



O-1A or O-1B – Are You an Athlete or an Artist?

Syracuse, New York

August 2018

In recent years, there has been a raging debate in the dance community about what is the appropriate visa category to request for a dancer – O-1A or O-1B? Traditionally, until about three years ago, dancers were treated as artists and were typically classified as O-1B artists.

Then the tide shifted and we saw a dramatic change in the government's response to dancer petitions where the dancer garnered excellent results in DanceSport. The government began issuing Requests for Evidence and Denials indicating that the dancer does not qualify for O-1B status and should instead apply for O-1A classification as an athlete.

As one can imagine, this caused great concern in the dance community as O-1A athletes are held to a higher standard than O-1B artists. After we worked in collaboration with American Immigration Lawyers Association (AILA), the Vermont Service Center softened its stance and reverted to the previous way of processing cases, namely that dancers would be treated as artists again. However, the California Service Center did not outwardly make this declaration.

Today, we look at each case individually to determine which classification is a better fit for the dancer. Questions we ask include: What is the primary purpose of the dancer's work in the United States? Is the dancer primarily interested in competing or coaching? Does the dancer have major publications discussing that dancer's work? Has the dancer coached Youth and/or Adults at high levels? Is the dancer an Adjudicator? Does the dancer have a Master of Sports? Is the dancer on the National Team?

The answers to these questions and more will help us determine which path is more likely to lead to an approval. In 2018, thus far, all O-1B petitions filed by this office have been approved. Historically, all O-1A petitions filed by this office have also been approved. If you would like to explore a particular dancer's background to determine which classification is better, we will be happy to set up a consultation to assist you in this matter.

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Caterina Ranieri

315.701.6462 ♦ cranieri@bhlawpllc.com

Bousquet Holstein PLLC • 110 West Fayette Street, Syracuse, NY 13202 • www.BHLAWPLLC.com

Anna Putintseva

aputintseva@bhlawpllc.com ♦ 315.701.6372

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