



[Home](#) > [Policy Manual](#) > [Volume 6 - Immigrants](#) > [Part F - Employment-Based Classifications](#) > Chapter 2 - Extraordinary Ability

Chapter 2 - Extraordinary Ability

Guidance

[Resources \(15\)](#)

[Appendices \(0\)](#)

[Updates \(9\)](#)

A. Eligibility

When seeking classification as a person of extraordinary ability, a petitioner files an Immigrant Petition for Alien Workers ([Form I-140](#)) on behalf of an alien (who may be the petitioner) with evidence demonstrating that the beneficiary is eligible.^[1]

Eligibility for Extraordinary Ability Classification

The person has extraordinary ability in the sciences, arts, education, business, or athletics, which has been demonstrated by sustained national or international acclaim, and whose achievements have been recognized in the field through extensive documentation.

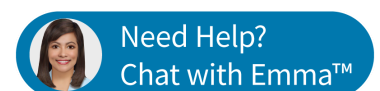
The person seeks to enter the United States to continue work in the area of extraordinary ability.

The person's entry into the United States will substantially benefit the United States in the future.

Self-Petitioners

A petition filed on behalf of a person with extraordinary ability does not need to be supported by a job offer; therefore, anyone can file the petition on behalf of the person, including the alien who may file as a self-petitioner.^[2] The person must still demonstrate, however, that he or she intends to continue work in the area of his or her extraordinary ability and that his or her work will substantially benefit the United States in the future.^[3]

1. Sustained National or International Acclaim



When filing a petition for a person with extraordinary ability, the petitioner must submit evidence that the person has sustained national or international acclaim and that the person's achievements have been recognized in the field of expertise.^[4] In determining whether the beneficiary has enjoyed "sustained" national or international acclaim, the officer should consider that such acclaim must be maintained.^[5] However, the term sustained does not imply an age limit on the beneficiary. A beneficiary may be very young or early in his or her career and still be able to show sustained acclaim. There is also no definitive time frame on what constitutes sustained.

If a person was recognized for a particular achievement, the officer should determine whether the person continues to maintain a comparable level of acclaim in the field of expertise since the person was originally afforded that recognition. A person may, for example, have achieved national or international acclaim in the past but then failed to maintain a comparable level of acclaim thereafter.

2. Continuing to Work in the Area of Expertise

To qualify as a person with extraordinary ability, the beneficiary must intend to continue to work in the area of his or her expertise.^[6]

The officer may encounter instances where it is difficult to determine whether the person's intended employment falls sufficiently within the bounds of his or her area of extraordinary ability. Some of the most problematic cases are those in which the beneficiary's sustained national or international acclaim is based on his or her abilities as an athlete, but the beneficiary's intent is to come to the United States and be employed as an athletic coach or manager. Competitive athletics and coaching rely on different sets of skills and in general are not in the same area of expertise. However, many extraordinary athletes have gone on to be extraordinary coaches.

Therefore, in general, if a beneficiary has clearly achieved recent national or international acclaim as an athlete and has sustained that acclaim in the field of coaching or managing at a national level, officers can consider the totality of the evidence as establishing an overall pattern of sustained acclaim and extraordinary ability such that USCIS can conclude that coaching is within the beneficiary's area of expertise.

Where the beneficiary has had an extended period of time to establish his or her reputation as a coach beyond the years in which he or she had sustained national or international acclaim as an athlete, depending on the specific facts, officers may place heavier, or exclusive, weight on the evidence of the beneficiary's achievements as a coach or a manager.

USCIS does not consider a male athlete who has gained the necessary acclaim in men's sports and seeks to compete in women's sports in the United States to be seeking to continue work in his area of extraordinary ability.^[7]

3. Entry to Substantially Benefit the United States

To qualify as a person with extraordinary ability, the person's entry must substantially benefit the United States in the future.^[8] Although neither the statute nor the regulations specifically define the statutory phrase "substantially benefit," it has been interpreted broadly.^[9]

Whether the petitioner demonstrates that the person's employment meets this requirement requires a fact-dependent assessment of the case. In some cases, a Request for Evidence (RFE) may be appropriate if an officer is not yet satisfied that the petitioner has met this requirement. There is no standard rule as to what

will substantially benefit the United States. However, male athletes seeking to enter the United States to compete in women’s sports do not substantially benefit prospectively the United States.^[10]

B. Evidence of Extraordinary Ability

The regulations describe various types of evidence that the petitioner must submit in support of a petition as documentation of the beneficiary’s extraordinary ability.^[11] In general, the petitioner must submit evidence that:

- The person has sustained national or international acclaim; and
- The person’s achievements have been recognized in the field of expertise.

This initial evidence must include either evidence of a one-time achievement (for example, a major internationally recognized award, such as the Nobel Prize) or at least three of the types of evidence listed in the regulations.^[12]

The evidence provided in support of the petition need not specifically use the words "extraordinary." Rather, the material should be such that it is readily apparent that the person's contributions to the field are qualifying. Also, although some of the regulatory language relating to evidence occasionally uses plurals, it is entirely possible that the presentation of a single piece of evidence in a specific evidentiary category may be sufficient.

