

Immigration Law: U.S. Visa Options For Artists And Entertainers

Artists and entertainers who work in the United States – even if only for a few days – must obtain an appropriate work visa prior to entering the United States. Pryor Cashman’s Immigration Law Practice has extensive experience providing legal and strategic advice to determine the appropriate visa to apply for based on the artist’s or entertainer’s qualifications and circumstances. We possess practical experience preparing O and P visa petitions and are well versed in the evidentiary requirements required of each classification.

Importantly, the Immigration Law Practice is keenly aware that the expeditious preparation and adjudication of these petitions is critical for artists and entertainers to enter the United States for designated performance dates. Accordingly, our team is well equipped to provide the high touch, efficient client service necessary to meet our clients’ legal and business needs.

O Visas for Artists and Entertainers of Extraordinary Ability or Achievement

The O-1 visa classification is for individuals of extraordinary ability in the sciences, arts, education, business, or athletics. O-2 visas are for certain support individuals accompanying O-1 artists, and O-3 visas are for dependents (spouses and children under age 21).

“Extraordinary” is defined differently depending upon the type of applicant. There is, for example, a separate standard of “distinction” for artists and entertainers who must show a “demonstrated record of extraordinary achievement.”

- **Artists and Entertainers**

Artists and Entertainers must demonstrate that they have reached a level of achievement “evidenced by a degree of skill and recognition substantially above that ordinarily encountered” and are “renowned, leading, or well known in the field.”

Applicants must demonstrate their achievements by submitting evidence to the United States Citizenship and Immigration Service (USCIS) that they have either won a major international award (e.g., Academy, Emmy, Grammy, or a Director’s Guild Award) or have achieved at least *three* of the following:

- Performed and will perform as a lead or starring role in a production of distinguished reputation
- Achieved national or international recognition for achievements evidenced through critical reviews
- Performed and will perform in a lead, starring or critical role for organizations with distinguished reputations
- Possesses a record of major commercial or critically acclaimed success as evidenced by ratings or box office receipts
- Achieved recognition by organizations, government agencies, or experts in the field
- Commanded or will command a high salary in relation to others in the field

- **Accompanying Individuals**

The O-2 classification allows for individuals who work with the O-1 artist or entertainer and who are considered highly skilled and integral to the performance. O-2 visas are granted for the period of time needed to complete the event or performance.

P Visas for Performing Entertainers

P visas are exclusively for artists, group entertainers, and athletes and are divided into three different classifications (P-1, P-2, and P-3). The P visa classification is generally used in situations for group artists entering the United States on trips of limited duration and for culturally unique artists (groups and individuals).

- **P-1 Visas for Entertainment Groups**

P-1 visas for entertainers are only for those who are coming to the United States as part of a group that has been recognized internationally as outstanding for a substantial period of time. Each member of the group must have been with the group for at least one year (with certain exceptions), and be entering the United States exclusively to perform with that group. P-1 status is granted on the basis of the group's reputation rather than on that of the individual artist.

The standard of evidence for group recognition is nearly identical to that for an individual obtaining an O-1, *i.e.*, a "high level of achievement in the field evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading or well known in more than one country." The group must have either received a significant international award or have achieved at least *three* of the following:

- Achieved international recognition and acclaim for outstanding achievement as evidenced by critical reviews
- Performed and will perform as a leading or starring group for organizations that have a distinguished reputation
- Possess a record of major commercial or critical acclaim as evidenced by box office receipts, record or video sales
- Achieved significant recognition for achievements from organizations, government agencies, or experts in the field
- Commanded or will command a high salary in relation to others in the field

- **P-2 Visas for Artists and Entertainers**

P-2 visas are reserved for artists and entertainers who perform individually or with a group pursuant to a reciprocal exchange program between United States and foreign organizations. The exchanges must be similar in terms of caliber of artists and terms and conditions of employment. Only a handful of P-2 programs have been established by unions such as Actors Equity (with its British counterpart) and the American Federation of Musicians (with its Canadian counterpart).

- **P-3 Visas for Culturally Unique Artists**

P-3 visas are granted to individual or group artists who are considered “culturally unique” and who are coming to the United States to express this art form. The required evidence includes testimonials from recognized experts and published materials attesting to the authenticity of skill and history of performing the culturally unique art form. Evidence must also be provided that the individuals or groups are coming to present culturally unique performances in the U.S.

- **Accompanying Individuals**

All P categories allow for “essential support personnel” who are considered highly skilled and integral to the performance. P visas are granted for the period of time needed to complete the event or performance.

Application Process

O and P visa petitions must be submitted to and approved by one of the USCIS regional service centers. Upon receiving approval of the visa petition (Form I-797), the applicant must apply in person for an O or P visa at a U.S. Consulate in their home country. Once the visa issues, the individual may enter the United States to begin working.