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Nonimmigrant Pathways for STEM Employment in the United States

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Nonimmigrant pathways offer opportunities to work in the United States for a specified length of time and for a range of reasons. They do not provide lawful permanent residence, although many people who come to the United States on nonimmigrant visas subsequently transition to permanent resident pathways, and eventually [U.S. citizenship](#). The following nonimmigrant pathways also permit you to bring your spouse and children under the age of 21 with you to the United States.

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F-1 Optional Practical Training (OPT)

Generally, F-1 foreign students are not permitted to work in the United States. However, F-1 students may be eligible for Optional Practical Training (OPT). OPT permits an F-1 student to work in a position that is directly related to the student's major area of study for up to 12 months. An F-1 student may be authorized for pre-completion OPT (before completion of the course of study) or post-completion OPT (after completion of the course of study). The time granted for post-completion OPT will be reduced by any time spent in pre-completion OPT. F-1 students who earned a degree in certain STEM fields are eligible for a 24-month extension of post-completion OPT, for a total of 36 months. This guide provides information for post-completion OPT, which is the most common type of OPT. Information about pre-completion OPT while working towards a degree is available in the [USCIS Policy Manual](#) and on our [Optional Practical Training \(OPT\) for F-1 Students](#) page.

Do I have the education, experience, or skills needed to qualify?

You may be eligible for Optional Practical Training (OPT) if you are an F-1 student in the United States and you seek employment that is directly related to your major area of study.

For the initial 12-month OPT:

- You have been a full-time student in good standing for at least 1 full academic year
- You are currently maintaining F-1 status
- Your proposed work must be directly related to your major area of study



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- For post-completion OPT, you may apply up to 90 days before you complete your degree, but no later than 60 days after
- For post-completion OPT, you must apply within 30 days after your designated school official (DSO) enters the recommendation for OPT into your Student and Exchange Visitor Information System (SEVIS) record

For the 24-month STEM OPT extension:

- In addition to the above requirements for the initial 12-month OPT, you are an F-1 student who received a STEM degree included on the [STEM Designated Degree Program List \(PDF\)](#).
- You may apply up to 90 days before your current OPT authorization expires.
- You must apply within 60 days after your DSO enters the recommendation for STEM OPT into your SEVIS record.

Do I need to have a job offer? Do I need a company to submit a petition for me?

You do not need to have a job offer before applying for the initial 12-month OPT. However, your proposed work must be directly related to your major area of study. Additionally, you cannot be unemployed for an aggregate of more than 90 days during any post-completion OPT period.

For the 24-month STEM OPT period, you must be employed by an employer who is enrolled in and is using [E-Verify](#) and signs a [Training Plan for STEM OPT Students \(PDF\)](#) (Form I-983).

For both initial OPT and the 24-month STEM OPT extension, you must submit the application directly to USCIS (Form I-765; more information [here](#)). An employer does not submit a petition for you.

Will I be working in the United States on a permanent basis as a lawful permanent resident or will I be working on a temporary basis as a nonimmigrant for a specified period of time?

You will be working on a temporary basis as a nonimmigrant for a specified period of time.

For the initial OPT period, you may be authorized up to a total of 12 months of full-time practical training at each educational level. (For example, you may have 12 months for a bachelor's degree and another 12 months for a master's degree). If you have a qualifying STEM degree, you may apply for a 24-month extension of your post-completion OPT. If you earn another qualifying STEM degree at a higher educational level than the first, you may be eligible for an additional 12-month OPT as well as another 24-month STEM OPT extension.

For example, if you are in a valid period of up to 12 months of post-completion OPT, and you have a STEM degree, you can apply to extend your post-completion OPT by 24 months for a total OPT period of 36 months. If you earn another STEM degree at a higher level, you can again apply for up to 12 months of post-completion OPT followed by another 24 months of STEM OPT for another OPT total of 36 months at that educational level. A student may not be granted more than two STEM OPT extensions in that student's lifetime.

Are there any other criteria that are required for this specific pathway?

F-1 students must first request a recommendation for OPT from the designated school official (DSO) at their U.S. college or university, which the DSO will note on the F-1 student's Form I-20, Certificate of Eligibility for Nonimmigrant Student Status, in the Student and Exchange Visitor Information System

(SEVIS). Only after securing a DSO endorsement on your Form I-20 and in SEVIS may you file the required Application for Employment Authorization (Form I-765) with USCIS.

