

Global Immigration alert

October 2024

United States

USCIS updates Policy Manual to reflect new guidance on EB-1 extraordinary ability criteria

Executive summary

On 2 October 2024, U.S. Citizenship and Immigration Services (USCIS) updated its Policy Manual to clarify what evidence may satisfy eligibility criteria for EB-1 extraordinary ability classification. This update refines how evidence is evaluated for individuals seeking this classification and is effective immediately.

Background and analysis

The EB-1 extraordinary ability immigrant visa category is available to individuals who have enjoyed sustained national or international acclaim and recognition for their achievements in their field in the sciences, arts, education, business, or athletics. These individuals can self-petition for first preference immigrant visa classification without a job offer or PERM labor certification.

The EB-1 category requires evidence of extraordinary ability in the form of a major, internationally-recognized award or satisfaction of at least three (3) of 10 specific regulatory criteria. These criteria include lesser-known awards, membership in associations requiring outstanding achievements of their members, published material about the applicant, and artistic exhibitions or showcases of work in the field.

The Policy Manual updates include the following:

- ▶ **Team Awards:** Confirms USCIS does consider receipt of team awards (as opposed to an award received by one

individual) under the criterion for lesser nationally or internationally recognized prizes.

- ▶ **Memberships:** Clarifies that USCIS does consider past memberships under the membership criterion.
- ▶ **Published Material:** The requirement for published material to demonstrate the value of a person's work has been removed.
- ▶ **Exhibitions:** Acknowledges that the regulatory criterion modifies the term "exhibitions" to include the word "artistic," such that USCIS will only consider non-artistic exhibitions as part of a properly supported claim of comparable evidence, which is evidence that may be relied upon when one or more of the 10 regulatory criteria do not readily apply to the applicant's occupation.

These changes aim to align the adjudication process more closely with the regulatory language, enhancing clarity and consistency.

What this means

These updates are a response to the feedback USCIS received following its September 2023 publication on the topic. Continuous engagement and feedback are essential as USCIS refines and updates its policies.

These updates are part of a broader agency effort intended to provide clearer guidance for applicants and adjudicators. By refining criteria interpretations, USCIS aims to ensure fair and consistent evaluations of extraordinary ability petitions.

We will continue to monitor and review future developments. For additional information, or if you wish to discuss this further, please contact your EY Law LLP professional.

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