On the other hand, the submission of voluminous documentation may not contain sufficient persuasive evidence to establish the beneficiary’s eligibility. The evidence provided in support of the petition must ultimately establish that the beneficiary "is one of that small percentage who have risen to the very top of the field of endeavor."^[13]

Officers should use a two-step analysis to evaluate the evidence submitted with the petition to demonstrate eligibility for classification as a person with extraordinary ability.^[14]

Petition for Extraordinary Ability Classification: Overview of Two-Step Evidentiary Review	
Step 1	Assess whether evidence meets regulatory criteria: Determine, by a preponderance of the evidence, which evidence submitted by the petitioner objectively meets the parameters of the regulatory description that applies to that type of evidence (referred to as "regulatory criteria").
Step 2	Final merits determination: Evaluate all the evidence together when considering the petition in its entirety for the final merits determination, in the context of the high level of expertise required for this immigrant classification.

1. Initial Evidence of Extraordinary Ability

The first step of the evidentiary review is limited to determining whether the evidence submitted with the petition meets the regulatory criteria.^[15] The evidence must be comprised of either a one-time achievement (that is, a major, internationally recognized award) or at least three of the ten regulatory criteria or be

comparable to at least three of the ten regulatory criteria.^[16] The officer should apply a preponderance of the evidence standard when making this determination.

For purposes of the first step of the analysis, officers should consider the quality and caliber of the evidence to determine whether a particular regulatory criterion has been met, to the extent the criterion has qualitative requirements.^[17] Officers should not yet make a determination regarding whether or not the person is one of that small percentage who have risen to the very top of the field or if the person has sustained national or international acclaim.^[18]

The following tables describe the limited determinations the officer should make in the first step of the analysis to determine whether the person has met the applicable evidentiary criteria, including any qualifying comparable evidence.^[19]

Criterion 1: Receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.[\[20\]](#)

Criterion 1: Receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.[\[20\]](#)

First, USCIS determines if the person was the recipient of prizes or awards. Nothing precludes the person from relying on a team award, provided the person is one of the recipients of the award.[\[21\]](#) The description of this type of evidence in the regulation indicates that the focus should be on the person's receipt of the awards or prizes, as opposed to the employer's receipt of the awards or prizes.

Second, USCIS determines whether the award is a lesser nationally or internationally recognized prize or award which the person received for excellence in the field of endeavor. As indicated by the plain language of the regulation, this criterion does not require an award or prize to have the same level of recognition and prestige associated with the Nobel Prize or another award that would qualify as a one-time achievement.

Examples of qualifying awards may include, but are not limited to:

- Certain awards from well-known national institutions or well-known professional associations;
- Certain doctoral dissertation awards; and
- Certain awards recognizing presentations at nationally or internationally recognized conferences.

Considerations:

Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to:

- The criteria used to grant the awards or prizes;
- The national or international significance of the awards or prizes in the field;
- The number of awardees or prize recipients; and
- Limitations on competitors.

While many scholastic awards do not have the requisite level of recognition, there may be some that are nationally or internationally recognized as awards for excellence such that they may satisfy the requirements of this criterion.

For example, an award available only to persons within a single locality, employer, or school may have little national or international recognition, while an award open to members of a well-known national institution (including an R1 or R2 doctoral university[\[22\]](#)) or professional organization may be nationally recognized.

Similarly, national or international recognition is most often associated with awards given to individuals at the highest level in a given field. However, there is no specific requirement that an award be open to all members of the field, including the most experienced, in order to meet the requirements of this criterion. While limitations on competitors can be a relevant factor, in some instances the evidence may establish that an award or prize is nationally or internationally recognized despite being limited to youth, amateur competitors, or early-career professionals. For instance, awards presented to new players or “rookies” in major sports leagues may garner national or even international media coverage.

Criterion 2: Membership in associations in the field for which classification is sought that require outstanding achievement of their members, as judged by recognized national or international experts in their disciplines or fields.^[23]

USCIS determines if the association for which the person claims present or past membership^[24] requires that members have outstanding achievements in the field as judged by recognized experts in that field.

Examples of associations in the field requiring outstanding achievement of their members may include, but are not limited to:

- A membership in certain professional associations; and
- A fellowship with certain organizations or institutions.

Considerations:

The petitioner must show that membership in the association requires outstanding achievements in the field for which classification is sought, as judged by recognized national or international experts.

Associations may have multiple levels of membership. The level of membership afforded to the person must show that in order to obtain that level of membership, recognized national or international experts judged the person as having attained outstanding achievements in the field for which classification is sought.

As a possible example, general membership in an international organization for engineering and technology professionals may not meet the requirements of the criterion. However, if that same organization at the fellow level requires, in part, that a nominee have accomplishments that have, for example, contributed importantly to the advancement or application of engineering, science, and technology, and that a council of experts and a committee of current fellows judges the nominations for fellows, that higher, fellow level may be qualifying.

Another possible qualifying example may include membership as a fellow in a scientific society dedicated to artificial intelligence if the membership is based on recognition of a nominee's significant, sustained contributions to the field of artificial intelligence, and a panel of current fellows makes the selection of new fellows.

Relevant factors that may lead to a conclusion that the person's membership in the association(s) was not based on outstanding achievements in the field include, but are not limited to, instances where the person's membership was based solely on the following factors (by themselves or in the aggregate):

- A level of education or years of experience in a particular field;
- The payment of a fee or by subscribing to an association's publications; and
- A requirement, compulsory or otherwise, for employment in certain occupations, as commonly seen with union membership or guild affiliation for actors.

Criterion 3: Published material about the person in professional or major trade publications or other major media relating to the person's work in the field for which classification is sought. Such evidence must include the title, date, and author of the material, and any necessary translation.^[25]

First, USCIS determines whether the published material was related to the person and the person's specific work in the field for which classification is sought.

