

THE UNITED STATES

Work Visa



YEAR 2009



Work Visas For the United States

**What kind of visas do individuals
in the entertainment industry
need?**

There are a variety of visas that can be utilized by individuals in the entertainment industry. The most common visa utilized by actors and other entertainers is the O-1 visa. Musical groups and entertainment acts commonly use the P-1 visas. Individuals from all professions that are at the top of their field can apply for the EB1.1 Extraordinary Ability Petition, which if approved, allows the individual to apply directly for their Green Card. An experienced immigration attorney can tell you which visa is best suited for your individual needs.

First, let us elaborate further on the O-1 Visa as it is a rather common visa for individuals within the entertainment industry. The O-1 visa is a temporary work visa available to foreign nationals who have “distinction” in their field as “demonstrated by sustained national or international acclaim.” Many individuals get scared away by the hyperbolic language of the statute, but in reality, with the help of an experienced attorney, the O-1 visa standard can be attained by most up and coming professionals who are a slight cut above the rest.

In addition to extraordinary achievement, the O-1 visa requires the sponsorship of a U.S. agent or company to serve as a U.S. Petitioner. The U.S. petitioner/sponsor may be: The actual employer of the individual (for example in a particular production, the production company), the representative of both the employer and the individual; or, a person or entity authorized by the individual to act for, or in place of, the individual as its Agent. Actors will usually fall into this latter category. By having an Agent petition/sponsor the foreign national, the individual will be able to engage in an array of work within the entertainment industry.

The O-1 Visa may initially be requested for up to a period of three years and may be extended in one-year increments indefinitely. There may be many reasons to request less time if the job offer only requires the individual to work in the U.S. for a few weeks or months.

What is the difference between a temporary work visa and a green card?

The biggest difference between a temporary work visa and a green card is that with the temporary work visa the stay, although possibly extended multiple times, is considered temporary. A green card gives a foreign national Lawful Permanent Residence in the U.S., which allows one to work and live in the U.S. permanently without the restrictions imposed on a temporary work visa. After having Lawful Permanent Residence for five (5) years, the individual may apply to become a United States Citizen.

Another significant difference between a temporary work visa and a green card is the requisite standard for eligibility. With an O-1 visa, many up and coming professionals can successfully petition for such status. On the contrary, with the EB1.1 Extraordinary Ability Petition the standard is one in which the individual must be among the very top in the industry. Hence, the standard for the green card is much higher than that of the temporary work visa. We suggest having an experienced immigration attorney advise you on whether your experience and accomplishments merit potential Green Card eligibility.

Finally, there is a significant difference in cost and processing times associated with a temporary work visa and a petition that may lead to a green card. In addition to the cost difference required as to the immigration filing fee for either application, the green card petition requires more labor on the part of the attorney and there is an additional premium over the services charged for such a petition versus a temporary work visa. Also, Immigration processing times for a temporary visa may be anywhere from three to four months; whereas, the average time for an Extraordinary Ability petition to be processed may take from nine to twelve months. We discuss further below.



How long does it generally take to get a visa?

The standard immigration processing time for an O-1 visa is between 90-120 days. However, it may take less or more time given the particular complexity of the case, or if immigration requests additional evidence.

If a speedy response is required the individual can opt for Premium Processing. Premium Processing is a service offered by USCIS in which the individual pays an addition \$1,000.00 USD and obtains a response in fifteen (15) calendar days.

The immigration processing time for an Eb1.1 Extraordinary Ability Petition (Green Card) visa generally takes much longer. It's important to note that the "Green Card" process has two steps. First, filing the Eb1.1 Petition, and then filing the actual Green Card application. One of the benefits of being an individual of extraordinary ability is that you may file the Eb1.1 Petition at the same time as the Green Card application, or you may apply for the Eb1.1 petition by itself initially, and upon approval of the Eb1.1, then file the Green Card application. That being stated, the Eb1.1 petition can take between 9-12 months for a decision, even though we are seeing much quicker approvals lately, and the Green Card application takes about 3-5

Recently, USCIS began offering premium processing for Eb1.1 petitions as well. In the case of premium processing for an Eb1.1 the individual would pay an additional \$1000.00 USD and obtain a response in fifteen (15) calendar days.

In addition to immigration processing times, you need to take into account the time that it will take you to gather all required documentation and the time it will take your attorney to prepare your case.

Law firms will require varying degrees of time to prepare an O-1 petition. Keep in mind, however, that your attorney will be required to request advisory opinions on your behalf from the national offices of an appropriate management organization and the national office of an appropriate labor union which each have processing times of their own of about one week.

Be wary of law firms that guarantee an exceedingly speedy preparation of your case for two main reasons: (1) You do not want to go to a law firm where the attorney simply hands off your documents to a paralegal whose main objective is to expeditiously file your case. You want the hands-on supervision of a professional whose goal is the quality of the being presented; (2) You want an attorney that will take their time in formulating a legal argument and apply the proper strategy in preparing your petition.

From the submission of your last document, our firm has a processing time of 30 to 45 days, with quicker processing time available on a case-by-case basis for an additional fee, as to the time we take to prepare and file an application with the Immigration Service.



What does an immigration lawyer do for me?

Your immigration attorney will serve several important tasks for you. First and foremost, your immigration attorney will draft a legal argument explaining how you meet the standard of eligibility and explaining the submitted

documentation. The attorney support letter will be very influential in the successful processing of your visa.

