

# Expert Opinion Report: Top 10 Tips for Success

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Expert Opinions can support a successful outcome for your client but there are risks if you do not know the best practices. Here is a quick guide on getting top results with Expert Opinions.

Summary:

	Top 10 Best Practices for Expert Opinions
1.	Network of Experts and Fields
2.	Narrow Degree Fields
3.	Detailed Job Duties
4.	Work Product Samples
5.	Pertinent Research
6.	Progressively Responsible Work Experience
7.	Underlying Evaluation: NACES
8.	Timing
9.	Professor Phone Call or Site Visit
10.	Brainstorming

**What is an Expert Opinion (EO)?** An Expert Opinion by a recognized authority provides a comprehensive analysis of an employer's need for a specific position or the education and professional experience of a candidate to meet government regulations. Expert Opinions have been used for several decades and have grown increasingly common in the last decade because of their success in cases including H-1B, O-1/2, L-1A/B, H-3, E-2/3, EB-1/2/3, P-3, National Interest, Audits, and TN/USMCA, among others. How and when to best use Expert Opinions will be discussed here.

## Top 10 Best Practices for Expert Opinions

### (1) Network of Experts and Fields

To cut down on having to go to multiple providers, ask to see the provider's list of fields and expert qualifications. Be aware that some providers do not use university professors and industry experts with years of experience, but instead put their own signature and stamp on an Expert Opinion and declare they are experts. Some providers may offer an expert with a master's degree in sociology who may not be best to weigh in on whether a candidate has a bachelor's degree in computer information systems. The better practice is to make sure your provider has experts who are **recognized authorities** in the industry being reviewed.

It is also a best practice to review sample letters and the C.V. of the proposed expert to determine if they understand what you need and can handle your case type. For example, for L-1A cases, the expert should have experience in showing how an individual has worked for a qualifying organization and will work in an executive capacity making decisions without much

oversight or in a managerial capacity supervising and controlling the work of professional employees or a department or function of the organization. For L-1B cases, the expert should have experience showing how an individual has specialized knowledge about the company's products, services, processes, or techniques or an advanced level of knowledge or expertise in the organization's processes and procedures. Your provider and expert need to know the requirements for different letter types such as:

- H-1B Specialty Occupation; Wage Analysis; Qualified; Degree Equivalency
- H-2A/B Seasonal Need for Workers
- H-3 Visa Training Program
- EB-1 Extraordinary Ability, Outstanding Professors and Researchers, and Multinational Managers or Executives
- EB-2 Advanced Degree, Exceptional Ability, and National Interest Waiver
- EB-3 Skilled Workers, Professionals, and Unskilled Workers
- E-2 Visa Treaty trader/treaty investor
- E-3 Specialty Occupation Workers from Australia; H-1B1 Chile and Singapore
- F-1 OPT Employment Related to Major
- L-1A/B Intra-company Transferee
- O-1 and EB-1 Extraordinary Ability
- O-1 Peer Consultation
- P-1 Athletes, P-2 Artists/Entertainers in Exchange Programs, P-3 Artists/Entertainers Culturally Unique
- R Religious Workers
- TN/USMCA/Mexico/Canada
- Green Card and Other Visas Qualified for Position
- Perm Audits, Supervised Recruitment, Business Necessity, Ability to Pay/Employer, Reasonable Period of On-the-Job-Training
- Other immigration issues and non-immigration related issues

An experienced provider should have a network of recognized authorities in academia and professions covering a broad swath of fields. Ask to see their fields list which should include experts ranging from: Agricultural/Animal/Plant/Veterinary Science, Architecture, Communication, Journalism, Biological and Biomedical Sciences, Business, Management, Marketing, Communications Technologies, Computer and Information Sciences, Construction Trades, Education, Engineering, Family and Consumer Sciences/Human Sciences, Health Professions, Legal Professions and Studies, Mathematics and Statistics, Multi/Interdisciplinary Studies, Physical Sciences, Social Sciences, Sports, Kinesiology, Physical Education/Fitness, to Visual and Performing Arts.

