

OFFICE OF BUSINESS LIAISON

U.S. DEPARTMENT OF HOMELAND SECURITY
U.S. CITIZENSHIP AND IMMIGRATION SERVICES

Employer Information Bulletin 16 Internationally Recognized Alien Athletes, Artists, and Entertainers (P-1/P-2/P-3) December 2, 2003	EBISS: (800) 357-2099 NCSC: (800) 375-5283 Fax: (202) 305-2523 Website: www.uscis.gov Order Forms: (800) 870-3676
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The following is not intended to be legal advice pertaining to your situation and should not be construed as such. The information provided is intended merely as a general overview with regard to the subject matter.

INTERNATIONALLY RECOGNIZED ALIEN ATHLETES, ARTISTS, AND ENTERTAINERS

Who qualifies for these classifications?

P-1:

1. Internationally-recognized athlete performing at a specific athletic competition as an individual athlete or part of a group or team, at an internationally recognized level of performance.
2. Member of internationally recognized entertainment group who has had a sustained and substantial relationship with the group (in most cases, for one year or more) and provides functions that are integral to the group's United States (US) performance.

P-2:

1. Artist or entertainer under a reciprocal exchange program between US and foreign organization(s) providing for temporary exchange of artists and entertainers (including groups).

P-3:

1. Artist or entertainer whose performance, teaching or coaching is integral to the performance of a group performing under a commercial or noncommercial program that is culturally unique.

P-4:

1. Dependent of a P-1, P-2, or P-3 alien.

Note regarding individual entertainers: If performing independently of a group (back-up singers may qualify with the artist as a group if they have a history together), individuals do not qualify for P-1 classification as entertainers. Aliens qualify for P-1 entertainer status only as members of a group. Individual entertainers may qualify as P-2 or P-3 nonimmigrants. One of O classification may also be an alternative. Consult Employer Information Bulletin 15 for information about the O classifications.

Nonimmigrant intent

All P nonimmigrants must have foreign residences that they do not intend to abandon. This means they must intend to come to the US as temporary nonimmigrants and to depart at the end of their approved stays under P classification. For **principal** P-1, P-2 and P-3 nonimmigrants, however, the fact that these aliens are seeking at the same time to become permanent residents is not a basis for denying a P petition, extending the stay of a P principal alien, changing the status of a P principal alien, or admitting a P principal alien to the US. For an alien seeking P status as essential support personnel, seeking permanent residence may make it difficult, if not impossible, for the alien to be admitted as a P nonimmigrant.

Who may file a petition (Form I-129) for P classification?

P-1:

1. A P-1 petition for an athlete or entertainer is filed by a US employer, a US sponsoring organization, a US agent¹, or a foreign employer² through a US agent.

P-2:

1. A P-2 petition for an artist or entertainer in a reciprocal exchange program is filed by the US labor organization that organized the exchange agreement, the sponsoring organization, or a US employer.

P-3:

1. The sponsoring organization or a US employer files a P-3 petition for an artist or entertainer in a culturally unique program.

Note: Essential support personnel require separate petitions.

When may a petition for P classification be filed?

The Form I-129 may not be filed more than six months before the date of need for the alien's services.

Classification standards (required documentation)

P-1 Athletes

- Athlete or team is internationally recognized
- Athletic competition has a distinguished reputation
- Competition requires participation of athlete or team of international repute
- Contract with major US sports league or team (or otherwise commensurate with international reputation)

Plus two of the following:

- Significant participation in prior season in major leagues
- Participation in international competition with a national team
- Significant participation in prior season in college, university, or intercollegiate competition
- US sports official's written statement regarding individual or team's international recognition
- Expert's or sports media statement regarding individual or team's international recognition
- Ranking of individual or team
- Significant honors or awards in the sport

P-1 Entertainment Groups (list of members and dates of performance must be included):

- Group has been internationally recognized for substantial and sustained time period
- 75% of group members have had a substantial and sustained relationship with the group for at least a year
- Group has been nominated for or received significant international awards

Plus three of the following:

- Proof of star or lead performance with a distinguished reputation
- Proof of reviews in major publications
- Proof of star or lead performance for organization with distinguished reputation
- Proof of major commercial or critically acclaimed success
- Testimonials regarding significant recognition of the group
- Group commands high salary

Note: To expedite an I-129 for a **P-1** and **P-3**, a Request for Premium Processing must be filed (I-907) with the appropriate fee. Download form I-907 and instructions at www.uscis.gov for more details.

¹ A US agent may file a petition in cases involving workers who are traditionally self-employed or workers who use agents to arrange short-term employment on their behalf with numerous employers, and in cases where a foreign employer authorizes an agent to act on its behalf. A US agent may be the actual employer of the beneficiary, the representative of both the employer and the beneficiary, or a person/entity authorized by the employer to act for, or in place of, the employer as its agent. Agent petitions are subject to special conditions

² A foreign employer is any employer not amenable to service of process in the US.

