

O&P VISAS
for

*Entertainers,
Artists & Athletes*

How Foreign Talent Can Work In the U.S.



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How Foreign Talent Can Work In the U.S.

To work or perform in the U.S. for remuneration, most foreign national talent must obtain an O or P visa, and comply with a complex set of immigration laws. DW's immigration attorneys in twelve offices across North America regularly provide advice to artists, entertainers and athletes as well as the organizations seeking to employ them. Arts and entertainment includes a wide array of creative endeavors - everything from performing and fine arts to visual and culinary arts.

Foreign talent cannot self-petition and must have a U.S. employer, sponsoring organization, or agent (or a foreign employer through a U.S. agent). All petitioners must have a U.S. FEIN (Federal Employer Identification Number) and be doing business in the U.S.

O-1B: ARTISTS, ENTERTAINERS AND ATHLETES

An O-1B visa is for persons with "extraordinary ability in the arts or athletics demonstrated by "sustained national or international acclaim." For O-1Bs, "extraordinary ability" means the applicant must demonstrate distinction which is defined as a high level of achievement in the field of arts evidenced by a degree of skill and recognition substantially above that ordinarily encountered. An O-2 visa is available for essential support personnel such as a director of photography, team of animators, or cast and film production team.

Among other requirements, an O-1B artist needs to have won (or have been nominated for) a significant award (such as an Academy Award or Grammy) or **three** of the following:

- A lead in a production with a distinguished reputation
- A lead for an organization with a distinguished reputation
- Received in the past, and continues to command, a high salary
- If the above categories do not readily apply, other comparable evidence
- Critical reviews in publications such as news or trade journals
- Record of major commercial or critically acclaimed success
- Significant recognition from organizations, critics, government agencies or recognized experts in the field

An advisory opinion from a union or management describing achievements in the field may be required by the USCIS.

P-1A VISAS FOR INTERNATIONALLY RECOGNIZED ATHLETES

The P-1A classification is available to perform at a specific athletic competition, individually or as part of a group or team at an internationally recognized level of performance. To qualify as a P-1A, at least **two** of the following must be shown (among other requirements):

- Participation in a prior season with a major U.S. sports league
- A written statement from an official of a major U.S. sports league or an official of the governing body of the sport which details how the athlete or team is internationally recognized
- Evidence that the athlete or team is ranked, if the sport has international rankings
- Participation in international competition with a national team
- A written statement from members of the sports media or a recognized expert in the sport which details how the athlete or team is internationally recognized
- Evidence that the athlete or team has received a significant honor or award in the sport

A P-2 is available for essential support personnel such as coaches, etc.

P-1B: MEMBER OF AN INTERNATIONALLY RECOGNIZED ENTERTAINMENT GROUP

A P-1B is for members of entertainment groups that are recognized internationally as outstanding in the discipline for a sustained and substantial period of time. Among other requirements, at least 75% of the members of the group must have had a substantial and sustained professional relationship for one year.

P-3: ARTIST OR ENTERTAINER PART OF A CULTURALLY UNIQUE PROGRAM

A P-3 visa can be used to perform or teach as artists or entertainers, individually or as part of a group, under a program that is culturally unique such as ethnic, folk, cultural, musical, theatrical or cultural events.

While there may be challenges to proving international or renowned status, artists, entertainers and athletes interested in performing or working in the U.S. would be well-served by contacting members of Dickinson Wright's immigration team to assist them in navigating the world of O and P visas.

FOR MORE INFORMATION, PLEASE CONTACT ONE OF DICKINSON WRIGHT'S TALENTED IMMIGRATION LEADERS:

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