By using a provider with a broad network of experts and successful opinion types, you will cut down on your workload by having vetted experts ready to go. Always review sample letters and the C.V. of the proposed expert to ensure they understand what you need.

## **(2) Narrow Degree Fields for Specialty Occupation**

To give your client the best chance in specialty occupation cases, check to see if you can narrow the degree fields in H-1B specialty occupation expert letters. This is because USCIS has at times stated the definition of a specialty occupation is an occupation which requires theoretical and practical application of a body of highly specialized knowledge and that

means requiring only one degree or an extremely narrow set of degrees. Let's look at each part of that statement separately.

**One Degree:** A company, for example may typically hire an individual for a software developer position with a bachelor's degree in computer science, computer engineering, software engineering, electrical engineering, electronics engineering, information technology, computer information systems, information science, mathematics, or a related field, but when listing the degree requirement for an H-1B petition, it helps to narrow the degree requirement to something such as "a bachelor's degree in computer science or a closely related field."

**One Body of Specialized Knowledge:** According to the Occupational Outlook Handbook (OOH), the position of "Operations Research Analyst" typically requires a degree in "business, operations research, management science, analytics, mathematics, engineering, computer science, or another technical or quantitative field." At first glance, these degrees may not seem to share one body of specialized knowledge, but a closer look shows these fields all involve the use of "quantitative and qualitative measurements." At FIS, we have seen attorneys follow the best practice in this situation of limiting the degree fields accepted for the position to one or two fields, and then adding a phrase like, "or another quantitative field" to allow for foreign nationals with different backgrounds to be considered for the position. The result might be written as "a bachelor's degree in mathematics or another quantitative field."

Note that narrowing degree fields is not necessary in other Expert Opinions. In fact, letters for some employment-based visa types should list *all* of the degrees listed in the degree requirement for the position and show how they relate to each other and the occupation as some employment-based immigrant visa cases need to show that the requirements bear a reasonable relationship to the occupation in the context of the employer's business and the requirements are essential to perform the job in a reasonable manner.

Finally, do not go outside the acceptable fields listed in the OOH when listing the degree field/s required for a position, and also avoid listing an undefined degree requirement that does not mention an acceptable field in which to pursue training for the position.

The best practice is to make sure the Expert Opinion company you use is working with the Occupational Outlook Handbook/OOH and O\*NET Online databases and understands when to ask you about narrowing the degree fields. Avoid companies and experts that ask no questions, as they may cost you in the long run.

### (3) Detailed Job Duties for Specialty Occupation Letters

When submitting documents to the expert for a Specialty Occupation letter, the best practice is to provide a breakdown of the job duties associated with the position, ideally, in a **table**. The more details the expert receives on the position, the easier it will be for the expert to show a position is a specialty occupation. A description that includes the steps and subtasks to perform each job duty and the percentage of time associated with each duty will be most helpful. An example of a table follows.

Job Duties & Actions Performed to Carry Out Each Duty	Level of Complexity of Work (low, moderate, high)	Product to be Developed or Service to be Provided	% of Time per Day


#### (4) Work Product Samples

The candidate's work product has a story to tell about the complexity involved in every step of the development of the product on a daily basis. Successful letters based on the candidate's work product samples can show the position is so **specialized and complex** as to require at least a bachelor's degree in a specialized field of study. The best practice is to provide work product samples to the expert.

#### (5) Pertinent Research

Always provide the expert any documentation of pertinent research or projects that the foreign national completed in his or her **collegiate studies**. This information is often meaningful to the expert and can help establish the individual is qualified for the position the individual is being sought for.

#### (6) Progressively Responsible Work Experience

For education plus experience evaluations, it is helpful to provide clear documentation establishing that the beneficiary assumed increasingly senior roles with complex responsibilities, or at least was assigned **more senior roles** over the course of his/her career. Showing the individual's experience from entry- to expert-level demonstrates expertise and the increased probability of succeeding in a new role. With the documentation submitted, make sure to include dates of employment, position titles, details of the job duties performed, collaboration with peers, subordinates, and supervisors, and any recognition of expertise. The expert is then able to refer to the provided information in the opinion to show the candidate's growth as an employee.