Examples of qualifying media may include, but are not limited to:

- Professional or major print publications (newspaper articles, popular and academic journal articles, books, textbooks, or similar publications) regarding the person and the person's work;
- Professional or major online publications regarding the person and the person's work; and
- Transcripts of professional or major audio or video coverage of the person and the person's work.

Considerations:

The published material should be about the person, relating to the person's work in the field, and not just about the person's employer and the employer's work or about another organization and that organization's work. Marketing materials created for the purpose of selling the person's products or promoting the person's services are not generally considered to be published material about the person (this includes seemingly objective content about the person in major print publications that the person or the person's employer paid for).

However, the person and the person's work need not be the only subject of the material; published material that covers a broader topic but includes a substantial discussion of the person's work in the field and mentions the person in connection to the work may be considered material about the person relating to the person's work.

Moreover, officers may consider material that focuses solely or primarily on work or research being undertaken by a team of which the person is a member, provided that the material mentions the person in connection with the work or other evidence in the record documents the person's significant role in the work or research.

Evidence may include documentation such as print or online newspaper or magazine articles, popular or academic journal articles, books, textbooks, similar publications, or a transcript of professional or major audio or video coverage of the person and the person's work.

Second, USCIS determines whether the publication qualifies as a professional publication, major trade publication, or major media publication.

In evaluating whether a submitted publication is a professional publication, major trade publication, or major media, relevant factors include the intended audience (for professional and major trade publications) and the relative circulation, readership, or viewership (for major trade publications and other major media).

Criterion 4: The person's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.[\[26\]](#)

USCIS determines whether the person has acted as the judge of the work of others in the same or an allied field of specification.

Examples of judging the work of others may include, but are not limited to:

- Peer reviewing for a scholarly journal, as evidenced by a request from the journal to the person to do the review, accompanied by proof that the review was actually completed;
- Peer review of abstracts or papers submitted for presentation at scholarly conferences in the respective field;
- Serving as a member of a Ph.D. dissertation committee that makes the final judgment as to whether a candidate's body of work satisfies the requirements for a doctoral degree, as evidenced by departmental records; and
- Peer reviewer for government research funding programs.

Considerations:

The petitioner must show that the person has not only been invited to judge the work of others, but also that the person actually participated in the judging of the work of others in the same or allied field of specialization. For example, a petitioner might document the person's peer review work by submitting a copy of a request from a journal to the person to do the review, accompanied by evidence confirming that the person actually completed the review.

Criterion 5: The person's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.^[27]

First, USCIS determines whether the person has made original contributions in the field.

Second, USCIS determines whether the original contributions are of major significance to the field.

Examples of relevant evidence include, but are not limited to:

- Published materials about the significance of the person's original work;
- Testimonials, letters, and affidavits about the person's original work;
- Documentation that the person's original work was cited at a level indicative of major significance in the field; and
- Patents or licenses deriving from the person's work or evidence of commercial use of the person's work.

Considerations:

Analysis under this criterion focuses on whether the person's original work constitutes major, significant contributions to the field.

Evidence that the person's work was funded, patented, or published, while potentially demonstrating the work's originality, will not necessarily establish, on its own, that the work is of major significance to the field.

For example, published research that has provoked widespread commentary on its importance from others working in the field, and documentation that it has been highly cited relative to others' work in that field, may be probative of the significance of the person's contributions to the field of endeavor.

Similarly, evidence that the person developed a patented technology that has attracted significant attention or commercialization may establish the significance of the person's original contribution to the field. If a patent remains pending, USCIS generally requires additional supporting evidence to document the originality of the person's contribution, such as detailed reference letters.

Detailed letters from experts in the field explaining the nature and significance of the person's contribution may also provide valuable context for evaluating the claimed original contributions of major significance, particularly when the record includes documentation corroborating the claimed significance.

Submitted letters should specifically describe the person's contribution and its significance to the field and should also set forth the basis of the writer's knowledge and expertise.

Criterion 6: The person's authorship of scholarly articles in the field, in professional or major trade publications or other major media.^[28]

First, USCIS determines whether the person has authored scholarly articles in the field.

As defined in the academic arena, a scholarly article reports on original research, experimentation, or philosophical discourse. It is written by a researcher or expert in the field who is often affiliated with a college, university, or research institution. Scholarly articles are also generally peer reviewed by other experts in the field of specialization. In general, it should have footnotes, endnotes, or a bibliography, and may include graphs, charts, videos, or pictures as illustrations of the concepts expressed in the article.

Examples of scholarly article authorship include, but are not limited to:

- Publications in professionally-relevant peer-reviewed journals; and
- Published conference presentations at nationally or internationally recognized conferences. ^[29]

For other fields, a scholarly article should be written for learned persons in that field. ("Learned" is defined as "having profound knowledge gained by study").^[30] Learned persons include all persons having profound knowledge of a field.

Second, USCIS determines whether the publication qualifies as a professional publication, major trade publication, or major media publication.

In evaluating whether a submitted publication is a professional publication or major media, relevant factors include the intended audience (for professional journals) and the circulation or readership relative to other media in the field (for major media).

Criterion 7: Display of the person's work in the field at artistic exhibitions or showcases.[\[31\]](#)

First, USCIS determines whether the work that was displayed is the person's work product.

The description of this type of evidence in the regulation provides that the work must be the person's work product.