In addition, there are timing restrictions on when to duly file your Form I-765 seeking either post-completion OPT or a 24-month STEM OPT extension. USCIS must receive any Form I-765 for post-completion OPT during the period that is no earlier than 90 days before you complete your degree and ending no later than 60 days after you complete your degree. In addition, your Form I-765 for post-completion OPT must be filed within 30 days after your DSO enters the recommendation for OPT into your SEVIS record. For a 24-month STEM OPT extension, USCIS must receive the Form I-765 during the 90-day period prior to the expiration of your post-completion OPT and within 60 days after your DSO enters the recommendation for STEM OPT into your SEVIS record.

F-1 students may not start working in the United States until receiving an employment authorization document (EAD). Working without an EAD can negatively affect your immigration status now and in the future.

Further information

You can find more information in the [USCIS Policy Manual](#) and on the [STEM OPT Hub](#) and the [Study in the States](#) website from the Student and Exchange Visitor Program office of the Department of Homeland Security.

H-1B Specialty Occupation

The H-1B pathway enables people with at least a bachelor's degree (or equivalent) to work in a job that is related to their degree and that qualifies as a "specialty occupation." There is an annual cap on the number of H-1B workers that can be granted initial H-1B status each year. There are some exceptions to the cap, mainly related to the nature of the U.S. employer. An H-1B worker is permitted to stay in the United States for a maximum of 6 years – but an H-1B worker could stay well beyond 6 years if that worker is on the path to obtaining lawful permanent resident status.

Special note on the H-1B classification

There is an annual cap on the number of H-1B workers that can be granted initial status each year. The H-1B classification has an annual cap of 85,000 for each fiscal year of the U.S. government (Oct. 1 to Sept. 30). That annual cap includes 20,000 status grants set aside solely for workers who have earned a master's degree or higher from a U.S. institution of higher education. The demand for one of these "cap numbers" is generally extremely high. Therefore, USCIS operates an [electronic registration process](#) for employers (prospective petitioners) to register potential workers, and, unless demand for a cap number is unexpectedly low, those registrations are then included in a random selection process. This random selection process is typically conducted in late March or early April. Only those with selected registrations will be eligible to file H-1B cap-subject petitions, typically in early October. H-1B workers who are petitioned by or employed at an institution of higher education (or an affiliated or related nonprofit entity), a nonprofit research organization, or a government research organization are not subject to this numerical cap. Petitions that are not subject to the cap may be filed at any time during the year and do not require an electronic registration. Additionally, petitions for workers already in H-1B status and who are switching employers or applying for a renewal period are generally not subject to the cap.

Nationals of Chile and Singapore may qualify for the H-1B1 classification, which has substantially the same requirements as the H-1B classification, but has its own separate cap. Similarly, nationals of Australia may qualify for the [E-3 classification](#), which also has substantially the same requirements as the H-1B classification, but has its own separate cap.

Do I have the education, experience, or skills needed to qualify?

To qualify as an H-1B specialty occupation worker, you must meet the following requirements:

- You must have at least a bachelor's degree in a specific specialty (or the equivalent) related to the position;
- You must have any necessary licenses, registrations, or certifications that are required for the position; and
- Your H-1B petition must be filed by a U.S. employer or agent on your behalf.

What evidence can be submitted to help USCIS determine that my degree is related to the specialty occupation?

Some of the evidence that is often submitted to demonstrate that your degree is related to the position in which you will be employed includes:

- A detailed explanation of the specific duties of the position, the product or service your prospective employer provides, or the complex nature of the role you will perform, and how your degree relates to the role.
- Written opinions from experts in the field explaining how your degree is related to the role you will perform.
- Printouts from online resources describing the degree fields normally associated with the occupation.
- Evidence that similar companies in your industry require similar degrees for similar positions.

Can I qualify if I do not have a bachelor's degree?

If you do not have at least a bachelor's degree in a specialized field that is directly related to the position in which you will be employed, then you may qualify by:

- Holding an unrestricted state license, registration, or certification that authorizes you to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or
- Having education, specialized training, and/or progressively responsible experience that is equivalent to the completion of a U.S. bachelor's or higher degree in the specialty occupation, and recognition of expertise in the specialty through progressively responsible positions directly related to the specialty. In general, 3 years of progressively responsible work experience or training in the field is considered as equivalent to 1 year of undergraduate education.

Note: Your sponsoring employer should submit equivalency documents for all foreign degrees. If work experience is considered, your sponsoring employer should submit an equivalency evaluation from an official who has authority to grant college-level credit. If the equivalency evaluation is not from the registrar, your sponsoring employer should submit a statement from the school's registrar to establish

that the particular evaluating official is authorized to grant college-level credit on behalf of his or her institution.

Do I need to have a job offer? Do I need a company to submit a petition for me?

You need to have a job offer and the position must qualify as a “specialty occupation.” In most instances, an employer will file a petition for you.

