CFR 214.2(o)(3)(iv)(A)].

(HELPFUL HINT: If the international wishes to prove extraordinary ability on this basis, the prize actually has to have been awarded (i.e., not just a nomination), and it does have to be an Academy Award, an Emmy, a Grammy, a Director’s Guild Award, or other prize that is of similar international standing. It is rare to qualify for O-1 status on this basis.)

**OR**

2. Present evidence in ***at least three*** of the following categories [8 CFR 214.2(o)(3)(iv)(B)-(C)]:

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<sup>2</sup> The regulations define “arts” to include “any field of creative endeavor such as, but not limited to, fine arts, visual arts, culinary arts, and performing arts” [8 CFR 214.2(o)(3)(ii)].

- Evidence that the alien has performed, and will perform, services as a lead or starring participant in productions or events which has a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications contracts, or endorsements;
  
- Evidence that the alien has achieved national or international recognition for achievements evidenced by critical reviews or other published materials by or about the individual in major newspapers, trade journals, magazines, or other publications;
  
- Evidence that the alien 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 alien 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 picture or television ratings, and other occupational achievements reported in trade journals, major newspapers, or other publications;
  
- Evidence that the alien has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field in which the alien is engaged. Such testimonials must be in a form which clearly indicates the author's authority, expertise, and knowledge of the alien's achievements; or
  
- Evidence that the alien 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;

## **Sample Outline of O-1 Recommendation Letter from Experts in the Alien's Field**

*(in lieu of a formal "Peer Group" Advisory Opinion)*

The letter should be addressed to:

**U.S. Citizenship & Immigration Services  
Vermont Service Center  
75 Lower Welden Street  
Saint Albans, VT 05479-0001**

Do **not** send the letter directly to USCIS. The letter must be submitted by the international to OIS for inclusion with all other application materials for mailing to USCIS.

The letter should follow the outline below:

1. Opening Paragraph

"I am writing this letter in support of the University of Pittsburgh's application for O-1status on behalf of [*INSERT NAME*] and his/her claim of extraordinary ability."

2. Paragraph #1

Information regarding the writer, including current position, background, and accomplishments. (**NOTE:** It is helpful if the writer provides a copy of his/her CV along with the recommendation letter.)

3. Paragraph #2

An explanation of how the writer knows the applicant.

4. Paragraph #3

Documentation regarding how the applicant qualifies for O-1 status. The letter must help establish that the applicant meets the criteria set forth earlier in this Request Packet for aliens of extraordinary ability in the sciences or the arts.

5. Closing Paragraph

# Department Information and Responsibility

Please note that the documentation required from the department is the same for all O petitions, whether a petition for someone new to O status or an extension.

**Fees that may be paid by the employer**

See “Fees” on page 4 for more information. Note that OIS does not charge a cost-recovery fee for O-1 extensions.

**Job offer letter**

Even though the employee may already be working at the University, this letter is required. The letter must include the title and salary of the position, a detailed job description, as well as an explanation of how the international qualifies for the position. *It must also include an explanation of the nature of the “event” that requires the services of the O-1.* The regulatory basis for this requirement is at 8 CFR 214.2(o)(1)(i), which states that the services that an O-1 is coming to provide must relate to “an event or events.” At first glance, this may seem to restrict the types of employment activity that can serve as the basis for O-1 status. Although the idea of an “event-based” activity should be kept in mind, the term “event” is defined in a way that should cover most academic activities: “*Event* means an activity such as, but not limited to, a scientific report, conference, convention, lecture series . . .” For educational institutions, an event can represent anything from a faculty-level promotion to a significant research discovery. The receipt of a major grant may also qualify as an event for O-1 purposes.)

**INS Zoom Department Questionnaire**

The questionnaire will be submitted online – you are not required to submit a printout of it.