

O-1 NONIMMIGRANT CATEGORY – INDIVIDUALS WITH EXTRAORDINARY ABILITY OR ACHIEVEMENT

Important Note to Departmental Representative and/or Supervisor of Foreign National: *If you have never handled O-1 immigration matters on behalf of your department, please contact a Scholar Advisor in OISS for a review of Department of Homeland Security regulations and processing procedures regarding this status.*

BASIC REQUIREMENTS & GENERAL INFORMATION

The O-1 non-immigrant category is for the employment of individual aliens who have achieved and sustained national or international acclaim for extraordinary ability in the sciences, arts, education, business, athletics, motion picture, or television industries. The category permits an employer to petition with the United States Citizenship and Immigration Services (USCIS) for a non-immigrant to come to the United States on a temporary basis to work within their area of extraordinary ability or achievement. It also permits family members and, in certain cases, assistants to join the non-immigrant.

- O-1 status is employer and position specific. This means that an individual in O-1 status is authorized only to work for the employer who sponsored the O-1 petition and may only perform the work described in the petition. Any substantial change in employment, or a change and/or addition of a new employer requires the filing of a new/amended application.
- The sponsored employee must have extraordinary ability in the sciences, arts, education, business or athletics as demonstrated by sustained national or international acclaim.
- Employing Departments must complete a "Statement of Responsibility for Legal Costs for the O-1 Status Memorandum" (can be found at oiss.wayne.edu) and submit to OISS to initiate the process.
- A petition for O-1 classification is filed with USCIS on Form I-129 by a WSU-appointed Immigration attorney. OISS is the liaison between the immigration attorney and the employing department.
- The I-129 can be filed up to 6 months before employment begins.
- The employing department must provide an offer of employment; a non-immigrant may not self-petition.
- The employing department is responsible for return cost of transportation abroad if the non-immigrant is dismissed before the petition period expires.
- The O-1 has an initial period of stay up to 3 years with one-year extensions thereafter (no maximum cumulative duration limit like the H-1B.)
- J non-immigrants subject to 212(e), two-year home country physical presence requirement are eligible for O-1 classification (although such non-immigrant is not eligible to change from J to O status within the U.S.; they must apply for an O visa abroad and re-enter the U.S. in O-1 status).
- Although they remain subject to the 212(e) even after the approval of O-1 status, they can legitimately hold O-1 status.
- The spouse and dependents (unmarried children under 21 years of age) of aliens in O-1 Status are eligible for O-3 status. They are subject to the same limitations of stay as their principal O-1. Individuals with O-3 Status are not permitted to be employed in the U.S.
- The O-1 non-immigrant category allows for "dual intent." Under the doctrine of dual intent, the fact that a U.S. employer has filed a labor certification, or an individual has filed a permanent residence petition on behalf of the non-immigrant, shall not be a basis for denying the O-1 petition, a request for extension of stay, admission to the United States, or change of status to that of O-1 non-immigrant.

Effective June 1, 2001, the legacy INS (currently USCIS) has implemented a Premium Processing Service to allow organizations the opportunity to obtain faster processing of an O-1 petition to meet their needs for a foreign worker. Specifically, the USCIS will provide a 15 calendar-day processing time to those who choose to use this service or it will refund the \$1,410 fee. Please note this expedited processing fee is in addition to the immigration attorney and filing fees. Please contact the OISS Advisor handling your case for further details.

THE O-1 APPLICATION PROCESS

Total processing time for an O-1 petition currently averages between 3 to 10 months. Once the immigration attorney receives all required documents, the petition is filed.

In general, the O-1 petition process includes the following steps:

1. Consult a Scholar Advisor in OISS to determine whether the O-1 is the best classification in which to bring the individual to Wayne State. There may be other options available more suitable to the department's needs.
2. Once it has been determined that the O-1 is the appropriate status, complete and submit the original "Statement of Responsibility for Legal Costs for the O-1 Status Memo."
3. The department should also complete and submit the attached "O-1 Status Case Information Sheet for Department" and have the foreign national complete the "O-1 Status Case Information Sheet for Foreign National." Ensure that the foreign national returns the completed case information sheet to the department and all required supporting documents as outlined in the attached O-1 checklist.
4. Mail or hand-carry to the OISS the completed O-1 Status Case Information Sheet for Department and O-1 Status Case Information Sheet for the Foreign National along with all required supporting documents. (Use checklist).