Your prospective job must meet one of the following criteria:

1. A bachelor’s degree or higher degree or its equivalent is normally the minimum requirement for the particular position;
2. The degree requirement is common for this position in the industry, or the job is so complex or unique that it can only be performed by someone with at least a bachelor's degree in a field related to the position;
3. The employer normally requires at least a bachelor’s degree or its equivalent for the position; or
4. The nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree.

What evidence can be submitted to help USCIS determine that my position is in an occupation that requires a degree in a specialized field directly related to the position?

You may reference the [Occupational Outlook Handbook](#) (OOH) from the Department of Labor (DOL) to help determine whether certain jobs normally require at least a bachelor’s degree in a specialized field of study related to the occupation. If the OOH indicates that at least a bachelor’s degree in a specialized field is normally required for the occupation, the sponsoring employer should reference that OOH entry and submit an explanation as to how their position fits within that occupation. If the OOH does not indicate that at least a bachelor’s degree in a related, specialized field is normally required for the position, examples of evidence your sponsoring employer may submit to demonstrate that the position normally requires such a degree include:

- Copies of past position announcements, if relevant, that reflect the minimum requirements for the position and that show that the employer normally requires a degree in a specialized field that is directly related to the position.
- Documentation showing that the position is so specialized or complex it can only be performed by someone with at least a bachelor’s degree, or its equivalent, in a specialized field of study directly related to the position, including a detailed description of the petitioner’s business/products/services and the duties of the position.
- A detailed description of the petitioner’s business/products/services and the duties of the position, along with written opinions from experts confirming that the position is so specialized or complex it can only be performed by someone with at least a bachelor’s degree in a specialized field of study directly related to the position.
- Job listings, letters, and/or affidavits from other employers reflecting the minimum requirements for the position and showing that a degree requirement of at least a bachelor’s degree in a specialized field of study is common to the industry in parallel positions among similar organizations.

Will I be working in the United States on a permanent basis as a lawful permanent resident or will I be working on a temporary basis as a nonimmigrant for a specified period of time?

You will be working on a temporary basis as a nonimmigrant for a specified period of time.

Initially, you may be granted up to 3 years to work in the United States (also known as the “validity period”). After your initial validity period, you may be granted extensions of up to 3 years. Generally, you are not eligible for any more extensions once you have been granted a total of 6 years. However, extensions beyond 6 years are permissible and not uncommon if an employer has taken certain steps in helping you apply for lawful permanent resident status (that is, you are the beneficiary of an approved I-140, Immigrant Petition for Alien Worker, for which an immigrant visa is not immediately available, or you are the beneficiary of a labor certification or I-140 petition that was filed at least 365 days before the requested H-1B petition start date).

Are there any other criteria that are required for this specific pathway?

Your sponsoring employer must submit a Labor Condition Application (LCA) for your position, certified by the Secretary of Labor, when filing the H-1B petition with USCIS. The LCA serves as proof that the employer is offering, and will offer during the period of authorized employment as an H-1B nonimmigrant, wages that are at least the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question, or the prevailing wage level for the occupational classification in the area of employment, whichever is greater, based on the best information available as of the time of filing the LCA.

O-1A Extraordinary Ability

The O-1A pathway allows nationally or internationally acclaimed talent across many fields the opportunity to work in the United States, and there is no annual numerical cap. There is no specified limit on the number of extensions a person can receive while working on an O-1.

Do I have the education, experience, or skills needed to qualify?

You may be eligible for an O-1A visa if you have “extraordinary ability” in the sciences, education, business, or athletics, which must be demonstrated by sustained national or international acclaim and recognition. You must also be coming to the United States to continue work in your area of extraordinary ability (but the position does not have to require someone of such extraordinary ability). “Extraordinary ability” in the fields of science, education, business, or athletics means you have a level of expertise indicating you are one of the small percentage of people who have risen to the very top of your field.

Requirement 1 - You must be able to establish that you have extraordinary ability in your field.

To establish eligibility for an O-1A visa, the petitioner (your sponsoring employer or an agent) must either provide evidence that you have received a major, internationally recognized award, similar to a Nobel Prize, or (more commonly) must submit evidence that satisfies at least 3 of 8 evidentiary criteria.

The USCIS Policy Manual includes [detailed guidance regarding how O-1A eligibility is evaluated](#), including a [chart](#) (reproduced below) that describes STEM-relevant examples of evidence that may

satisfy each of the alternate O-1A evidentiary requirements, as well as considerations that are relevant to evaluating such evidence.