Second, USCIS determines whether the venues (virtual or otherwise) where the person's work was displayed were artistic exhibitions or showcases. Merriam-Webster's online dictionary defines “exhibition” as a public showing (as of works of art, objects of manufacture, or athletic skill).[\[32\]](#)

While the dictionary definition includes public showings other than those that are artistic in nature, the plain language of the criterion includes the modifier “artistic” and explicitly requires that the exhibitions or showcases be artistic in nature. USCIS only considers non-artistic exhibitions or showcases as part of a properly supported claim of comparable evidence, discussed in more detail below.

Criterion 8: The person has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.[\[33\]](#)

First, USCIS determines whether the person has performed in a leading or critical role for an organization, establishment, or a division or department of an organization or establishment.

Examples of lead or critical roles may include, but are not limited to:

- Senior faculty or senior research position for a distinguished academic department or program;
- Senior research position for a distinguished non-academic institution or company;
- Principal or named investigator for a department, institution, or business that received a merit-based government award, such as an academic research or Small Business Innovation Research (SBIR) grant; [\[34\]](#)
- Member of a key committee within a distinguished organization;
- Founder or co-founder of, or contributor of intellectual property to, a startup business that has a distinguished reputation; and
- Leading or critical role for a distinguished organization or a distinguished division of an institution or company, as explained in detail by the director or a principal investigator of the relevant organization or division.

Considerations:

In evaluating such evidence, officers examine whether the role is (or was) leading or critical.

For a leading role, officers look at whether the evidence establishes that the person is (or was) a leader within the organization or establishment or a division or department thereof. A title, with appropriate matching duties, can help to establish that a role is (or was), in fact, leading.

For a critical role, officers look at whether the evidence establishes that the person has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment.

A supporting role may be considered critical if the person's performance in the role is (or was) important. It is not the title of the person's role, but rather the person's performance in the role that determines whether the role is (or was) critical.

This is one criterion where letters from persons with personal knowledge of the significance of the person's leading or critical role can be particularly helpful to officers in making this determination, so long as the letters contain detailed and probative information that specifically addresses how the person's role for the organization, establishment, division, or department was leading or critical. Evidence of experience must consist of letters from employers.[\[35\]](#)

Second, USCIS determines whether the organization or establishment, or the department or division for which the person holds or held a leading or critical role, has a distinguished reputation.

The relative size or longevity of an organization or establishment is not in and of itself a determining factor but is considered together with other information to determine whether a distinguished

Criterion 8: The person has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.[\[33\]](#)

reputation exists. Other relevant factors for evaluating the reputation of an organization or establishment can include the scale of its customer base or relevant media coverage.

For academic departments, programs, and institutions, officers may also consider relevant and credible national rankings and receipt of government research grants as positive factors.

For a startup business, officers may consider evidence that the business has received significant funding from government entities, venture capital funds, angel investors, or other such funders commensurate with funding rounds generally achieved for that startup's stage and industry, as a positive factor regarding its distinguished reputation.

Merriam-Webster's online dictionary defines "distinguished" as "marked by eminence, distinction, or excellence" or "befitting an eminent person."[\[36\]](#)

Criterion 9: The person has commanded a high salary, or other significantly high remuneration for services, in relation to others in the field.^[37]

USCIS determines whether the person's salary or remuneration is high relative to the compensation paid to others working in the field. USCIS does not interpret the phrase “has commanded” to mean that the person must have already earned such salary or remuneration in order to meet the criterion. Rather, a credible contract or job offer showing prospective salary or remuneration may establish that the person has been able to command such compensation.

Evidence relevant to demonstrating high remuneration may include, but is not limited to:

- Tax returns, pay statements, or other evidence of past salary or remuneration for services;
- Contract, job offer letter, or other evidence of prospective salary or remuneration for services; and
- Comparative wage or remuneration data for the person’s field, such as geographical or position-appropriate compensation surveys.

Considerations:

Evidence regarding whether the person's compensation is high relative to that of others working in the field may take many forms. Examples may include, but are not limited to, geographical or position-appropriate compensation surveys and organizational justifications to pay above the compensation data. The following websites, among others, may be helpful in evaluating the relative compensation for a given field:

- The Bureau of Labor Statistics (BLS) [Overview of BLS Wage Data by Area and Occupation](#) webpage; and
- The Department of Labor's Career [One Stop](#) website.

When evaluating whether a comparison between the beneficiary’s documented remuneration and the remuneration in the survey is accurate, the following considerations, among others, may be relevant:

- The description of the occupation. Broad descriptions that include multiple occupations or multiple industries may not provide an accurate comparison to others in the field. For example, “directors and producers” might be listed as a single category across industries, but evidence that a film director receives high remuneration based on a broad range of occupational data that include disparate occupations such as film director and radio show producer, may not be sufficiently probative;
- The validity of the survey. Some websites provide user-reported salary data, which may not be a valid comparison if, for example, too few users reported their salaries or the data is otherwise not credible or reliable;
- Location and currency. Officers evaluate persons working outside of the United States based on the wage statistics or comparable evidence relevant to the applicable work location, rather than by simply converting the salary to U.S. dollars and then viewing whether that salary would be considered high in the United States; and
- Salary rate being measured. Officers consider whether the comparison data measures an hourly rate or an annual salary. Another consideration is how that information compares to the beneficiary’s

Criterion 9: The person has commanded a high salary, or other significantly high remuneration for services, in relation to others in the field.[\[37\]](#)

pay. Many artists are not paid an hourly rate but instead are paid a daily rate (which may not be equivalent to 8 hours) or are paid a certain amount for a project (involving an unknown number of hours). However, hourly wage data may still be probative if the petitioner submits documentation regarding the number of hours worked. Such documentation can include, but is not limited to, pay statements, personnel records, or testimonial evidence from the relevant employer.

