



SYRACUSE UNIVERSITY

LILLIAN AND EMANUEL SLUTZKER CENTER FOR INTERNATIONAL SERVICES

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SU O-1 **Instructions &** **Application Packet**

O-1 OVERVIEW

The O nonimmigrant category is for the employment of persons who have achieved and sustained national or international acclaim for extraordinary ability in the sciences, arts, education, business, or athletics. Extraordinary ability is defined by the US Citizenship and Immigration Services as ability that shows a “person is one of the small percentage who have arisen to the very top of the field of endeavor.”

O-1 is a category that is rarely used by Syracuse University because of the large amount of evidence necessary for approval of the O-1. In many instances, H-1B is a much more appropriate employment visa category. An O-1 will not be considered unless other options are not feasible. Final determination of whether or not to pursue O-1 sponsorship will be made by the Slutzker Center for International Services.

To be considered eligible for O-1, the international applicant must have a job-offer from Syracuse University. Only Syracuse University’s Slutzker Center for International Services may petition for the O-1 approval. Employment approval is granted through the U.S. Citizenship and Immigration Services and is job specific as well as employer and department specific.

International applicants and employees who are subject to the 212(e) two-year home residency requirement may be sponsored for O-1, but if the applicant is currently in the US in J visa status, the applicant must travel outside of the U.S. and apply for an O-1 visa in order to obtain O-1 visa status, since J visa holders who have a 212(e) requirement cannot change status to O-1 within the United States.

The O-1 status may be granted initially for up to a three-year period, thereafter O-1s can be extended one year at a time with no maximum limitation. Workers in the O-1 category can fill permanent positions, but must leave the country at the end of their authorized period of stay. A person in O-1 status is considered to have dual-intent with regards to immigration. This means that while in O-1 status, workers may file for a change to another immigration category such as Permanent Residency if they are not subject to the 212(e) 2-year home residency requirement.

TIMING OF FILING – PLAN UP TO 1 YEAR IN ADVANCE

At the earliest, the Slutzker Center for International Services may submit an O-1 petition to US Citizenship and Immigration Services 1 year before the intended beginning effective date of the O-1. Due to the long evidence collection process, it is recommended that departments begin any new O-1 application as close to 1 year in advance of the intended start date as possible. Extensions and amendments may be filed 6 months in advance. The minimum time needed to prepare an O-1 case after submission of all evidence to the Slutzker Center is 1 month.

If timing is a critical issue such as with a new professor hired in the summer months who must begin work at the beginning of the fall semester, departments have the option of filing for Premium Processing. Premium Processing guarantees a decision on an O-1 petition within 15 days of the receipt by US Citizenship and Immigration Services of the I-129, O-1 application. The cost of Premium Processing is \$1225 in addition to the regular \$325 application fee for O-1 applications.

FILING FEES

All O-1 Applications require an I-129 filing fee of \$325. Because the sponsorship of the O-1 is by Syracuse University, the department which is sponsoring the O-1 application must pay the \$325 fee. Additionally, if Premium Processing is being sought for an expedited service, there is an additional filing fee of \$1225.

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CHANGE OF O-1 EMPLOYER – TRANSFER TO SU OR CONCURRENT O-1 EMPLOYMENT

If a hiring department wishes to sponsor an individual who is already in the U.S. in O-1 status through another employer, Syracuse University must file a petition for change of employer with USCIS. In order for the individual to remain in the U.S. in O-1 status, USCIS must receive the new petition, with \$325 filing fee, before the individual's last day working for the previous employer. Furthermore, in order for the O-1 employee to start working at Syracuse University, the university must receive the final I-797 Approval Notice for O-1 employment from USCIS. Work may not begin until the final approval notice is received. The documentation required from the department and employee for the change of employer petition is the same as that of a new petition.

CHANGES IN TERMS OF EMPLOYMENT OR EARLY TERMINATION

Departments *must* consult with the Slutzker Center prior to changing an O-1's terms of employment (including changes to job duties or department) to determine whether an amended petition is required.