Satisfying the O-1A Evidentiary Requirements

O-1A Evidentiary Criterion	Relevant Examples and Considerations
Documentation of the beneficiary’s receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor.	<p>Examples:</p> <ul style="list-style-type: none">• Awards from well-known national institutions and well-known professional associations.• Certain doctoral dissertation awards and Ph.D. scholarships.• Certain awards recognizing presentations at nationally or internationally recognized conferences. <p>Considerations:</p> <p>While many scholastic awards do not have the requisite level of recognition, there are some Ph.D. scholarships or dissertation awards, for example, that are nationally or internationally recognized as awards for excellence such that they may satisfy the requirements of this criterion. Relevant considerations include, but are not limited to:</p> <ul style="list-style-type: none">• The criteria use 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 eligible competitors. <p>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*) or professional organization may be nationally recognized.</p>

O-1A Evidentiary Criterion	Relevant Examples and Considerations
<p>Documentation of the beneficiary's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.</p>	<p>Examples:</p> <ul style="list-style-type: none"> • Membership in certain professional associations. • Fellowships with certain organizations or institutions. <p>Considerations:</p> <p>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.</p> <p>Associations may have multiple levels of membership. The petitioner must show that in order to obtain the level of membership afforded to the beneficiary, the beneficiary was judged by recognized national or international experts as having attained outstanding achievements in the field for which classification is sought.</p> <p>As a possible example, membership in the Institute of Electrical and Electronics Engineers (IEEE) at the IEEE fellow level requires, in part, that a nominee have “accomplishments that have contributed importantly to the advancement or application of engineering, science and technology, bringing the realization of significant value to society,” and nominations are judged by an IEEE council of experts and a committee of current IEEE fellows.** As another possible example, membership as a fellow in the Association for the Advancement of Artificial Intelligence (AAAI) is based on recognition of a nominee’s “significant, sustained contributions” to the field of artificial intelligence, and is judged by a panel of current AAAI fellows.***</p> <p>Relevant factors that may lead an officer to a conclusion that the person's membership in one or more associations was not based on outstanding achievements in the field include, but are not limited to, instances where the person's membership was based:</p> <ul style="list-style-type: none"> • Solely on a level of education or years of experience in a particular field; • On the payment of a fee or by subscribing to an association's publications; or • On a requirement, compulsory or otherwise, for employment in certain occupations, such as union membership.

O-1A Evidentiary Criterion	Relevant Examples and Considerations
<p>Published material in professional or major trade publications or major media about the beneficiary, relating to the beneficiary's work in the field for which classification is sought. This evidence must include the title, date, and author of such published material and any necessary translation.</p>	<p>Examples:</p> <ul style="list-style-type: none">• Professional or major print publications (newspaper articles, popular and academic journal articles, books, textbooks, or similar publications) regarding the beneficiary and the beneficiary's work.• Professional or major online publications regarding the beneficiary and the beneficiary's work.• Transcript of professional or major audio or video coverage of the beneficiary and the beneficiary's work. <p>Considerations:</p> <p>Published material that includes only a brief citation or passing reference to the beneficiary's work is not "about" the beneficiary, relating to the beneficiary's work in the field, as required under this criterion. However, the beneficiary and the beneficiary'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 beneficiary's work in the field and mentions the beneficiary in connection to the work may be considered material "about" the beneficiary relating to their work.</p> <p>Moreover, officers may consider material that focuses solely or primarily on work or research being undertaken by a team of which the beneficiary is a member, provided that the material mentions the beneficiary in connection with the work, or other evidence in the record documents the beneficiary's significant role in the work or research.</p> <p>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).</p>

O-1A Evidentiary Criterion	Relevant Examples and Considerations
Evidence of the beneficiary's participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization for which classification is sought.	<p>Examples:</p> <ul style="list-style-type: none">• Reviewer of abstracts or papers submitted for presentation at scholarly conferences in the respective field.• Peer reviewer for scholarly publications.• Member of doctoral dissertation committees.• Peer reviewer for government research funding programs. <p>Considerations:</p> <p>The petitioner must show that the beneficiary has not only been invited to judge the work of others, but also that the beneficiary actually participated in the judging of the work of others in the same or allied field of specialization.</p> <p>For example, a petitioner might document a beneficiary's peer review work by submitting a copy of a request from a journal to the beneficiary to do the review, accompanied by evidence confirming that the beneficiary actually completed the review.</p>

