

“P” NONIMMIGRANTS [Including Performing Groups, Cultural Unique Performers]

P-1 status generally is made available to internationally known athletes, individually or as part of a group or team, and entertainment groups (*not* individuals). P-2 aliens are performing artists under the auspices of a reciprocal exchange program. P-3 aliens are culturally unique entertainers. All three classifications include accompanying personnel. The P-4 category is for dependents of aliens in the foregoing categories.

Substantive Requirements for P-1 Classification

Individual athletes, athletic teams, and entertainment groups generally must meet the basic standard of international recognition – meaning a high level of achievement in the field evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading, or well-known in more than one country.

Athletes

Foreign nationals performing as athletes at “an internationally recognized” level may be admitted in P-1 status. P-1 classification may be granted to internationally recognized athletes based on their individual reputation and achievements. Athletic teams must be recognized internationally as outstanding in the discipline and must be coming to perform services that require such recognition. Team members may not perform services separate and apart from the team.

Foreign nationals eligible for P-1 classification include: (1) individual professional athletes employed by teams (including affiliated minor league teams) belonging to an association of six or more professional sports teams with combined revenues exceeding \$10 million annually, and the association governs its members’ conduct and regulates the competition; (2) individual coaches or athletes performing with teams or franchises in the United States that are part of an international league/association with at least 15 amateur sports’ teams, under certain circumstances; or (3) amateur or professional skaters performing individually or as part of a group in theatrical skating productions/tours.

Individual athletes and athletic teams must include with their petition a tendered contract with a major U.S. sports league or team, or a tendered contract with an individual sport “commensurate with international recognition in that sport, if such contracts are normally executed in the sport,” and evidence and/or documentation of at least two of the list of documentation provided in the regulations.

Entertainers

In *General* – P-1 classification may be accorded to foreign nationals who belong to an entertainment group that has been recognized internationally as outstanding in the discipline for a sustained and substantial period of time. Each member must have had a sustained and substantial relationship with the group ordinarily for at least a year (with exceptions discussed below). P-1 status is granted on the basis of the group’s reputation, not on the basis of individual achievement.

International recognition may be shown either by evidence of the group's nomination for or receipt of significant international awards or prizes for outstanding achievement in the field, *or* by evidence that the group has met certain eligibility criteria provided in the regulations.

Requirements for P-2 Classification

P-2 classification is reserved for artists and entertainers who perform individually or as part of a group, pursuant to a reciprocal exchange program between one or more U.S. organizations and one or more such organizations in another country that provides for the temporary exchange of artists and entertainers. Labor unions must be involved in establishing the exchange program or at least concur with it. The exchange must be similar in terms of caliber of artists or entertainers, terms and conditions of employment, and number of aliens involved in the exchange.

Requirements for P-3 Classification

P-3 classification is accorded to culturally unique artists and entertainers, individually or as a group, coming to the United States to develop, interpret, represent, coach, or teach their particular art or discipline. "Culturally unique means a style of artistic expression, methodology, or medium which is unique to a particular country, nation, society, class, ethnicity, religion, tribe, or other group of persons."

Accompanying Aliens

All P categories allow for "essential support" personnel. An essential support alien is defined as "a highly skilled, essential person" who is an "integral part" of the performance of the P alien because the alien performs support services that cannot readily be performed by a U.S. worker and that are essential to the success of the performance. In other words, essential support personnel are those who are not performing. Such aliens must have appropriate qualifications to perform the services, critical knowledge of the specific services required, and experience in providing such support to the P alien. P essential support aliens cannot work separate and apart from their P principal(s) and must be petitioned for in conjunction with the services of their P principal(s).

Purpose of Admission

Admission in all P categories is limited to a specific competition, event, or performance – defined as an activity such as an athletic competition or season, tournament, tour, exhibit, project, entertainment event, or engagement. An athletic or entertainment event could include an entire season of performances. A group of related activities can also be considered an event. In general, all principal P aliens must be entering to engage in the skill, art, or activity for which they achieved recognition.

Aliens may work for more than one employer at a time but will require separate petitions filed with the service center having jurisdiction over where the particular services will be rendered, unless an agent files the petition. However, if the beneficiary changes employers, the new employer or petitioning agent, as the case may be, must file both a petition and an extension of stay.

Agents who serve as petitioners are subject to certain additional requirements. Agents “performing the function of an employer” must specify the wage offered and the other terms and conditions of employment.

More than one beneficiary may be included in petitions for group members and essential support personnel.

The regulations permit principal beneficiaries to be substituted on all P petitions involving multiple beneficiaries, but not essential support personnel.

Specific requirements for supporting documentation apply to each P category. For instance, P-1 *entertainment* group petitions must be accompanied by a statement listing each group member and that member’s exact dates of employment on a regular basis, together with evidence that the group has been established and performing regularly for at least a year. P-2 petitions must include a copy of the formal reciprocal exchange agreement and a statement from the sponsoring organization relating the particular exchange to the underlying agreement. P-3 petitions must be accompanied by expert affidavits or testimonials or documentation of cultural uniqueness, and evidence that all performances will be culturally unique.

Finally, petitions for P essential support personnel should include any contracts or summaries of oral agreements and “a statement describing the alien(s) prior essentiality, critical skills, and experience with the principal alien(s).”

Consultation

In *General* – Consultation with the national office of an appropriate labor union “regarding the nature of the work to be done and the alien’s qualifications is mandatory” before any P petition can be approved except if the petitioner demonstrates that no appropriate labor organization exists. The consultation must consist of a written advisory opinion containing a specific statement of facts supporting its conclusion.

Dual Intent

In general, all P aliens must maintain a foreign residence that they do not intend to abandon.

Period of Admission

Initial P-1 petitions for individual athletes may be valid for up to five years. P-1 petitions for athletic teams or entertainment groups may be valid for the time needed to complete the competition, event, or performance, not to exceed one year. The same rule applies to P-2 and P-3 petitions. All petitions for P essential support personnel may be granted for up to one year as well. Aliens may be admitted up to 10 days prior to the validity period and may remain 10 days thereafter (but only if admitted for that time), although they are not permitted to work during these 10-day periods.

Extensions of up to a second five-year period may be granted to individual P-1 athletes, for a total stay not to exceed 10 years. Otherwise, extensions may be granted to P visa holders for up to one year at a time to continue or complete the activity for which they were admitted.

Return Transportation

For aliens *entering* the United States in P-status whose employment terminates for reasons other than voluntary resignation, the employer whose offer underlies the P status *and the petitioner*, if separate, are for the reasonable cost of return transportation abroad, meaning last place of residence prior to entry.