THE ROLE OF OISS

- OISS will review and submit all documents to the immigration attorney.
- OISS will send an e-mail to the department's administrative contact person confirming receipt of the application. This e-mail will also indicate the name, telephone number and e-mail address of the OISS Scholar Advisor assigned to the case.
- The O-1 approval notice will be sent directly to OISS at which time the department will immediately be notified.

All documents and portions of the request for O-1 status should be submitted together.

REQUIRED FROM THE DEPARTMENT

- Original and one copy of the signed Statement of Responsibility for Legal Costs Memorandum.
- Part A - department portion of WSU O-1 Request Form.
- Official employment letter - Must include job description, position title, dates of employment and salary.
- Letter in support of O-1 petition, outlining terms of employment including salary, educational and experiential requirements of job and qualifications of foreign national. (See sample below)
- \$460 Filing Fee – Check payable to “Department of Homeland Security” to cover processing fee
- \$2500 USCIS Premium Processing fee if you’d like to expedite the processing – Check payable to “Department of Homeland Security”

REQUIRED FROM THE EMPLOYEE

- Part B – employee portion of WSU O-1 Request Form
- Copy resume or CV
- Copy of diploma and transcripts. Any documents not in English must be translated.
- Evidence of Extraordinary achievements in the field - Check all that apply:
 - copies of articles, papers and other publications authored by employee.
 - evidence of judging the work of others.
 - article(s) written about employee’s work.
 - awards received in recognition of professional accomplishments.
 - memberships in professional organizations requiring high level of achievement.
 - evidence of original contributions.
 - other evidence
- 6-10 Letters of Recommendation from recognized experts in the field: Include copies of their CVs. No more than one letter should come from Wayne State and one letter from the current employer. The remaining letters should come from other well-established experts in the field. USCIS gives greater weight to letters from people who appear to be unconnected to the foreign national. Ideally, the letters should come from as varied group of people as possible (inside and outside the U.S., academic institutions, government, private sector, etc.).
- If currently in U.S., provide the following:
 - copy of current I-94 card, passport and other immigration documentation
 - I-20(s) and employment document, if applicable
 - DS-2019(s)/IAP-66(s) and/or waiver, if applicable
 - Copy of I-797 Approval notice of current status
 - If currently working for another employer as O-1, please provide copies of all O-1 approval notices

REQUIRED FROM THE EMPLOYEE’S FAMILY IN THE U.S. NEEDING TO OBTAIN DEPENDENT STATUS

- Form I-539, Application to Change/Extend Non-Immigrant status (O-1 applicant is not listed on this application. One form will cover all O-3 applicants)
- A \$370 check payable to “Department of Homeland Security” for the I-539 filing fee
- A separate \$85 check payable to “Department of Homeland Security” to cover the biometric services fee
- Copy of current I-94 card, passport, visa and other documentation for each O-3 applicant

| Components Of Letter | <p style="text-align: center;">SAMPLE LETTER (Actual letter should be considerably more detailed)</p> |
|--|---|
| <p>ESTABLISH PURPOSE</p> | <p>United States Citizenship and Immigration Services Nebraska service Center 850 "S" Street LINCOLN, NE 68501- 7130</p> <p>RE: O-1 Petition on Behalf of Ms. Jane doe, Ph.D.</p> <p>Dear Sir/Madam:</p> <p>This letter is being submitted in support of the O-1 petition filed by Wayne State University on behalf of Dr. Jane Doe, a British National.</p> <p style="text-align: center;">The Petitioner</p> |
| <p>BACKGROUND ON COLLEGE/ DEPARTMENT, OUTLINE JOB REQUIREMENTS</p> | <p>Wayne State University's College of Engineering has been engaged in the development of equipment and materials for the space Industry since 1957. At present, we are developing a widget that will go on to the moon. Our college is recognized as a leader in this field. The Department of Electrical Engineering has an opening for an Assistant Professor to teach and assist an ongoing widget research and development. To date research in this field has been productive. We are now ready to expand research into the more advanced stages of the project and fully expect that our widgets will accompany the astronauts on their shuttle missions in approximately two years. To conduct the final phases of this research, our research team must expand to include a recognized expert in the field of Electrical Engineering and Astrophysics. The position requires not only that the individual possess an extraordinary background in Electrical Engineering but also in astrophysics as this individual will design the portion of the widget that is able to function in space while withstanding the extreme cold and other pressures of outer space.</p> <p style="text-align: center;">The Beneficiary</p> |
| <p>OUTLINE FOREIGN NATIONAL'S EDUCATION AND EXPERIENCE</p> | <p>Dr. Doe received a Ph.D. in Electrical Engineering from Oxford University in 1967 and a Ph.D. in Astrophysics from the University of Glasgow in 1974. From 1974 until 1976, she was part of a team of engineers to develop reusable space vessels for NASA. Since then she has acquired over twenty years of experience in a field, which combines both electrical engineering and astrophysics. She is considered to be a virtual pioneer in this area.</p> <p>She has worked as part of a British space program since 1976 and has been consulting with NASA for the past ten years. She has been recognized as one of the world's leading experts in electrical design suitable for space travel. She holds several international patents related to her innovative electrical design systems. She was instrumental in developing insulated tiles used in the French Space craft. These tiles protect the delicate electrical systems from the freezing cold of space as well as from the extreme heat during reentry.</p> |