O-1A Evidentiary Criterion	Relevant Examples and Considerations
<p>Evidence of the beneficiary's original scientific, scholarly, or business-related contributions of major significance in the field.</p>	<p>Examples:</p> <ul style="list-style-type: none"> • Published materials about the significance of the beneficiary's original work. • Testimonials, letters, and affidavits about the beneficiary's original work. • Documentation that the beneficiary's original work was cited at a level indicative of major significance in the field. • Patents or licenses deriving from the beneficiary's work or evidence of commercial use of the beneficiary's work. <p>Considerations:</p> <p>Analysis under this criterion focuses on whether the beneficiary's original work constitutes major, significant contributions to the field.</p> <p>Evidence that the beneficiary'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. However, 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 other works in that field, may be probative of the significance of the beneficiary's contributions to the field of endeavor.</p> <p>Similarly, evidence that the beneficiary developed a patented technology that has attracted significant attention or commercialization may establish the significance of the beneficiary's original contribution to the field. If a patent remains pending, USCIS will likely require additional supporting evidence to document the originality of the beneficiary's contribution.</p> <p>Detailed letters from experts in the field explaining the nature and significance of the beneficiary's contribution(s) may also provide valuable context for evaluating the claimed original contributions of major significance, particularly when the record includes documentation corroborating the claimed significance.</p> <p>Submitted letters should specifically describe the beneficiary's contribution and its significance to the field and should also set forth the basis of the writer's knowledge and expertise.</p>

O-1A Evidentiary Criterion	Relevant Examples and Considerations
Evidence of the beneficiary's authorship of scholarly articles in the field, in professional journals, or other major media.	<p>Examples:</p> <ul style="list-style-type: none"> • Publications in professionally relevant journals. • Published conference presentations at nationally or internationally recognized conferences.**** <p>Considerations:</p> <p>In order to meet this criterion, the beneficiary must be a listed author of the submitted article(s) but need not be the sole or first author. In addition, a petitioner need not provide evidence that the beneficiary's published work has been cited to meet this criterion.*****</p> <p>In addition, the articles must be scholarly. 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 and the article is normally peer-reviewed.</p> <p>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. In non-academic arenas, a scholarly article should be written for learned persons in that field.</p> <p>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).</p>

O-1A Evidentiary Criterion	Relevant Examples and Considerations
<p>Evidence that the beneficiary has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation.</p>	<p>Examples:</p> <ul style="list-style-type: none"> • 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.***** • 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. • Critical or essential supporting 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. <p>Considerations:</p> <p>To show a critical role, the evidence should establish that the beneficiary has contributed in a way that is of significant importance to the organization or establishment's activities. To show an essential role, the evidence should establish that the beneficiary's role is (or was) integral to the entity. A leadership role in an organization often qualifies as critical or essential.</p> <p>For a supporting role to be considered critical or essential, USCIS considers other factors, such as whether the beneficiary's performance in the role is (or was) integral or important to the organization or establishment's goals or activities, especially in relation to others in similar positions within the organization.</p> <p>It is not the title of the beneficiary's role, but rather the beneficiary's duties and performance in the role that determines whether the role is (or was) critical or essential. Detailed letters from persons with personal knowledge of the significance of the beneficiary's role can be particularly helpful in analyzing this criterion.</p>

O-1A Evidentiary Criterion	Relevant Examples and Considerations
	<p>The organization need not have directly employed the beneficiary.</p> <p>In addition, the organization or establishment must be recognized as having a distinguished reputation. Relevant factors for evaluating the reputation of an organization or establishment can include the scale of its customer base, longevity, or relevant media coverage.</p> <p>For academic departments, programs, and institutions, officers may also consider national rankings and receipt of government research grants as positive factors in some cases.</p> <p>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.</p>

O-1A Evidentiary Criterion	Relevant Examples and Considerations
<p>Evidence that the beneficiary has either commanded a high salary or will command a high salary or other remuneration for services as evidenced by contracts or other reliable evidence.</p>	<p>Examples:</p> <ul style="list-style-type: none"> • 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. • Comparative wage or remuneration data for the beneficiary's field, such as geographical or position-appropriate compensation surveys. <p>Considerations:</p> <p>If the petitioner is claiming to meet this criterion, then the burden is on the petitioner to provide appropriate evidence establishing that the beneficiary's compensation is high relative to others working in similar occupations in the field. The following webpages, among others, may be helpful in evaluating the relative compensation for a given field:</p> <ul style="list-style-type: none"> • 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 webpage. <p>Officers should evaluate persons working outside of the United States based on the wage statistics or comparable evidence for that locality, 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.</p> <p>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.</p>

* 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 [Basic Classification Description](#) webpage.

** See the [IEEE's Steps to Become an IEEE Fellow](#) webpage.

*** See the [AAAI Fellows Program](#) webpage.

**** 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.

***** Instead, officers may consider citation evidence relating to the published work as part of the totality analysis to evaluate whether the record establishes that the beneficiary has sustained national or international acclaim and is among the small percentage at the top of the field. For instance, documentation regarding the total rate of citations to the beneficiary's body of published work relative to others in the field may indicate a beneficiary's high overall standing for the purpose of demonstrating that the beneficiary is among the small percentage at the top of the field.