For entrepreneurs or founders of startup businesses, officers consider evidence that the business has received significant funding from government entities, venture capital funds, angel investors, or other such funders in evaluating the credibility of submitted contracts, job offer letters, or other evidence of prospective salary or remuneration for services.

Criterion 10: Commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.[\[38\]](#)

USCIS determines whether the person has enjoyed commercial successes in the performing arts.

This criterion focuses on volume of sales and box office receipts as a measure of the person's commercial success in the performing arts. Therefore, the mere fact that a person has recorded and released musical compilations or performed in theatrical, motion picture, or television productions would be insufficient, in and of itself, to meet this criterion. The evidence must show that the volume of sales and box office receipts reflect the person's commercial success relative to others involved in similar pursuits in the performing arts.

Comparable evidence: Comparable evidence to establish the person's eligibility if the standards do not readily apply to the person's occupation.[\[39\]](#)

USCIS determines if the evidence submitted is comparable to the evidence required in [8 CFR 204.5\(h\)\(3\)](#).

This regulatory provision provides petitioners the opportunity to submit comparable evidence to establish the person's eligibility, if it is determined that the evidentiary criteria described in the regulations do not readily apply to the person's occupation. When evaluating such comparable evidence, officers must consider whether the regulatory criteria are readily applicable to the person's occupation and, if not, whether the evidence provided is truly comparable to the criteria listed in that regulation.

A general unsupported assertion that the listed evidentiary criterion does not readily apply to the petitioner's occupation is not probative. Similarly, general claims that USCIS should accept witness letters as comparable evidence are not persuasive. However, a statement from the petitioner can be sufficient to establish whether a criterion is readily applicable if that statement is detailed, specific, and credible.

Although officers do not consider comparable evidence where a particular criterion is readily applicable to the person's occupation, a criterion need not be entirely inapplicable to the person's occupation. Rather, the officer considers comparable evidence if the petitioner shows that a criterion is not easily applicable to the person's job or profession.[\[40\]](#)

As with all extraordinary ability petitions, officers may consider comparable evidence in support of petitions for persons working in science, technology, engineering, or mathematics (STEM) fields. Specifically, if a petitioner demonstrates that a particular criterion does not readily apply to the person's occupation, the petitioner may submit evidence that is of comparable significance to that criterion to establish sustained acclaim and recognition.

For instance, if the publication of scholarly articles is not readily applicable to a person whose occupation is in an industry rather than academia, a petitioner might demonstrate that the person's presentation of work at a major trade show is of comparable significance to that criterion.

As another example, if the petitioner demonstrates that receipt of a high salary is not readily applicable to the person's position as an entrepreneur, the petitioner might present evidence that the person's highly valued equity holdings in the startup are of comparable significance to the high salary criterion.

The following are other non-exhaustive examples of where the comparable evidence provision might apply:

- A person who is an Olympic coach whose athlete wins an Olympic medal while under the person's principal tutelage would likely constitute evidence comparable to that in [8 CFR 204.5\(h\)\(3\)\(v\)](#); or
- Election to a national all-star or Olympic team might serve as comparable evidence for evidence of memberships in [8 CFR 204.5\(h\)\(3\)\(ii\)](#).

There is no comparable evidence for the one-time achievement of a major, international recognized award.

Notably, the evidence evaluated in this step is also reviewed in the next step where the officer must determine whether the person is one of that small percentage who has risen to the very top of the field of endeavor, and that the person has sustained national or international acclaim.

However, objectively meeting the regulatory criteria in the first step alone does not establish that the person in fact meets the requirements for classification as a person with extraordinary ability.^[41]

For example:

- Participating in the judging of the work of others in the same or an allied field of specialization alone, regardless of the circumstances, should satisfy the regulatory criteria in the first step of the analysis. However, the second step requires the officer to evaluate the person's participation to determine whether it was indicative of the person being one of that small percentage who have risen to the very top of the field of endeavor and enjoying sustained national or international acclaim.
- Publishing scholarly articles in professional or major trade publications or other major media alone, regardless of the caliber, should satisfy the regulatory criteria in the first step of the analysis. However, the second step requires the officer to evaluate the person's publications to determine whether they were indicative of the person being one of that small percentage who have risen to the very top of the field of endeavor and enjoying sustained national or international acclaim.

The question of whether the person is one of that small percentage who have risen to the very top of the field of endeavor and enjoys sustained national or international acclaim should be addressed in the second step of the analysis (final merits determination). In the first step, the officer is only required to determine if the evidence objectively meets the regulatory criteria.

2. Final Merits Determination

In the second step of the analysis, the officer should consider the petition in its entirety to determine eligibility according to the standard. To establish eligibility, the petition must demonstrate that the person has sustained national or international acclaim and that their achievements have been recognized in the field of expertise, indicating that the person is one of that small percentage who has risen to the very top of the field of endeavor. The officer applies a preponderance of the evidence standard when making this determination.

An officer may not limit the kind of evidence the officer thinks the person should be able to submit and deny the petition if that particular type of evidence (whether one of the prescribed types^[42] or comparable evidence^[43]) is absent, if the person nonetheless submitted other types of evidence that meet the regulatory requirements for the classification.