Secondly, your attorney will detail the types of documents that you need to submit and give you feedback every step of the way, which is one of the most important roles of an attorney. Such is particularly important at the beginning stages of

representation when the individual has no idea on which documents to obtain or how to go about obtaining them.

Third, your immigration attorney will take care of all of the

intricacies associated with



obtaining a visa. From requesting advisory opinions from the appropriate labor unions to filling out the necessary forms to including the requisite copies to submitting everything to



Immigration in a neat and orderly fashion, your immigration attorney will take care of everything!

Your immigration attorney should be your guide from

start to finish. From the time you begin gathering your first piece of evidence, to the time you receive your approval notice, and even then after, your attorney should be your advisor every step of the way. Finally, your immigration attorney should give you peace of mind, knowing that you are working with a professional who knows what they are doing and will do the very best to get your case approved.



What are the best things I can do to prepare to apply for a work visa or green card?

There are several steps you should take in preparation for a visa petition. Below is outlined the five most important tips in preparing the visa application, but your immigration attorney will advise you further regarding the preparation of your case.

Join professional industry organizations.

Try to get yourself in the press! Even “bad” press is good for immigration purposes.

Start asking around to gauge who would be willing to sign a recommendation letter on your behalf.

If you are seeking an O-1 visa, start thinking about agencies or companies that might be willing to sponsor you. Your immigration attorney can provide you with advice on who would be the best petitioner/sponsor for your visa.



Gather any and all evidence related to your professional endeavors including but not limited to: still shots, photographs, press articles about you or your work, membership identification cards, and promotional materials including post

cards, posters, and leaflets. You should send your immigration attorney everything and then let the attorney decide whether or not to include the submitted evidence in your visa petition. It is better to submit an unnecessary

document to your attorney than to have your visa petition submitted to immigration without something that may prove to be very beneficial to your case.

How long in advance of moving should I contact an immigration attorney?

You should contact an immigration attorney as soon as you think that you might want to come to the U.S. and work. The sooner you contact an attorney the more time you will have in preparing your case. Obviously, the more time you allocate to the preparation of your visa application the stronger your case will be. Your immigration attorney will advise you regarding the types of additional documentation that you should submit and will prepare certain documents for incorporation into your case.

How does getting a work visa affect my spouse or family Will they be able to move as well?

If you gain status in the United States under O-1 status your spouse and unmarried children under the age of 21 may join you in the U.S. under O-3 status, where they may not work, but your children may attend school.

How do I decide which immigration lawyer to work with?

You have to be very careful in selecting an immigration attorney because the field of immigration law is notorious for unscrupulous individuals that prey on foreigners with little or no knowledge of our laws and regulations. As a

preliminary matter, you should confirm that the potential attorney is in fact licensed to practice law in the United States. In addition to confirming their credentials, you should select an attorney that only practices immigration law. Certainly you would not have brain surgery with a pediatrician and similarly you should not have your immigration case handled by an individual that handles other areas of law. We have seen many individuals whose cases were prejudiced by the actions of unskilled attorneys.

Additionally, you should choose a law firm that specializes in attaining visas for entertainment professionals. A lawyer that is recommended within the industry is a particularly good choice. Furthermore, you should seek an accessible attorney that guarantees an open channel of communication. Do not be afraid to ask an attorney in advance the

average turnaround time for client calls and email messages. Additionally, do not be afraid to ask how often this attorney works with the specific visa classification you are seeking. You want an attorney that is knowledgeable of the current trends. Finally, you should seek an attorney that will guide you from start to finish. The visa process is exceedingly convoluted and you should ask your attorney from the outset how much assistance they will be willing to render. Will they review documents after every submission and make recommendations accordingly? Will they edit and assist you in the drafting of your visa documents? Will they give you viable models to follow? Think of your attorney as your guide and choose wisely.

What happens if my visa application is unsuccessful?

An experienced immigration attorney should have several key strategies to implement in the event that your visa petition is denied. You should speak to your attorney at the onset about this possibility. This is also an excellent question to gauge the experience and knowledge of your attorney.

Top 5 Tips to Strengthen a Visa Petition

Join industry organizations such as Equity, Spotlight, SAG, and IMDB.

Be organized and unambiguous in the submission of your documentation to your attorney. Use post-it notes to clearly label everything and do not assume that your attorney will be able to match still shots to the relevant production. Group related documents and write short explanatory notes to your attorney when necessary.

Presentation, Presentation, Presentation! Submit all of your documents in color and on quality paper. Your case should be attractive to the immigration officer.

Tell your attorney about ALL of your professional endeavors. Do not sell yourself short by assuming that a role is unworthy of mention. Even the smallest role in a local production

can make all the difference in the approval of your case. Finally, do not underestimate the value of recommendation or reference letters. These letters can be powerful tools in solidifying a visa case. Our firm is heavily involved in the letter process from giving clients samples to editing possible submissions.

Top 5 Things to Avoid When Attempting to Obtain a Visa

If you are in the United States, you must avoid falling out of lawful nonimmigrant status.

Do not assume you are not qualified for a visa until an experienced immigration attorney has done a thorough review of your credentials.

Never underestimate how little an immigration officer might know about a topic. We have to educate them TOGETHER.

Do not send your immigration attorney originals. Send the attorney colored copies instead.

Avoid contradicting your attorney's advice. More likely than not, your attorney will be an individual with excellent foresight into your visa process and you should trust their discretion.



GAINING YOUR OWN VISA....



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