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

Note: If any of the criteria discussed above do not readily apply to your occupation, the petitioner may submit comparable evidence to establish your eligibility. When the required initial evidence has been provided, USCIS will evaluate the totality of the evidence to determine eligibility.

The Policy Manual also includes [guidance regarding the use of comparable evidence](#) to establish eligibility, including use of comparable evidence by individuals in STEM fields, as well as the following [guidance regarding how USCIS evaluates the totality of the evidence for O-1A petitions](#):

When the evidentiary requirements specified above are satisfied, an officer proceeds to evaluate the totality of all the evidence in the record to determine whether the beneficiary has extraordinary ability with sustained national or international acclaim, as described in the O statute and regulations.

At this step, officers may consider any potentially relevant evidence, even if such evidence does not fit one of the above regulatory criteria or was not presented as comparable evidence.

The following are examples of situations where evidence might not directly correspond to the above regulatory criteria or might not be presented as comparable evidence, but would nonetheless be potentially relevant towards demonstrating, in the totality of the evidence, that an O-1A beneficiary is among the small percentage at the top of the field and that the beneficiary has sustained national or international acclaim:*

- The record demonstrates that the beneficiary has published articles in particularly highly ranked journals relative to other journals in the field, as demonstrated by, for example, evidence the petitioner provides regarding the journal's impact factor.** 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 beneficiary is the most significant contributor to the publication, a senior author, or the sole author of the article(s).
- The petitioner provides evidence demonstrating that the total rate of citations to the beneficiary's body of published work is high relative to others in the field, or the beneficiary has a high h-index*** for the field. Depending on the field and the comparative data the petitioner provides, such evidence may indicate a beneficiary's high overall standing for the purpose of demonstrating that the beneficiary is among the small percentage at the top of the field.****
- The petitioner documents the beneficiary's employment or research experience is 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,***** 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^{*****}). Such employment or experience can be a positive factor toward demonstrating that the beneficiary is among the small percentage at the top of the field.

- The record establishes that the beneficiary has received unsolicited invitations to speak or present research at nationally or internationally recognized conferences in the field. Although such a role for the conference may not rise to the level of a critical or essential capacity, this type of invitation is generally indicative of a person's high standing and recognition for achievements in the field.
- The record establishes that the beneficiary 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 beneficiary is among the small percentage at the top of the beneficiary's field.


In all cases, the petitioner has the burden of providing sufficient context regarding the above evidence and considerations to demonstrate that the evidence meets the relevant criteria and to establish the beneficiary's extraordinary ability in the totality of the circumstances.

* Not all cases will have such evidence, nor does a case need such evidence for the petitioner to demonstrate eligibility. Additionally, the list below is a non-exhaustive list of examples, and while the listed factors may be especially relevant to beneficiaries in STEM fields, the guidance applies to all O-1A petitions.

** 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).

*** The h-index is 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 (PDF), Proceedings of the National Academy of Sciences of the United States of America, Vol. 102, Iss. 46, p. 16569 (2005).

**** 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.

***** 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 Basic Classification Description](#)  webpage.

***** The QS World University Rankings annually evaluate universities according to a methodology based on six consistent and empirical metrics: academic reputation (40%), employer reputation (10%), faculty to student ratio (20%), citations per faculty (20%), international faculty ratio (5%), and foreign

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

Do I need to have a job offer? Do I need a company to submit a petition for me?

You must be coming to the United States to continue work in your area of extraordinary ability. This is typically established by showing that you have a job offer with an employer in the United States.

The petition must be filed by a U. S. employer, a U.S. agent, or a foreign employer through a U.S. agent. While the regulations prohibit an O-1A beneficiary from serving as the sponsoring employer for themselves, a separate legal entity (such as a corporation or limited liability company) that is partially or wholly owned by the beneficiary may file the petition on behalf of the O-1A owner.

Will I be working in the United States on a permanent basis as a lawful permanent resident or will I be working on a temporary basis as a nonimmigrant for a specified period of time?

You will be working on a temporary basis as a nonimmigrant for a specified period of time.

Initially, you may be granted up to 3 years to work in the United States (also known as the “validity period”). After your initial validity period, you may be granted extensions of up to 1 year. There is no specified limit to the number of extensions you can obtain.

L-1 Intracompany Transferee

L-1 visas provide a pathway for employees of multinational companies who hold positions as managers/executives or have specialized knowledge, allowing them to work in the U.S. for a maximum of up to seven years.

Do I have the education, experience, or skills needed to qualify?

You may be eligible for an L-1 visa for “intracompany transferees” if you are an executive, manager, or a worker with specialized knowledge who has worked abroad for a qualifying organization (including an affiliate, parent, subsidiary or branch of your foreign employer) for at least 1 year within the 3 years preceding the filing of your L-1 petition (or in some cases your admission to the United States) in an executive or managerial capacity or in a position that requires specialized knowledge. USCIS divides L-1 visas into L-1A, for managers or executives, and L-1B, for workers possessing specialized knowledge.