For example, an officer may think that if a person is extraordinary, there should be published articles about the person and the person's work. However, an officer cannot deny the petition because no published articles were submitted, so long as the petitioner has submitted other evidence that meets the three qualifying criteria which demonstrates the person is in fact extraordinary. Approval or denial of a petition is based on the type and quality of evidence submitted rather than assumptions about the failure to address different criteria.

At this step, officers consider any potentially relevant evidence in the record, even if such evidence does not fit one of the above regulatory criteria or was not presented as comparable evidence. The officers consider all evidence in the totality. Some evidence may weigh more favorably on its own, while other evidence is more persuasive when viewed with other evidence.

The following are examples of situations where evidence in the record may help officers evaluate the quality of the initial or comparable evidence and determine whether in a totality analysis that considers all of the evidence, the person is among the small percentage at the top of the field and has sustained national or international acclaim:^[44]

- The record demonstrates that the person has published articles in particularly highly-ranked journals (including published conference proceedings) relative to other journals in the field, as demonstrated by, for example, evidence the petitioner provides regarding the journal's impact factor. ^[45] Depending on the level of recognition of the journals in question, as demonstrated by evidence in the record, there may be particular prestige or acclaim associated with publication in such journals, especially if the person is the most significant contributor to the published article, a senior author, or the sole author of the article;
- The petitioner provides evidence demonstrating that the total rate of citations to the person's body of published work is high relative to others in the field, such as the person has a high h-index ^[46] for the field. Depending on the field and the comparative data the petitioner provides, such evidence may indicate a person's high overall standing for the purpose of demonstrating that the person is among the small percentage at the top of the field; ^[47]
- The petitioner documents the person's employment or research experience with leading institutions in the field (such as U.S. universities that have been recognized as having high or very high research activity by the Carnegie Classification of Institutions of Higher Education, ^[48] foreign universities with comparably high research activity, or a university that is highly regarded according to a widely recognized metric such as the QS World University Rankings ^[49]). Such employment or experience can be a positive factor toward demonstrating that the person is among the small percentage at the top of the field;
- The record establishes that the person has received unsolicited invitations to speak or present research at nationally or internationally recognized conferences in the field. This type of invitation is generally indicative of a person's high standing and recognition for achievements in the field; and
- The record establishes that the person is named as an investigator, scientist, or researcher on a peer-reviewed and competitively-funded U.S. government grant or stipend for STEM research. This type of evidence can be a positive factor indicating a person is among the small percentage at the top of the person's field.

In all cases, the petitioner must provide sufficient context regarding the above evidence and considerations to demonstrate that the evidence meets the relevant criteria and to establish the person's extraordinary ability in the totality of the circumstances. This means that the petitioner must explain the significance of the submitted evidence, and how it demonstrates that the person has achieved sustained national or international acclaim and recognition in their field of expertise.

While a person may be stronger in one particular evidentiary area than in others, the totality of the evidence must establish that the person is extraordinary. If the officer determines that the petitioner has failed to demonstrate eligibility, the officer should not merely make general assertions regarding this failure. Rather, the officer must articulate the specific reasons as to why the officer concluded that the petitioner has not demonstrated by a preponderance of the evidence that the person has extraordinary ability.^[50] As with all adjudications, if an officer believes that the facts stated in the petition are not true, and can articulate why in the denial, then the officer denies the petition and explains the reasons in the written denial.

If requesting additional evidence is appropriate, officers should provide some explanation of the deficiencies in the evidence already submitted and, if possible, examples of persuasive evidence that the petitioner might provide to corroborate the statements made in the petition. If a petitioner has submitted evidence that the petitioner believes establishes the person's extraordinary ability, merely restating the evidentiary requirements or stating that the evidence submitted is insufficient does not clarify to the petitioner how to overcome the deficiencies.

With respect to demonstrating extraordinary ability in athletics, USCIS considers a male athlete who has been competing against women to be a negative factor in determining whether the alien is among the small percentage at the very top of the field.^[51]

3. Other Evidentiary Considerations

Letters of Support

Many petitions to classify a person with extraordinary ability contain letters of support. Letters of support, while not without weight, should not form the cornerstone of a successful claim for this classification. Rather, the statements made by the witnesses should be corroborated by documentary evidence in the record. The letters should explain in specific terms why the witnesses believe the beneficiary to be of the caliber of a person with extraordinary ability. Letters that merely reiterate USCIS' definitions relating to this classification or make general and expansive statements regarding the beneficiary and the beneficiary's accomplishments are generally not persuasive.

The relationship or affiliation between the beneficiary and the witness is also a factor the officer should consider when evaluating the significance of witnesses' statements. It is generally expected that one whose accomplishments have garnered sustained national or international acclaim would have received recognition for their accomplishments well beyond the circle of their personal and professional acquaintances.

In some cases, letters from others in the beneficiary's field may merely make general assertions about the beneficiary, and at most, indicate that the beneficiary is a competent, respected figure within the field of endeavor, but the record lacks sufficient, concrete evidence supporting such statements. These letters should be considered, but do not necessarily show the beneficiary's claimed extraordinary ability.

Evaluating Immigrant Petitions Filed on Behalf of O-1 Nonimmigrants

An officer might encounter a case where a petition is filed on behalf of a person who was previously classified as an O-1 nonimmigrant with extraordinary ability, or extraordinary achievement in the case of persons in the motion picture and television industry.^[52] Though the prior approval of an O-1 petition is a relevant consideration and can be an indicator of eligibility in adjudicating an immigrant petition for a person with extraordinary ability, it is not determinative.^[53]

Due to the similarities in many of the evidentiary requirements, some courts have asked USCIS to provide an explanation as to why, if the person had previously been classified in a roughly analogous nonimmigrant category, USCIS has determined that the person is not eligible for the employment-based immigrant visa classification in question.