Please inform the Slutzker Center immediately if an O-1 worker's employment is terminated so that the Slutzker Center can notify USCIS, effectively withdrawing the O-1. Because O-1 status is an employment-based status, that status immediately ends upon termination. If the department terminates employment, the department must pay the reasonable cost of return transportation to the O-1 employee's last place of foreign residence. **The department will continue to be liable for paying the individual's full salary and benefits if the O-1 is not withdrawn.**

EXTENSION OF O-1 EMPLOYMENT

The process for requesting an extension of O-1 status is the same as for the initial period of O-1 employment; however, beyond the initial 3 years of O-1 sponsorship, extensions are limited to 1 year at a time. The extension petition must be filed prior to the current approved O-1 status end date to avoid interruptions in employment. The employee may continue to work for a period of 240 days while an extension petition is pending, as long as it is timely filed before the current end date. (*Please note:* An extension of O-1 status allows the employee to continue working in the U.S.; however, it does not extend his or her O-1 entry visa, which is required for re-entry into the U.S. after traveling abroad. If the O-1 employee wishes to travel outside the U.S. after the expiration date of his or her current entry visa, he or she must apply for a new entry visa at a U.S. consulate.)

O-1 TRAVEL AND POSSIBLE VISA DELAYS ABROAD

O-1 employees should contact the Slutzker Center for information on travel requirements. O-1 visa application requirements can vary by consular location, therefore, please refer to the particular United States consulate/embassy that you will visit. A list of embassy websites is available at <http://www.usembassy.gov/>. Employees and departments should be aware that security checks, which are part of visa processing, may delay an employee's return to the U.S.

ESTABLISHING EXTRAORDINARY ABILITY

Any applicant for O-1 must meet three basic requirements:

1. The applicant has extraordinary ability within one of the five broad fields: the sciences, arts, education, business, or athletics.
2. The applicant's ability has been demonstrated by sustained national or international acclaim.
3. The applicant is coming to the U.S. to continue working in his or her area of extraordinary ability.

ESTABLISHING EXTRAORDINARY ABILITY IN SCIENCE, EDUCATION, BUSINESS, AND ATHLETICS:

Basis A: Receipt (not just a nomination) of an award with the caliber of the Nobel Prize.

Basis B: Documentation showing extraordinary ability: An O-1 applicant can also establish extraordinary ability by submitting documentation in at least three (preferably four) of the categories listed below:

- Receipt of major prizes or awards for outstanding achievement in the field of endeavor;
- Membership in associations in the field in which the O-1 applicant claims extraordinary ability. Membership must require their members to demonstrate outstanding achievements;
- Published material in professional publications written by others about the alien's work in the field in which the O-1 applicant claims extraordinary ability;
- Participation, either on a panel or individually, as a judge of the work of others in the same or allied field in which the O-1 applicant claims extraordinary ability;
- Original scientific, scholarly, or business-related contributions in the field (as shown by letters of attestation and support from colleagues and other experts in the field);
- Authorship of scholarly books or articles (in scholarly journals with international circulation) in the field or in other major media;
- Evidence that the applicant has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation;
- Evidence that the applicant has either commanded a high salary or will command a high salary or other remuneration for services, as shown by contracts or letters of employment.

ESTABLISHING EXTRAORDINARY ABILITY IN THE ARTS:

Basis A: Receipt (not just a nomination) of an award with the caliber of the Academy Award, Grammy, Emmy, or Director's Guild Award.

Basis B: Documentation showing extraordinary ability: An O-1 applicant can also establish extraordinary ability by developing and submitting documentation in at least three of the categories listed below:

- Evidence that the applicant has and will perform services as a lead or starring participant in productions which have a distinguished reputation;
- Evidence that the applicant has and will perform in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation;
- Published material in major newspapers, trade journals, magazines, or other publications written by others about the applicant's achievements and national or international recognition;
- Evidence of major or critically acclaimed successes as evidenced by such indicators as title, rating, standing in the field, box office receipts, motion picture or television ratings, and other occupational achievements reported in trade journals, major newspapers, or other publications;
- Evidence that the applicant has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field in which the applicant is engaged. (as shown by letters of attestation and support from colleagues and other experts in the field);
- Evidence that the applicant has either commanded a high salary or will command a high salary or other remuneration for services, as shown by contracts or letters of employment.

