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Immigration

Policy Alert on O Nonimmigrant Visa Classifications

Legal Update

09.28.2020

This article was prepared with the assistance of ABIL, the Alliance of Business Immigration Lawyers, of which Loan Huynh, Fredrikson Immigration Department Chair, is a member.

On September 17, 2020, U.S. Citizenship and Immigration Services (USCIS) issued a policy alert and published a new section in its Policy Manual related to the “O” nonimmigrant visa classifications. The new guidance expands on how officers determine whether an O-1 petitioner has satisfied the evidentiary criteria and established in the totality of the evidence that a beneficiary has extraordinary ability, or extraordinary achievement, in the motion picture and television industry, as applicable. It also clarifies the circumstances under which a petitioner may rely on “comparable evidence” to meet the evidentiary requirements for certain O-1 beneficiaries.

O-1 nonimmigrant status is available to individuals of “extraordinary ability” in the sciences, arts, business, education, athletics and those with a record of “extraordinary achievement” in the motion picture or television industry, who are coming to the United States temporarily to work in their areas of extraordinary ability or achievement. O-2 status is available for essential support personnel coming to the United States solely to assist an O-1 artist or athlete.

USCIS is also incorporating into the Policy Manual existing guidance relating to certain nonimmigrant athletes, coaches and entertainers (P-1, P-2, and P-3 nonimmigrant classifications) and their essential support personnel.