For this reason, where possible, officers issuing denials in such cases should provide a brief discussion as to why, notwithstanding the previous O-1 nonimmigrant visa petition approval, the petitioner has failed to meet its burden to establish that the beneficiary is eligible for classification as an immigrant with extraordinary ability.

Footnotes

[^1] See [INA 203\(b\)\(1\)\(A\)](#). See [8 CFR 204.5\(h\)](#).

[^2] See [8 CFR 204.5\(h\)\(5\)](#). See [8 CFR 204.5\(h\)\(1\)](#) (providing that “[a]n alien, or any person on behalf of the alien,” may file the petition).

[^3] See [INA 203\(b\)\(1\)\(A\)\(ii\)-\(iii\)](#).

[^4] See [INA 203\(b\)\(1\)\(A\)\(i\)](#). See [8 CFR 204.5\(h\)\(3\)](#).

[^5] According to Black's Law Dictionary (11th ed. 2019), the definition of sustain is "to support or maintain, especially over a long period of time . . . To persist in making (an effort) over a long period of time."

[^6] See [INA 203\(b\)\(1\)\(A\)\(ii\)](#). See [8 CFR 204.5\(h\)\(5\)](#).

[^7] See Executive Order 14201, Keeping Men Out of Women's Sports, [90 FR 9279](#) (Feb. 11, 2025), and Executive Order 14168, Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, [90 FR 8615](#) (Jan. 20, 2025). For more information on evidence of biological sex and the role of biological sex in immigration benefit requests, see Volume 1, General Policies and Procedures, Part E, Adjudications, Chapter 5, Verification of Identifying Information, Section B, Personal Information, Subsection 2, Sex [[1 USCIS-PM E.5\(B\)\(2\)](#)].

[^8] See [INA 203\(b\)\(1\)\(A\)\(iii\)](#).

[^9] See [Matter of Price \(PDF\)](#), 20 I&N Dec. 953 (Assoc. Comm. 1994) (golfer of beneficiary's caliber will substantially benefit prospectively the United States given the popularity of the sport).

[^10] See [8 CFR 204.5\(h\)\(3\)-\(4\)](#).

[^11] According to an executive order, allowing male athletes (as defined by executive order) to compete in women's sports is demeaning, unfair, dangerous, and denies women and girls the equal opportunity to participate and excel in competitive sports. See Keeping Men Out of Women's Sports, [90 FR 9279](#) (Feb. 11, 2025), and Executive Order 14168, Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, [90 FR 8615](#) (Jan. 20, 2025) (Sec. 2 defining “male” and “men”). For more information on evidence of biological sex and the role of biological sex in immigration benefit requests, see Volume 1, General Policies and Procedures, Part E, Adjudications, Chapter 5, Verification of Identifying Information, Section B, Personal Information, Subsection 2, Sex [[1 USCIS-PM E.5\(B\)\(2\)](#)].

[^12] See [8 CFR 204.5\(h\)\(3\)](#).

[^13] See [8 CFR 204.5\(h\)\(2\)](#).

[^14] See [Kazarian v. USCIS \(PDF\)](#), 596 F.3d 1115 (9th Cir. 2010).

[^15] See [Kazarian v. USCIS \(PDF\)](#), 596 F.3d 1115 (9th Cir. 2010).

[^16] See [8 CFR 204.5\(h\)\(3\)](#).

[^17] For example, in evaluating an award submitted under [8 CFR 204.5\(h\)\(3\)\(i\)](#), it is necessary to consider the level of recognition the award holds to determine whether it is “nationally or internationally recognized,”

consistent with the requirements of the criterion. However, evidence that the beneficiary's work was displayed at an artistic exhibition alone, regardless of caliber or significance, would satisfy the requirements of [8 CFR 204.5\(h\)\(3\)\(vii\)](#).

[^ 18] See [Kazarian v. USCIS \(PDF\)](#), 596 F.3d 1115, 1122 (9th Cir. 2010).

[^ 19] See [8 CFR 204.5\(h\)\(3\)](#).

[^ 20] See [8 CFR 204.5\(h\)\(3\)\(i\)](#).

[^ 21] In general, qualifying awards include team awards where each member receives a trophy, certification, or medal; appears on the podium or stage; or is specifically named in the awarding organization's announcement of the award selection. Examples include members of a musical group who receive an award and relay team members who appear together on the medal podium. Mere acknowledgment from the award recipient does not constitute receiving the award from the awarding authority.

[^ 22] The Carnegie Classification of Institutions of Higher Education recognizes R1 and R2 doctoral universities as having very high or high research activity, respectively, based on publicly available federal government data regarding the number of doctoral degrees awarded and the amount of total research expenditures. See the Carnegie Classification of Institutions of Higher Education's [Carnegie Classification](#) [↗] webpage.

[^ 23] See [8 CFR 204.5\(h\)\(3\)\(ii\)](#).

[^ 24] While current membership is not required to meet the plain language requirements of this criterion, if the petition is not accompanied by any recent evidence, the length of time since membership may be a consideration for whether the person has sustained acclaim in the final merits determination.

[^ 25] See [8 CFR 204.5\(h\)\(3\)\(iii\)](#).

[^ 26] See [8 CFR 204.5\(h\)\(3\)\(iv\)](#).

[^ 27] See [8 CFR 204.5\(h\)\(3\)\(v\)](#).