**ESTABLISHING EXTRAORDINARY ABILITY CONTINUED:
ADDITIONAL EVIDENCE NEEDED FROM THE DEPARTMENT:**

Syracuse University must also seek the advisory opinion of an appropriate U.S. peer group and obtain a written advisory opinion regarding the nature of the work to be done and the O-1 applicant's qualifications for the position. The Slutzker Center for International Services will assist with meeting this requirement.

DEPARTMENT PROCESSING PROCEDURES

- 1. Request O-1 processing (please complete Appendix A):** To initiate the O-1 process, the department should complete the Appendix A section of this packet, providing details on the job position and a copy of the appointment letter (if already prepared).
- 2. Complete the Deemed Export Form (please complete Appendix B).** In support of your request for O-1 sponsorship, the Slutzker Center for International Services is now required to certify on the USCIS I-129 petition whether or not a license for export controlled technology or technical data is necessary for the professor/researcher being sponsored. To facilitate this requirement, all host departments are required to complete an attestation as to whether or not the O-1 worker will require a license for export controlled technology or technical data.
- 3. Complete the letter of O-1 support (please see Appendix C template).** Please note that the maximum length of time for which an O-1 can be requested at initially is three years, and extensions are limited to 1-year per request.
- 4. Process Check Request for USCIS Fees:** The Slutzker Center will fax/email a check request to the department with the necessary copies of the O-1 petition for the required petition fees. Once you receive this fax/email, please contact Pre-Audit to request the necessary checks and send them to the attention of Charter Morris at the Slutzker Center.

PROSPECTIVE O-1 EMPLOYEE PROCEDURES

- 1. LawLogix Access and Submit Supporting Documentation:** Once the department initiates the O-1 sponsorship process by submitting the Appendix A forms and Appointment Letter, the Slutzker Center will contact the O-1 beneficiary to obtain the biographical information, immigration documents, proof of qualifications (diploma, CV, licenses), and family information (if applicable) required for the O-1 petition.

The Slutzker Center for International Services uses the LawLogix service <https://ww4.welcomeclient.com/> to securely collect personal biographical data, immigration and employment history information, and scans of supporting documents from all prospective O-1 employees. Once the hosting department initiates the O-1 sponsorship process, the Slutzker Center will contact the prospective O-1 employee with login information and access to the LawLogix website.
- 2. Evidence of Extraordinary Ability -** The international applicant must submit significant evidence of their extraordinary ability, detailed on pages 3 and 4 of this packet.
- 3. O-3 Dependent Sponsorship.** If a prospective O-1 employee has dependent family members (spouse or children) whom the O-1 employee would like to sponsor for O-3 visa status, the O-1 employee will need to consult with the Slutzker Center about processing the O-3 visa support. For sponsorship of dependents who are already in the US to either extend or obtain O-3 status, the prospective O-1 employee will need to submit documents for concurrent filing with the O-1 petition. For dependents who are currently outside of the US and will enter the US in O-3 status at a later date, the Slutzker Center can advise on how they may obtain O-3 status abroad.

SLUTZKER CENTER PROCESSING

Once the Slutzker Center receives the required materials from the department and applicant, we will complete the necessary forms and send the petition to the USCIS for processing. Prior to submission of the O-1 Petition, the Slutzker Center will evaluate all submitted materials for the O-1 Application.

When the O-1 petition is approved, USCIS will send the I-797 Approval Notice to the Slutzker Center for International Services. The applicant, the department, and Human Resources will be notified of the approval. The original O-1 I-797 Approval Notice will be given to the applicant, and copies will be kept on file at the SCIS and Human Resources.