#### (7) Underlying Evaluation

Prior to 1987, there was no oversight of evaluation companies, so **NACES**, the [National Association of Credential Evaluation Services](#), was created to establish and maintain ethical standards. NACES is now referred to by the [US Dept. of State](#) and [US Dept. of Education](#). Best practices include using a company that is certified for the underlying foreign degree evaluation. Also, it is a good idea to have the same company perform any needed translations so the documents match in subject matter and industry verbiage.

#### (8) Timing

Like everything, attorneys and law firms have preferences on the timing of when to use an Expert Opinion. At FIS, we have seen attorneys successfully use Expert Opinions pre-emptively when filing an H-1B, or when they have received a Request for Evidence (RFE) or a Notice of Intent to Deny (NOID) or for an audit response. It depends on whether the attorney likes to come out swinging from the start or hold back a reserve of fire power for later. We have also seen last-minute timing when attorneys need expedited L-1 Expert Opinions for clients with rapidly approaching interviews at a U.S. embassy in the foreign national's country. Make sure the Expert Opinion company you use can handle **rushes** and is ready when you are.

In addition to rush options, also check to see if your provider offers reduced fee revisions for updated letters and also preliminary reviews to determine if the expert finds sufficient evidence to provide an opinion. These options can save you money in the long run.

### **(9) Professor Phone Calls or Site Visits**

The Expert Opinion can be supplemented with a phone call between the expert and employer, and can often include the candidate, to help the expert gain **knowledge** of the candidate's projects and assignments to show progressive responsibility and expertise. The information is then incorporated into the expert opinion report and shows a greater understanding of the employer and employee relationship. Not all experts are comfortable with the extra work to perform this step, so check to see if your Expert Opinion company offers this.

### **(10) Brainstorming**

You do not want your client to receive a cookie-cutter Expert Opinion, so make sure your provider understands the difference between expert letters, such as:

- Business Necessity
- Specialty Occupation Letter (SOL)
- Education + Experience
- Education + Experience + SOL
- Extraordinary Ability
- Two Recognized Authority Letters
- National Interest
- DOL Audits

These letters require different evidence, and the provider should be ready with vetted experts and sample letters. If you have an RFE or NOID, get it to the provider so an extra set of eyes can review what is needed. A good provider can **brainstorm** and share what they have seen in the field that has been working for other lawyers and firms so you can make the best decision to give your client the optimal chance for success.

### **SUMMARY**

This article hits the highlights for using Expert Opinions to achieve **successful results**. A good provider will have a wide network of vetted university professors and industry experts that are recognized authorities with experience in providing expert opinions that meet government requirements. A top provider will ask questions to help you narrow and expand degree fields and provide sufficient evidence for the expert to provide an opinion. A leading provider will allow you to review sample letters and C.V.s of vetted experts, provide a NACES-level evaluation of any underlying foreign degrees, and offer additional services such as translations, professor phone calls, and rush service. Following these best practices will help you achieve success and satisfaction for your clients.

**FIS is committed to your success** and will continue to monitor the evolving immigration and Expert Opinion landscape.

**Legal advice:** This article is not intended as legal advice but as a starting point for discussing Expert Opinions with your provider.

**About FIS:** The Foundation for International Services, Inc., established 1978, is a leading provider of credential evaluations, certified translations, and Expert Opinions to help clients obtain U.S. visas and reach international opportunities in employment and education. With a Google rating of 4.7 out of 5 stars and over 280 reviews, FIS sets the standard for international services with responsive service and reliable results. FIS is a charter member in good standing of NACES (National Association of Credential Evaluation Services), which is referred to by the U.S. Dept. of State and U.S. Dept. of Education.

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