[^ 28] See [8 CFR 204.5\(h\)\(3\)\(vi\)](#).

[^ 29] While many articles accepted for presentation at conferences do not result in publication, there are conferences that peer review and publish accepted presentations in professional journals (sometimes called proceedings), such that they may qualify as scholarly articles under this criterion.

[^ 30] See Oxford English Dictionary's [definition of "learned."](#) [↗]


[^ 31] See [8 CFR 204.5\(h\)\(3\)\(vii\)](#).

[^ 32] See Merriam-Webster Dictionary's [definition of "exhibition."](#) [↗]

[^ 33] See [8 CFR 204.5\(h\)\(3\)\(viii\)](#).

[^ 34] See [SBIR America's Seed Fund](#) webpage.



[^ 35] See [8 CFR 204.5\(g\)\(1\)](#).

[^ 36] See Merriam-Webster Dictionary’s [definition of “distinguished.”](#) 

[^ 37] See [8 CFR 204.5\(h\)\(3\)\(ix\)](#).

[^ 38] See [8 CFR 204.5\(h\)\(3\)\(x\)](#).

[^ 39] See [8 CFR 204.5\(h\)\(4\)](#).


[^ 40] Consistent with a plain language reading, “readily” means “easily” or “without much difficulty.” See Merriam-Webster Dictionary’s [definition of “readily.”](#)  The term “occupation” is defined as “the principal business of one’s life.” See Merriam-Webster Dictionary’s [definition of “occupation.”](#) 


[^ 41] See [INA 203\(b\)\(1\)\(A\)](#).

[^ 42] See [8 CFR 204.5\(h\)\(3\)](#).


[^ 43] See [8 CFR 204.5\(h\)\(4\)](#).


[^ 44] Not all cases will have such evidence, nor is such evidence necessary for the petitioner to demonstrate eligibility. Additionally, the list is a non-exhaustive list of examples. While the listed factors may be especially relevant to persons in STEM fields, the guidance applies to all extraordinary ability petitions.

[^ 45] Impact factor is commonly used as a measure of a journal’s influence; it represents the average number of citations received per article published in that journal during the 2 preceding years. See Garfield, E, [The History and Meaning of the Journal Impact Factor](#) , Journal of the American Medical Association, Vol. 295, Iss. 1, p. 90 (2006).

[^ 46] The h-index is an example of a tool for measuring a researcher’s output and impact. It is based on the highest number of the researcher’s publications that have been cited at least that same number of times. For example, if a researcher has an h-index of 10, it means the researcher has 10 publications that have 10 or more citations each (but not 11 publications with at least 11 citations each). See Hirsch, J, [An Index to Quantify an Individual’s Scientific Research Output](#) , Proceedings of the National Academy of Sciences of the United States of America, Vol. 102, Iss. 46, p. 16569 (2005). Other indices for measuring output and impact are also used. When relying on any of these tools, a petitioner should explain its methodology and significance with supporting documentation because the sources for the data and the duration of time involved in the calculation can impact the actual h-index value.

[^ 47] This factor is less relevant for beneficiaries early in their career, as such persons have had less time to accumulate citations but may nevertheless have garnered acclaim and risen to the small percentage at the top of the field as demonstrated by other evidence in the record. As stated above, none of the listed factors are required to demonstrate eligibility.

[^ 48] The Carnegie Classification of Institutions of Higher Education uses the R1 and R2 doctoral university designations to recognize institutions as having very high or high research activity, respectively, based on publicly available federal government data regarding the number of doctoral degrees awarded and the amount of total research expenditures. See the Carnegie Classification of Institutions of Higher Education’s [Carnegie Classification](#)  webpage.

[^ 49] QS is a British analytics company specializing in global higher education. See the QS [About Us](#)  webpage. The QS World University Rankings annually evaluate universities according to a methodology based on six consistent and empirical metrics: academic reputation (40 percent), employer reputation (10 percent),

faculty to student ratio (20 percent), citations per faculty (20 percent), international faculty ratio (5 percent), and international student ratio (5 percent). These metrics are used to rank universities, as well as capture and assess university performance. See the [QS World University Rankings Methodology](#) [↗] webpage.

[^50] As described in [INA 203\(b\)\(1\)\(A\)](#).

[^51] For more information on this classification, see Volume 2, Nonimmigrants, Part M, Nonimmigrants of Extraordinary Ability or Achievement (O), Chapter 4, O-1 Beneficiaries [[2 USCIS-PM M.4](#)].

[^52] Each petition is separate and independent and must be adjudicated on its own merits, under the corresponding statutory and regulatory provisions. Moreover, the O-1 nonimmigrant classification has different standards and criteria for persons in the arts and the motion picture and television industry when compared to the definition and standard set forth for immigrants with extraordinary ability. For example, a person in the arts may have extraordinary ability under the O-1 category because the person has distinction, which is defined as a nonimmigrant with extraordinary ability in the arts; but does not meet the definition for extraordinary ability according to the immigrant classification criteria, which is defined as a person who is among the small percentage at the very top of the field.

[^53] See Keeping Men Out of Women's Sports, [90 FR 9279](#) (Feb. 11, 2025). For more information on evidence of biological sex and the role of biological sex in immigration benefit requests, see Volume 1, General Policies and Procedures, Part E, Adjudications, Chapter 5, Verification of Identifying Information, Section B, Personal Information, Subsection 2, Sex [[1 USCIS-PM E.5\(B\)\(2\)](#)].

Current as of August 08, 2025