Have you been working abroad for at least one continuous year within the past 3 years? (Note: brief trips to the United States do not typically interrupt the continuous year. Also, time off work such as for a vacation, maternity leave, etc. do not typically interrupt the continuous year.)

Some of the evidence typically submitted to document overseas employment for 1 out of the last 3 years includes:

- Pay stubs
- Payroll records
- Tax returns that show employment

- Evidence of work product

Was your overseas employment in a qualifying capacity?

Some of the evidence typically submitted to demonstrate that overseas employment was in a managerial, or executive capacity includes:

L-1A Manager or Executive

L-1A managerial or executive positions may correlate with STEM occupations, depending on the individuals and work that is managed. There is no labor market test for an L-1 managerial or executive employee. Executive positions involve employees who make decisions with wide latitude, and who receive minimal oversight. Managerial positions include personnel managers and function managers and involve the supervision and control of professional employees' work, or management of an organization or a part thereof. Some of the evidence that may be submitted to demonstrate that your overseas employment was in an executive or managerial capacity includes:

- Organization charts showing your position
- Patents or other evidence of the company's technology, products, or services that are based on your work
- Performance reviews
- Loans/financing on behalf of the company
- Organizational job descriptions for your position and those positions that reported above and/or below you, if applicable
- Resume describing your job duties and accomplishments

L-1B Specialized Knowledge Worker

L-1B specialized knowledge frequently overlaps with STEM occupations, as it involves "special knowledge of your employer's product, service, research, equipment, techniques, management, or other interests and their application in international markets, or an advanced level of knowledge or expertise in your employer's processes and procedures." Some of the evidence you may submit to demonstrate that your overseas employment was in a specialized knowledge capacity includes:

- Job descriptions
- Organizational charts showing your position
- Patents or other evidence of the company's technology, products or services that are based on your work

Note: There is no requirement that an employee's specialized knowledge be "unique" or "proprietary" in nature, but your knowledge must be "special" or of an "advanced" level. There is no labor market test for an L-1 specialized knowledge employee.

USCIS has [extensive guidance](#) on the various means to demonstrate specialized knowledge, which are too extensive to be summarized here.

Do I need to have a job offer? Do I need a company to submit a petition for me?

You need to have a job offer and that position must be an executive or managerial position, as described above, or one that involves specialized knowledge. Also as noted above, the position must be with an entity that has a qualifying relationship with your foreign employer. The employer must file a petition for you.

Does your company abroad have and will maintain a qualifying relationship (parent, subsidiary, affiliate, or branch) to the U.S. business that will employ you or that you will establish?

The U.S. entity must have a qualifying relationship with the foreign entity abroad where you have been employed as a manager, executive, or worker with specialized knowledge. This means that the U.S. entity must be a parent, affiliate, subsidiary, or branch of the foreign entity, and that both the U.S. entity or office and a foreign entity must continue to have a qualifying relationship throughout the beneficiary's stay in the United States.

Some of the evidence typically submitted to show that a U.S. business has the requisite qualifying relationship to an overseas employer includes:

- Articles of incorporation/organization or similar organizational documents showing common ownership of the U.S. and foreign entities
- By-laws, operating agreement, partnership agreement or similar operating documents showing common ownership of the U.S. and foreign entities
- Business licenses or other documents showing common ownership of the U.S. and foreign entities
- Annual reports or U.S. Securities and Exchange Commission (SEC) Form 10-K describing the corporate structure of the U.S. and foreign entities
- Contracts or other documents detailing the qualifying relationship between the U.S. and foreign entities
- Federal income tax or other corporate filings in the United States or abroad describing the corporate relationship
- Any other evidence demonstrating ownership and control over the U.S. and foreign entities (for example, stock purchase agreements, voting rights agreements, capitalization table, term sheet).

Will I be working in the United States on a permanent basis as a lawful permanent resident or will I be working on a temporary basis as a nonimmigrant for a specified period of time?

You will be working on a temporary basis as a nonimmigrant for a specified period of time.

Initially, you may be granted up to 3 years (1 year if you are setting up a new office) to work in the United States (also known as the "validity period"). After your initial validity period, you may be granted extensions of up to 2 years. You are not eligible for any more extensions once you have been granted a total of 7 years if you are an executive or a manager, or 5 years if you are a specialized knowledge worker.

Can the L visas be used to expand an existing enterprise into the U.S.?

