



December 31, 2011

PM-602-0053

## Policy Memorandum

SUBJECT: Clarifying Guidance on Definition of Internationally Recognized for the P-1 Classification; Revisions to *Adjudicator's Field Manual (AFM)* Chapter 33.5(a); *AFM* Update AD11-03

### Purpose

This policy memorandum (PM) provides guidance for processing and adjudicating Forms I-129, Petition for Nonimmigrant Worker, filed on behalf of P-1B 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” and provides corresponding updates to the *AFM*.

This PM also includes updates to the *AFM* with respect to P-1A athletes and the general process regarding petitions filed on behalf of P-1 non-immigrants.

### Scope

This PM applies to all USCIS employees.

### Authority

Immigration and Nationality Act (INA) § 101(a)(15)(P); INA § 214(c)(4)(B); 8 CFR 214.2(p)

### Background

On June 29, 1993, the legacy Immigration and Naturalization Service issued the memorandum, “*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-1B petitions for individual entertainers coming to the United States to join U.S.-based entertainment groups.

### Policy

This PM revises past policy guidance and provides clarification regarding the interpretation of “internationally recognized” for entertainment groups petitioning for an individual entertainer. The P-1B classification should not be limited to individual entertainers coming to the United States to join only foreign-based entertainment groups. Rather, as the regulation at **8 CFR 214.2(p)(3)** focuses on whether the group is “internationally recognized,” which is

defined as “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,” the P-1B classification should include individual entertainers coming to the United States to join U.S. based internationally recognized entertainment groups.<sup>1</sup>

### **Implementation**

The *AFM* is revised as follows.

☞ 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 with an internationally recognized reputation or a member of an athletic group or team that is internationally recognized. The athlete or team must be coming to the United States to participate in an athletic competition which has a distinguished reputation and which requires participation of an athlete or athletic team that has an international reputation. Individual athletes who are internationally recognized may also be coming to the United States to join a U.S.-based team. 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: (i) members of an internationally-recognized entertainment group coming to the United States; and (ii) an individual coming to the United States to join, as a member, 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 the group as a unit. 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

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<sup>1</sup> The interpretation in this PM that an individual performer may be eligible for P-1B classification to come to the United States to join a U.S.-based internationally recognized entertainment group does not in any way alter the existing requirements, set forth in the regulations and form instructions, for an essential support worker seeking to come to the United States as a P-1S.

with the group for at least one year. The P-1B nonimmigrant classification is not appropriate for an individual performing as a solo entertainer.

A P-1 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 aliens joining a circus or circus group that has been recognized nationally as outstanding for a sustained and substantial period of time;
- A waiver of the international recognition requirement, in consideration of special circumstances, for some entertainment groups recognized nationally as being outstanding in its discipline for a sustained and substantial period of time; 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 to file for a change of employer or to add an employer, 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 the State where the petitioner is located.

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 (please see "[Requirements for Agents and Sponsors Filing as Petitioners for the O and P Visa Classifications](#)").

**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 Major League Sports Organizations as P-1s must be filed and adjudicated at the Vermont Service Center. Major League Sports include all major league athletes, minor league sports, and any affiliates associated with the major leagues including, but not limited to baseball, hockey, soccer, basketball, and football.

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

AD11-03 12/31/2011	<b>Chapter 33.5(a)</b>	This PM revises <i>AFM</i> 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 PM 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.