Upon receiving the Approval Notice (I-797) from the USCIS, the Slutzker Center will notify the employee and ask him or her to come to report to the Center to complete an I-9 work eligibility form. If the individual is abroad awaiting the approval notice in order to apply for an O-1 entry visa at a U.S. consulate, the Slutzker Center will contact the department to discuss mailing options in order to supply the O-1 worker with the necessary materials for the visa interview.



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**O-1 APPENDIX A:
POSITION &
DEPARTMENTAL
RESPONSIBILITIES**

PART 1: POSITION DESCRIPTION – TO BE COMPLETED BY DEPARTMENT

PLEASE ENTER INFO ABOUT POSITION REQUIREMENTS, NOT EMPLOYEE'S QUALIFICATIONS

Prospective O-1 employee name: _____
Family Name (Last) Given Name (First) Middle Name (if any)

Prospective O-1 employee's Email Address: _____

Degree(s) which the prospective O-1 Employee holds: _____

Hiring Department/ Unit: _____

School/ Division: _____

Position Title : _____

Position's minimum degree requirement: _____ Field(s) of study: _____

Position's minimum required training and experience (other than that which would or could have been obtained during the normal course of the degree program listed above) Please quantify required training and experience in number of years (if none please write none):

Description of basic job duties (**For non-teaching, staff positions, please attach the JIQ**):

Annual Salary or hourly rate: _____

Hours/ Range of hours per week: _____

Number of employees applicant will supervise (other than students): _____

Dates of intended employment (3 years allowed initially, with 1-year extensions): From _____ To _____

List all worksites for this position: Syracuse University Main Campus, Syracuse, NY
 Other location: _____

PART 2: LEGALLY BINDING EMPLOYER ATTESTATIONS

By signing below, I attest that the above information is true to the best of my knowledge. I authorize the Slutzker Center for International Services to seek approval from the US Citizenship and Immigration Services for an O-1 temporary visa on behalf of the above named individual.

Furthermore, I attest that Syracuse University will comply with the following statements as required by the US Department of Homeland Security and Department of Labor.

(From US Immigration Service 8 CFR 214.2 (o)(16) & 8 CFR 214.2 (o)(14) (i-iii))

- 1) That the O-1 worker will also be paid for non-productive time unless contract is for a specified time period common to the industry such as 9 month academic appointments;
- 2) That the O-1 worker will be offered benefits on the same basis as similarly employed US workers;
- 3) That the employment of O-1 workers will not adversely affect the working conditions of workers similarly employed in the area of intended employment;
- 4) That on the date this form is signed and submitted, there is no strike, lockout or work stoppage in the course of a labor dispute in the occupation in which the O-1 worker will be employed at the place of employment;
- 5) That the reasonable cost of return transportation to the O-1's home country will be covered by the employer in the event employment is terminated prior to the ending date on the O-1 petition submitted to US Citizenship and Immigration Services. (See dates entered in part 1)

Required Signatures:

Faculty Advisor/Supervisor: _____ Date: _____

Name and Title of Faculty Advisor/Supervisor: _____

Department Chair: _____ Date: _____

Name and Title of Department Chair: _____

LEGAL NOTES AND COMPLIANCE

Any misrepresentation of facts or employer's failure to comply may result in the following (affecting all of Syracuse University not just the department):

- Assessment of back pay for the foreign national and/or other employees in the occupational classification
- Maximum of \$1000 fine for each violation
- A prohibition of the filing of immigrant or nonimmigrant visa petitions with USCIS for at least one year
- Federal criminal penalties for knowing and willful submission of false statements to the Federal Government of \$10,000 and/or imprisonment of up to 5 years

After completion of parts 1 & 2, please return Appendix A and the appointment letter, and UPS, FedEx, or DHL account number to Slutzker Center for International Services.



