

# CLEMENZA LAW GROUP

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THE PRIVATE BRIEF · ENTERTAINMENT

## O-1B or P-1: Which Artist Visa Fits This Engagement

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ANTHONY CLEMENZA · MANAGING PARTNER

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### IN BRIEF

- ◆ The O-1B is an individual visa built on the artist's own record; the P-1B is for members of a group and rests on the group's reputation, which USCIS says is what is essential, not the achievements of individual members.
  - ◆ Only one person can be named on an O-1 petition, while a P petition can name up to 25, so a group that performs as a unit is often one P filing and a career under your own name is an O filing.
  - ◆ An O-1 approval can run up to three years at first; a P-1 group approval runs only for the time needed, up to one year. Both need a consultation letter, and USCIS decides either way.
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The festival offer sits in your inbox with one name on it: yours. But three people walk on stage every night, and the promoter's second email asks the question you have been putting off: are you coming in on an O or a P?

Most people start with the flattering question, which visa is harder and which one they deserve. Start instead with a structural one. The O-1B is a visa for one artist, judged on that artist's own record. The P-1B is a visa for a member of an entertainment group, judged on the group's reputation, to perform as a unit. Most engagements answer themselves once you ask which of those two sentences describes the work.

## What each visa is

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**The O-1B** is a temporary work visa for a person with extraordinary ability in the arts. For artists, the federal regulation (8 CFR 214.2(o), in Title 8 of the Code of Federal Regulations) defines that ability as “distinction”: a high level of achievement shown by “a degree of skill and recognition substantially above that ordinarily encountered,” to the extent that the person is “renowned, leading, or well-known in the field of arts.”

**The P-1B** is a temporary work visa for a member of an entertainment group that is internationally recognized as outstanding. The group must have been established for at least one year, and 75 percent of its members must have been with it for at least a year. U.S. Citizenship and Immigration Services (USCIS, the agency that decides these petitions) says on its P-1B page: “The reputation of the group, not the individual achievements of its members or the acclaim of a particular production, is essential.”

**The P-3** sits alongside both, for artists or entertainers coming to perform, teach or coach in a program that is culturally unique. It is its own subject, and not the focus here.

## Four differences that decide real cases

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1. **How long it lasts.** An approved O-1 petition is valid for the time USCIS decides is needed for the event or activity, up to three years, and can then be extended in increments of up to one year. An approved P-1 petition for a group is valid for the time needed to complete the performance or event, up to one year, with extensions in increments of one year. For an artist building a U.S. career over several years, this is often the largest practical gap between the two.
2. **How many people ride on one filing.** Only one person may be named on an O-1 petition. A P petition may name up to 25. A seven-piece ensemble on O-1B means seven petitions, and each of the seven must qualify on a record of their own. On P-1B it can mean one.
3. **Whose record is on trial.** The O-1B file is built from the artist's own evidence: lead roles, reviews, recognition, commercial success, pay. The P-1B file is built from the group's evidence, plus the roster rule: at least 75 percent of the members must have had a sustained and substantial relationship with the group for at least one year.
4. **What the calendar has to show.** Both petitions must explain the nature of the events or activities, give their beginning and ending dates, and include a copy of any itinerary. For the O-1, USCIS adds that the petitioner must establish that there are events or activities in your field for the whole period requested. A three-year request needs three years of work to point to, not a single booking.

## What is the same in both

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Some things do not change with the letter.

- ♦ **Someone else files.** Neither visa lets you petition for yourself. An O-1 is filed by a U.S. employer, a U.S. agent, or a foreign employer through a U.S. agent; a P-1 group petition can also be filed by a U.S. sponsoring organization.
- ♦ **A consultation is mandatory.** Before approval, an O-1 needs a consultation with an appropriate U.S. peer group (which can include people with expertise in the field), labor organization or management organization. A P-1 needs one from an appropriate labor organization.

- ◆ **Filing windows match.** Neither petition may be filed more than one year before the work is actually needed.
- ◆ **Arrival and departure margins match.** You may be admitted up to 10 days before the approved period begins and stay up to 10 days after it ends, but you may work only during the approved period itself.
- ◆ **A later green card is not held against you.** For both, the regulations say that filing a petition for permanent residence is not, by itself, a reason to deny the visa petition or an extension. (For the P, that provision does not cover essential support personnel.)

## A worked example

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Take an electronic producer who tours with a three-person live show (a composite, not a client). She writes and produces alone, holds the label deal in her own name, has two years of press under her own name, and is the person the promoters are booking. The two musicians behind her joined last year.

The P-1B is the wrong shape for her, and not because her record is thin. The reputation being booked is hers, not the trio's, and the group barely has a year of history to show. Her petition is an O-1B, filed by a U.S. agent over an itinerary of festival and club dates, for as long as the documented work supports, up to three years.

The two musicians are a separate question. They may fit the O-2, a visa for people who accompany an O-1 artist, but only if they are an integral part of the actual performances and have critical skills and experience with her that are not of a general nature and that others do not have. An O-2 is filed on its own petition, with its own union consultation.

Now change one fact. If the same three people had played together for four years, released music under one name, and been reviewed and booked as a band, the analysis flips: one P-1B petition covering all three, and a U.S. calendar approved a year at a time.

Either way, the approval is not in anyone's gift but the government's. USCIS decides.

## When both genuinely fit

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Sometimes an artist qualifies twice: a long-standing group whose front person also has a record under their own name. The choice then turns on plans rather than eligibility.

- ♦ If the U.S. work over the next few years is group work, the P-1B keeps everyone on one filing, with extensions a year at a time.
- ♦ If you expect engagements under your own name, residencies or a later green card, the O-1B is often the better foundation. One permanent-residence route open to artists, the EB-1A, asks for evidence of a similar kind, but its standard is higher: the regulation describes a person who is one of the small percentage who have risen to the very top of the field. The record you build for an O-1B is where that file starts.

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## What the government charges

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The USCIS fee schedule (Form G-1055, edition 09/09/26) currently sets the base filing fee at \$1,055 for an O petition and \$1,015 for a P petition, reduced to \$530 and \$510 for a small employer or nonprofit petitioner, plus additional fees where they apply. Premium processing, an optional paid service in which USCIS commits to act on the petition within a set time or refund the fee, is \$2,965 for either. For one artist, the government fees barely separate the two visas. For a group, the difference is in the number of petitions: seven O-1B petitions mean seven sets of government fees.

The firm handles artist visa petitions on a flat fee confirmed in writing before any work begins; the figures are published on the firm's artist visa page.

## Where to start

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Answer four questions on one page this week: whose name is on the booking, how long the U.S. work runs, how long the group has existed and exactly when each member joined, and what you want your U.S. career to look like in three years. The answers usually point to one visa. Where they point to both, you have a planning decision to make, and it is better made now than six weeks before the tour.

This is general information about the O-1B and P-1 visas, not legal advice about a particular engagement. Immigration rules and fees change; confirm current details before relying on them.

WRITTEN BY

# Anthony Clemenza

MANAGING PARTNER

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Anthony is the Managing Partner of Clemenza Law Group and serves as general counsel to a wide range of companies and philanthropic organizations. Nearly every essay here began as a real question from a real client: the contract that landed at 4 p.m., the board that meets on Thursday. He writes them the way he would answer you across the table, plainly and with care.

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*The current version of this essay is kept at [clemenzalaw.com/insights/o1b-vs-p1-artist-visa](https://clemenzalaw.com/insights/o1b-vs-p1-artist-visa)*