| | |
|---|---|
| <p>CONNECT THE FOREIGN NATIONAL'S BACKGROUND WITH THE JOB REQUIREMENTS. GIVE THE JOB TITLE, JOB DESCRIPTION, AND SOME REASON FOR THEIR TEMPORARY EMPLOYMENT (LARGE NUMBER OF PEOPLE TAKING COURSE, FAILURE TO FIND ANYONE MORE QUALIFIED ETC.)</p> <p>SET FORTH THE TERMS OF EMPLOYMENT</p> | <p>Because of Ms. Doe's outstanding educational background and educational experience, we wish to employ her as an Assistant Professor of Electrical Engineering for a three year period beginning January 16, 1996. In that capacity, Ms. Doe will teach multi-disciplinary courses in Electrical Engineering in space exploration. Additionally she will work on perfecting the widget design and oversee its implementation in the space program. It is our intention to employ Dr. Doe for a temporary period of three years at an annual salary of \$145,000. Your attention to this matter is appreciated.</p> <p>Sincerely, Joe Hoya, Dean College of Engineering.</p> |
|---|---|

The actual letter written by the WSU department should be as detailed as possible describing not only the work to be done at Wayne State, but also detailing the foreign national's contributions to the field.

PART A: TO BE COMPLETED BY THE HIRING DEPARTMENT

| HIRING DEPARTMENT & CONTACT INFORMATION | | |
|--|--------------------|------|
| Division/College: | Hiring Department: | |
| Address: | | |
| Administrative Contact Person: | | |
| Email: | Phone: | Fax: |
| POSITION INFORMATION | | |
| Position Title: | Banner ID: | |
| Location of Position: <input type="checkbox"/> On Campus <input type="checkbox"/> Off Campus, explain: | | |
| General Description of Job/Project: | | |
| List 6 or more of the most important duties the foreign national will perform in priority order: | | |
| 1. 2. 3. 4. 5. 6. | | |
| The position is (check all that apply) : <input type="checkbox"/> Full Time: Salary Offered: _____ Hours per Week: _____ <input type="checkbox"/> Part Time: Hourly Rate Offered: _____ Annual Salary: _____ Hours per Week: _____ | | |
| Does compensation package include fringe benefits? <input type="checkbox"/> No <input type="checkbox"/> Yes: Value of benefits: \$ _____ | | |
| Union representation (if applicable): | | |
| Expected Duration of Employment (<i>as appears on offer letter</i>): From: _____ To: _____ | | |

EMPLOYEE'S CURRENT STATUS

- New Employment (includes current employee in another non-immigrant status)
- Extension without any changes
- Change to Wayne State as employer (prospective WSU employee already in O-1 status elsewhere)
- Add Wayne State as additional employer (prospective WSU employee already in O-1 status with another employer and wishes to work at WSU concurrently)

DECLARATION OF THE EMPLOYING DEPARTMENT

With respect to the technology or technical data the petitioner will release or otherwise provide access to the beneficiary, the petitioner certifies that it has reviewed the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR) and has determined that (select one):

- A license is not required from either U.S. Department of Commerce or the U.S. Department of State to release such technology or technical data to the foreign person; OR
- A license is required from the U.S. Department of Commerce and/or the U.S. Department of State to release such technology or technical data to the beneficiary and the petitioner will prevent access to the controlled technology or technical data by the beneficiary until and unless the petitioner has received the required license or other authorization to release it to the beneficiary.

