

DRAFT FOR COMMENT ONLY

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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
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U.S. Citizenship
and Immigration
Services

Draft PM-602-XXXX

Draft Policy Memorandum

SUBJECT: Clarifying Guidance on Definition of “Internationally Recognized” for the P-1 Classification; Revisions to the Adjudicator’s Field Manual (AFM) Chapter 33.5(a) AFM Update AD 11-03

Purpose

This Policy Memorandum (PM) provides guidance for processing and adjudicating Forms I-129, Petition for Nonimmigrant Worker, filed on behalf of P-1 nonimmigrants, with regard to whether the definition of “internationally recognized entertainment groups” encompasses only foreign-based groups. This PM supersedes prior policy guidance regarding the definition of “internationally recognized entertainment groups.” This PM also provides general updates to the AFM with regard to the P-1 classification.

Scope

This PM applies to all USCIS employees who adjudicate P-1 visa petitions.

Authority

Immigration and Nationality Act (INA) section 101(a)(15)(P); INA 214(a)(2)(B); Title 8 Code of Federal Regulations (8 CFR) 214.2(p).

Background

On June 29, 1993, legacy INS issued a memorandum entitled *Proper Utilization of the P-1B Nonimmigrant Classification*, which stated that the P-1B nonimmigrant classification was intended to accommodate only foreign-based entertainment groups. Accordingly, the memorandum directed the service centers to deny P-1 petitions for individual entertainers coming to the United States to join U.S.-based entertainment groups.

Policy

The statute and regulations do not limit the P-1B classification to individual entertainers coming to the United States to join only foreign-based entertainment groups. Rather, the regulations focus on whether the group is “internationally recognized.” 8 CFR 214.2(p)(3) defines “internationally recognized” to mean “having a high level of achievement in a 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.” Based on the plain language of both the statute and the regulations, USCIS recognizes that the P-1

classification encompasses internationally recognized entertainment groups that are based in the United States, as well as those that are based abroad.

Implementation

1. Chapter 33.5(a) of the AFM is revised to read:

33.5 Internationally Recognized Athletes and Entertainers (P-1).

(a) Filing.

(1) Eligibility. A P-1 nonimmigrant is an internationally recognized athlete, a member of an internationally recognized athletic team, or a member of an internationally recognized entertainment group.

The P-1A athlete may be either an individual athlete or a member of an athletic group or team coming to perform at an internationally recognized level of performance. A member of an internationally recognized athletic team may be granted P-1A classification based on that relationship, but may not perform services separate and apart from the athletic team.

The P-1B classification for entertainers applies to an internationally recognized group, which can be based in the United States or abroad. A member of an internationally recognized entertainment group may be granted P-1B classification based on that relationship, but may not perform services separate and apart from the entertainment group. The P-1B nonimmigrant who is a member of an internationally recognized entertainment group must be coming to the United States to perform with or as an integral and essential part of the performance. In addition, the entertainment group must be internationally recognized as outstanding for a sustained and substantial period of time, and 75% of the group must have had a sustained and substantial relationship with the group for at least one year. The P-1B nonimmigrant classification is not appropriate for an individual performing as a solo entertainer.

P-1s may do promotional work if that work is related to an actual event in which they are going to perform in the United States.

The regulations at **8 CFR 214.2(p)(4)(iii)(C)** allow for three special provisions for certain entertainment groups:

- A waiver of the international recognition and one-year group membership requirement for nationally recognized circus groups;

- A waiver of the international recognition requirement for some nationally known entertainment groups; and
- A waiver of the one-year sustained and substantial relationship requirement for 75% of the group due to exigent circumstances.

(2) Process. The petition used to apply for the P-1 classification is Form I-129. Form I-129 will also accommodate a request for change of status if the person is presently in the United States in another nonimmigrant classification. If the person is already in the United States in P-1 status, and a new employer wishes to petition for him or her, that new employer will use Form I-129 for the petition and to request an extension of stay for the person. P-1 petitions may be filed by a U.S. employer, a U.S. sponsoring organization, a U.S. agent, or a foreign employer through a U.S. agent. If there are any material changes in the terms and or conditions of the P-1's employment, the petitioner must file an amended petition. However, a petitioner may add additional, similar performances, engagements, or competitions during the validity period without filing an amended petition.

The petitioner will file Form I-129 with the service center having jurisdiction in the area where the alien will work. If the alien will perform services in more than one location, the petitioner will file it with the service center that has jurisdiction over either the area where the petitioner is located or the area specified by the petitioner's address on the petition. If the beneficiary will work for more than one employer within the same time period, each employer must file a separate petition with the service center, unless the petitioner is an established agent.

Note 1: [Added 03-06-2009, AD09-51]: USCIS has issued field guidance establishing procedures for applying the period of authorized stay for P-1 nonimmigrant individual athletes. See [Appendix 33-2](#). In addition, USCIS has issued field guidance establishing procedures for applying the period of authorized stay of P-1S nonimmigrant individual athletes' essential support personnel. See [Appendix 33-3](#).

Note 2: Petitions filed for hockey players or baseball players as P-1s must be filed and adjudicated at the Vermont Service Center.

2. The *AFM Transmittal Memoranda* button is revised by adding, in numerical order, a new entry to read:

AD11-03 [date memo signed]	Chapter 33.5(a)	This memorandum revises AFM Chapter 33.5(a) to provide guidance for processing and adjudicating Form I-129, Petition for Nonimmigrant Worker, filed on behalf of P nonimmigrants.
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Use

This Policy Memorandum is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

Questions or suggestions regarding this PM should be addressed through appropriate channels to the Business Employment Services Team in the Service Center Operations Directorate.