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APPENDIX B: SU O-1 EXPORT CONTROL FORM

OVERVIEW OF EXPORT CONTROL REQUIREMENT FOR O-1

In support of your request for O-1 sponsorship, the Slutzker Center for International Services is now required to certify on the USCIS I-129 petition whether or not a license for export controlled technology or technical data is necessary for the professor/researcher being sponsored. To facilitate this requirement, we ask your assistance in completing the questionnaire below. If any of the screening questions are answered "Yes", the Vice President for Research or a designee would confer with the sponsored individual and appropriate supervisor or administrator to determine whether a license under EAR or ITAR would be required. The license acquisition process would be initiated in parallel to the O-1 sponsorship.

Any future changes or extensions of the sponsored O-1 worker's employment must also be reviewed for compliance. For details about Export Control please see: http://osp.syr.edu/About_Sponsored_Programs/Resources/preaward-manual.html.

SECTION 1: PROSPECTIVE O-1 SCHOLAR AND DEPARTMENT DETAILS

O-1 Scholar's Name: _____
PI/Supervisor's Name: _____
School/Division: _____ Department: _____

SECTION 2: EXPORT CONTROL QUESTIONS

- | | |
|---|--|
| 1. Is the nature of the O-1 Scholar's work confidential/proprietary (i.e. the results of the work/research projects are not intended for teaching, publication, or to be otherwise shared broadly with the interested public and within the scientific community)? | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 2. In the course of his/her employment, do you anticipate that the O-1 Scholar will be provided access to:
a. any SU-owned technical data or technology that is considered proprietary or confidential to Syracuse University?
b. any third party-owned technical data or technology that is considered proprietary or confidential to the third party owner? This includes U.S. government furnished technical data with dissemination controls or other restrictive markings, as well as ITAR-controlled software, and information restricted under an NDA.
c. equipment specifically designed or developed for military or space applications? (see U.S. Munitions List under 22 CFR § 121). | <input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/> YES <input type="checkbox"/> NO |

If all answers to the above questions are "NO" please sign and submit to the Slutzker Center with other O-1 application materials.

If the answer to any of the above questions is "YES" please sign and send this form for a secondary review to Dr. Gina Lee-Glauser, Vice President for Research, leeglaug@syr.edu, 207 Bowne Hall.

REQUIRED SIGNATURES

We attest that the information being provided at this time is true. If at this time no export license is required and, during the course of his/her employment at SU, there are any changes to the O-1 Scholar's work that would require a license, we will contact the Vice President for Research and the Slutzker Center for International Services.

PI/Supervisor: _____ Date: _____

Chair/Director or Dean: _____ Date: _____

- A license for Export Control **is not** required for this scholar.
 A license for Export Control **is** required for this scholar, and that process has been initiated.

VP for Research: _____ Date: _____

APPENDIX C: TEMPLATE FOR DEPARTMENT SUPPORT LETTER

[PLEASE PRINT ON DEPARTMENTAL LETTERHEAD]

U.S. Citizenship and Immigration Services
Vermont Service Center
75 Lower Welden Street
St. Albans, VT 05479

Re: Petition for O-1 Nonimmigrant Worker
Petitioner: Syracuse University
Beneficiary: Dr. _____

Dear Sir or Madam:

This letter is written in support of Syracuse University's petition to qualify Dr. _____ as an O-1 nonimmigrant worker.

We currently have an opening for the position of _____ in the Department of _____ to perform the following duties: ***include job duties/responsibilities here.***

The minimum requirements for this position are a ***(insert degree PhD, Master's, Bachelor's etc)*** or related field. ***Include next sentence only if appropriate.*** In addition, the candidate must have # of years of experience in field of study or a similar field.

Dr. _____ is an ideal candidate for the position. Dr. _____ has ***(detail degree and qualifications here)***

In the event that Dr. _____ is dismissed prior to the end of the period requested for O-1 visa status, I verify that Syracuse University will be responsible for reasonable costs of the return transportation abroad.

It is our intention that Dr. _____ be able to accept the position of _____ and start employment pursuant to the O-1 visa on appointment start date or date on which O-1 visa will start, for a period of **period of time up to three years** years. I respectfully request that the petition to qualify him/her as an O-1 professional be approved.

Sincerely,

SYRACUSE UNIVERSITY

By: _____
Department Chair