One specific use of the L visa can be to open a new office in the United States that has a qualifying relationship with an existing overseas entity. The petition must demonstrate that the new office will support a managerial or executive position within 1 year. Specialized knowledge workers may also qualify for a new office petition. If approved, the validity period is 1 year. After that 1 year, the new office

must submit an extension request by filing a new application or petition. If approved, that extension will be valid and subject to the same provisions as all other (non-new office) L petitions.

- Will you be coming to the United States to open a new office location for a foreign business entity that employed you abroad?
- Will the new office be active and operating shortly after you arrive in the United States as an L-1?

TN NAFTA/USMCA Professional



Mexican and Canadian nationals can use the TN classification to work in the United States for professional purposes in qualifying professions (this list includes a number of STEM-related occupations).

The U.S.-Mexico-Canada Free Trade Agreement (USMCA), which replaced the North American Free Trade Agreement (NAFTA), is the basis for the TN classification. The TN nonimmigrant classification permits qualified Canadian and Mexican citizens to seek temporary entry into the United States to engage in business activities at a professional level. There is no time limit on how long someone may be in TN status.

Do I have the education, experience, or skills needed to qualify?

The [TN classification](#) may be useful for STEM professionals such as engineers, pharmacists, and scientists. Not all professions qualify, but many of those that do are STEM-related. A full list of qualifying professions is included in [the regulations](#). You may be eligible for TN nonimmigrant status, if:

- You are a citizen of Canada or Mexico;
- Your profession qualifies under the regulations above; and
- You have the qualifications, such as a license, to practice in the profession in question.

Do I need to have a job offer? Do I need a company to submit a petition for me?

- You need to have a job offer and that position must be a position in the United States that requires a TN professional. You must also have a prearranged full-time or part-time job with a U.S. employer (self-employment is not allowed). If you are a Canadian outside the United States you may apply, with certain information provided to you by your employer, at certain CBP-designated U.S. ports of entry or at a designated pre-clearance/pre-flight inspection station. If you are a Mexican outside the United States, you must apply, with the information provided to you by your employer, at a U.S. Consulate. If you are a Mexican or Canadian citizen inside the United States in a nonimmigrant status, your employer submits a petition to USCIS for you.

Will I be working in the United States on a permanent basis as a lawful permanent resident or will I be working on a temporary basis as a nonimmigrant for a specified period of time?

You will be working on a temporary basis as a nonimmigrant for a specified period of time.

Initially, you may be granted up to 3 years to work in the United States (also known as the “validity period”). After your initial validity period, you may be granted extensions of up to 3 years. There is no

specified limit to the number of extensions you can obtain.

Are there any other criteria that are required for a specific pathway?

The TN classification is only for Canadian or Mexican nationals. Nationals of other countries are not eligible nor are permanent residents of Canada or Mexico.

More Information

If you are a Canadian citizen, you are not required to apply for a TN visa at a U.S. Consulate, and may establish eligibility for TN classification by seeking admission to the United States at certain CBP-designated U.S. ports of entry or at a designated pre-clearance/pre-flight inspection station. You must provide the following documentation to the CBP officer:

- Proof of Canadian citizenship;
- Letter from your prospective employer detailing items such as the professional capacity in which you will work in the United States, the purpose of your employment, your length of stay, and your educational qualifications; and
- Credentials evaluation (if applicable), together with any applicable fees.

Please refer to [CBP's website](#) for additional information and requirements for applying for admission to the United States. If a CBP officer finds you eligible for admission, you will be admitted as a TN nonimmigrant.

Mexican citizens must apply for a TN visa directly at a U.S. Embassy or Consulate in Mexico. See the [U.S. Department of State Visas for Mexican and Canadian NAFTA Professional Workers](#) webpage.

If you are a Mexican or Canadian citizen already in the United States, your employer may submit Form I-129, Petition for Nonimmigrant Worker to USCIS to either extend or change your status to TN. [Premium processing service](#) is available.

J-1 STEM Exchange Visitors



The J-1 exchange visitor category is for nonimmigrants approved to participate in work or study-based exchange visitor programs. Exchange visitor programs are conducted by Department of State (DOS) designated sponsors. General information about the J-1 program is available at the [DOS website](#).

In January 2022, DOS [announced](#) measures to increase the flow of talent in science, technology, engineering, and math (STEM) fields. [The Early Career STEM Research Initiative](#) connects J-1 program sponsors with host organizations, including businesses that have STEM-relevant training or research positions. Depending on the J-1 category (Research Scholar, Short-Term Scholar, Professor, College and University Student, Specialist, Intern, or Trainee), the validity period can last up to 5 years. More information for host organizations and STEM professionals is available on this [DOS fact sheet \(PDF\)](#), along with recent examples such as [Women in STEM](#) and [International Trainees](#) working in a science lab.

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