If you have any questions regarding deemed export, please visit Wayne State University Division of Research export control website at: <http://www.research.wayne.edu/export-control/index.php>

The department will comply with the following regulations during the O-1 application process and during the employment of the above named foreign national under the terms of O-1 status.

1. The department will notify the OISS if the terms of the employment change during the validity period of this O-1 petition so an amended petition can be filed with the U.S. Citizenship and Immigration Services.
2. The beneficiary of this application is one of the small percentages of individuals who has risen to the top of their field of endeavor and fulfills the requirements of an individual of extraordinary ability in the sciences, arts, education business or athletics. It is the department's intention to employ this individual in the capacity and at the salary described above.
3. The statements made in this section of this request form are true and correct.

Department/Personnel Administrator:

Signature

Date

Department Chair/Dean:

Signature

Date

O-1 PROCESSING

Select the manner in which you plan to obtain your O-1 status:

- At U.S. embassy/consulate located at (City, Country):
- Change of status to O-1 from another classification
- O-1 extension

PRIOR O-1 STATUS

Has anyone ever petitioned for O-1 status for you?

- No
- Yes, please explain:

Have you ever been denied O-1 status?

- No
- Yes, please explain:

Have you ever held O status?

- No
- Yes, please explain:

LIST ALL PREVIOUS STAYS IN THE U.S. AND THE STATUS HELD (B-1, B-2, F-1, J-1, H-1B, H-4, ETC.)

| Dates of Stay | Place & Purpose of Stay | Status Held |
|---------------|-------------------------|-------------|
| | | |
| | | |
| | | |
| | | |
| | | |

FAMILY MEMBERS TO BE INCLUDED AS DEPENDENTS (ONLY IF ALREADY IN THE U.S.)

| Family Name | Given Name | Age | Relationship | Status Held |
|-------------|------------|-----|--------------|-------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

ANSWER THE FOLLOWING QUESTIONS

If you answer YES to any questions, please explain on a separate paper and attach copies of relevant documents.

| | YES | NO |
|---|--------------------------|--------------------------|
| Are you or any other person included on this form, an applicant for an immigrant visa or adjustment of status to lawful permanent resident? | <input type="checkbox"/> | <input type="checkbox"/> |
| Has an immigrant petition ever been filed for you or any of your dependents? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you or any accompanying dependents even beer arrested or convicted of any criminal offense? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have any dependents been employed in the U.S. since last admitted or granted a change of non-immigrant status? If yes, give the following: name of employer, department, name of immediate supervisor, phone number, and address: | <input type="checkbox"/> | <input type="checkbox"/> |

ANSWER THE FOLLOWING QUESTIONS (CONTINUED)

If you answer YES to any questions, please explain on a separate paper and attach copies of relevant documents.

| | YES | NO |
|---|--------------------------|--------------------------|
| Have you or any accompanying dependents ever been subject to the J Exchange Visitor 2-Yr Home Residency Requirement? | <input type="checkbox"/> | <input type="checkbox"/> |
| Have you or any accompanying dependents ever been denied a visa, a change of status, or admission to the United States? | <input type="checkbox"/> | <input type="checkbox"/> |

EVIDENCE OF EXTRAORDINARY ABILITY

As further evidence of my professional accomplishments, I am including the following documentation (please list evidence to be submitted to establish your outstanding ability. Please do not list each individual publication):

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

I certify that to the best of my knowledge, the information provided in Part B of this request form is accurate.

In addition, copies of documents submitted are exact copies of unaltered documents, and I understand that I may be required to submit original documents to an immigration or consular official at a later date.

Signature of O-1 applicant: _____ Date: _____

PLEASE RETURN THIS FORM TO THE ADMINISTRATIVE CONTACT PERSON IN THE WSU EMPLOYING DEPARTMENT ALONG WITH REQUIRED SUPPORTING DOCUMENTS AS OUTLINED IN THE MEMO WHICH ACCOMPANIED THIS FORM FROM THE OFFICE OF INTERNATIONAL STUDENTS AND SCHOLARS.