P-2

- Reciprocal or exchange agreement
- Statement from sponsoring organization regarding exchange
- Appropriate US labor organization negotiated or concurs with the reciprocal program
- All exchange artists or entertainers have comparable skills and terms of employment

P-3

- Affidavits, letters, or testimonials from recognized experts attesting to authenticity of alien's or group's skills in performing, presenting, coaching, or teaching the unique or traditional art form, (including credentials of sources of the expert must be stated, including the basis of his or her knowledge of the alien's or group's skills), or
- Performance is culturally unique, as evidenced by reviews in newspapers, journals, or other published materials, and
- Evidence that all of the performances or presentations will be culturally unique events.

Consultation required

Consultation with an appropriate labor organization should address the following issues, depending upon the classification sought. **Note: Written consultations are advisory opinions, and are not binding on the U.S. Citizenship and Immigration Services.**

P-1:

1. Advisory opinion regarding individuals or group's ability, the degree of international recognition, and whether the US activities will be appropriate for an internationally recognized athlete or entertainment group.

P-2:

1. Advisory opinion regarding the bona fide nature of the reciprocal program and whether it meets P-2 standards.

P-3:

1. Advisory opinion regarding the cultural uniqueness of the beneficiary's skills, whether the US events will be predominantly cultural in nature, and whether the proposed US activities meet P-3 standards.

Period of validity

- A petition for an individual P-1 athlete may be approved for up to 5 years.
- A petition for a P-1 athletic team may be approved for a sufficient time period to complete the event or competition described in the petition, not to exceed one year.
- A petition for a P-1 entertainment group may be approved for a sufficient time period to complete the event described in the petition, not to exceed one year.
- A petition for a P-2 or P-3 artist or entertainer may be approved for a sufficient time period to complete the event, activity, or performance described in the petition, not to exceed one year.

Essential Support Aliens

Petitions for essential support personnel for P-1, P-2, and P-3 aliens may be approved for a sufficient time period to complete the event, activity, or performance for which the related principal alien is admitted, not to exceed one year.

Evidence required for petitions filed for P-1, P-2 or P-3 Essential support personnel:

- Consultation from labor organization with expertise at beneficiary's skill
- Description of beneficiary's essentiality, critical skills, and experience with principal alien(s)
- Contract or summary of terms of oral agreement with employer

Dependents

Spouses and unmarried minor children of P-1, P-2, or P-3 alien beneficiaries are entitled to P-4 nonimmigrant classification, subject to the same period of admission and limitations as the alien beneficiary. Employment is prohibited under P-4 classification.

Extension of Approved Stay

Petitioners may request to extend the validity of an original petition in order to continue or complete the same activity or event specified in the original petition. Supporting documents generally are not required, but the U.S Citizenship and Immigration Services may request them.

Extension periods

- A P-1 individual athlete may be extended for up to 5 years, not to exceed a cumulative stay of 10 years.
- P-1, P-2 and P-3 athletic teams, entertainment groups, aliens in reciprocal exchange programs, aliens in culturally unique programs, and their essential support personnel may be extended in increments of one year.

Multiple employers

If the beneficiary will work for more than one employer within the same time period, each employer must file a separate petition at the Service Center with jurisdiction over the place where the services will be performed. Agent petitioners may file at a single Service Center regardless of the place of performance.

Multiple beneficiaries

More than one beneficiary may be included in a P petition if they are members of a group seeking classification on the basis of the group as an entity, or if they will provide essential support to P-1, P-2, or P-3 beneficiaries performing in the same location and in the same occupation. All beneficiaries must be specifically named in the petition.

Tours

Where a petition relates to services that will be performed by the beneficiary in more than one location, an itinerary with the dates and locations of the performances must be included. Such petition should be filed where the petitioner is located.

Substitution of beneficiaries

A petitioner may request substitution of beneficiaries in approved P-1, P-2, and P-3 petitions for groups. A letter of request, plus a copy of the approval notice, may be forwarded to the consulate where the alien will apply for a visa or to the US port of entry where the alien will apply for admission. *Essential support personnel may not be substituted at consulates or ports of entry. New petitions must be filed.*

Change of employer

Any P-1, P-2, or P-3 principal alien who wishes to change employers or sponsors may do so if the new employers or sponsors file new I-129 petitions and extensions of stay for the aliens. The new employment may not commence until these are approved by **the Department of Homeland Security, U.S. Citizenship and Immigration Services.**

Traded athletes

Employment authorization for traded P-1 professional athletes automatically continues for 30 days after acquisition by the new organization, within which time the new organization is expected to file a new Form I-129 for P classification. Employment authorization ceases if a new petition is not filed within 30 days of the trade. When a new petition is filed, employment authorization continues until it is approved. If the petition is denied, employment authorization ceases.

Return transportation requirement

P aliens whose services are terminated involuntarily are entitled to return transportation to their last places of residence prior to entry into the US. Employers and petitioners are jointly and severally liable for reasonable transportation costs.

Freelancing not permitted

P classification may only be admitted to perform services in “specific, identified” events, performances, competitions, or engagements; P status may not be granted to an alien to enter the United States to freelance in the open market. The alien or group will be admitted only for the duration of the event, performance, competition, or engagement listed in the petition and extensions may be granted solely to complete the same activity.