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Sports Immigration in the United States

This article has been created for www.SportVisaAmerica.com, a website produced by P. Christopher Jaensch and Jaensch Immigration Law Firm.

I am an immigration lawyer whose practice is centered on Sports Immigration into the United States. My firm is based in Sarasota, Florida. Our main website is: www.VisaAmerica.com. I represent clients involved in all aspects of sports-related immigration, sports visas and green cards for athletes.

Few American states can match Florida in terms of the numbers of foreign-born athletes and coaches who live, train and work here. This article describes the sports immigration options for the most common types of cases that I see in Florida.

Because immigration law is based on federal and not state law, the same rules apply all over the United States. The strategy options presented here can be used in any American state.

This article assumes that the reader has an understanding of the basic rules of U.S. immigration law. Specifically, there are two main ways to live in the U.S.: Immigrant Visas (also called permanent residence or “green cards”) and Nonimmigrant Visas (also called “temporary visas”).

For more information on the basic rules for immigrating to the United States, please see the article, [How Can I Live and Work in the U.S.?](#)

The sports immigration clients who come see me generally fall into the following categories:

1. Amateur athletes (under age 18)
2. Athletes making a transition from amateur or collegiate level (usually ages 18 to 22)
3. Professional athletes
4. Coaches and other workers who support athletes
5. Parents of athletes training or competing in the U.S.

Each of these categories is addressed in the sections below.



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1. AMATEUR ATHLETES (UNDER AGE 18)

There are many sports training academies in the U.S. that cater to foreign-born amateur athletes under the age of 18 (particularly tennis and golf athletes).

A few examples in Florida are: *IMG Academies* in Bradenton (www.imgacademies.com), *Guizar Tennis Academy* in Orlando (www.guizartennisacademy.com), *Evert Tennis Academy* in Boca Raton (www.evertacademy.com), and *Eagleton/Ferreira Tennis Academy* on Longboat Key near Sarasota (www.eftennis.com).

I have seen other academies in other states that focus on basketball, hockey, soccer, baseball and many other sports.

International amateur athletes generally fall into two groups:

a. Amateur Athletes Seeking Short Term Training or Tournament Participation:

Amateur athletes who want to attend short term training courses or summer programs can come to the U.S. as visitors. This is also true for amateur athletes who live outside the U.S. and want to come to compete in amateur tournaments or competitions.

If the amateur athlete comes from a country that participates in the visa waiver program (most of Western Europe and Japan), then he or she can come to the U.S. for up to 90 days without a visa to receive short term training in the U.S. or participate in tournaments. If the visa waiver is not available, the athlete must apply for a B-1/B-2 Visitor Visa from the U.S. consulate in his or her country of residence. This visa would allow the athlete to stay in the U.S. up to 180 days.

U.S. consulates in certain countries, such as Russia, Venezuela, and China, can often be strict on issuing B-1/B-2 Visitors Visas. The consulate fears that the visa recipient will come to the U.S. and never leave. To overcome this problem, it is a good idea for the athlete or his or her parents to be able to show the following at the visa interview:

- Pre-arranged training with a well-established training academy or pre-registration for one or more tournaments
- Proof that the athlete continues to have a residence abroad
- Proof that the athlete and/or his parents continue to be employed in the home country and have a reason to return
- Proof that the athlete has a source of money to pay for living and training expenses in the U.S.



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The athlete should also be prepared to explain why the training or competition in the U.S. is necessary for the athlete's development and cannot be duplicated in the home country.

b. Long Term Training/Competition Over 6 Months (the F-1 Visa or P-1 Visa)

Amateur athletes under 18 who want to receive long term sports training over six months often must come to the U.S. using an F-1 Student Visa. Usually, the sports training academy has an arrangement with a private school. The athlete must attend the private school in the morning (or some other time during the day) and can train in the sport when not in school.

To apply for an F-1 Student Visa, the athlete must be accepted by a school authorized to accept foreign students. The school will issue an immigration form called the "I-20" if the athlete can show that he or she has the ability to pay for private school education.

Education usually must take place in private school rather than in public school, because immigration laws permit issuance of F-1 visas to students under 18 to attend public school only for 12 months. An F-1 visa will not be issued for students who receive home schooling or study through the internet. The athlete must take the I-20 form to the U.S. consulate in his or her country of residence to obtain the F-1 visa. My law firm can assist with this process.

Often, the consulate will want to see the evidence that the student and his or her family maintain ties to their home country to ensure that the student will leave the U.S. once his or her study is complete. The consulate also will want to see that the athlete has money to pay for school and living expenses and has a reason to return to the home country.

It can sometimes be difficult for parents to get permission to live with the athlete in the U.S. while the athlete has an F-1 visa, even when the student athlete is under age 18. This issue is addressed in section 5 below.

Instead of an F-1 Student Visa, some amateur athletes and teams can qualify for a P-1 visa. To qualify as an individual, the athlete must show that he or she has achieved "international recognition." The government has a list of criteria for showing international recognition in sport, but several of these do not apply to amateur athletes.

The government has a list of six criteria for showing international recognition and the amateur athlete or team must meet at least two of these six criteria. The six criteria are listed below. I have underlined the criteria that are most commonly used by amateur athletes and teams:



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- Evidence of having participated to a significant extent in a prior season with a major United States sports league;
- Evidence of having participated in international competition with a national team;
- Evidence of having participated to a significant extent in a prior season for a U.S. college or university in intercollegiate competition;
- A written statement from an official of the governing body of the sport which details how the alien or team is internationally recognized;
- A written statement from a member of the sports media or a recognized expert in the sport which details how the alien or team is internationally recognized;
- Evidence that the individual or team is ranked if the sport has international rankings; or
- Evidence that the alien or team has received a significant honor or award in the sport.

The amateur athlete or team must have a sponsor in the U.S. who is willing to submit the P-1 visa petition on the athlete's behalf. The sponsor should not be an agent or employer. It should be an organization and not a private person. The sponsor must provide written confirmation in the P-1 visa petition that it organization that it will assume the responsibility for the accuracy of the terms and conditions specified in the P-1 petition. My firm has developed some innovative strategies for finding an organization willing to serve as P-1 sponsor.

An approved P-1 petition for an individual athlete can be valid for a period up to 5 years, but usually will be issued only for the duration of the event, season, or tournament schedule. An approved petition for an athletic team can be valid for a period of time determined by the government that is necessary to complete the competition or event for which the alien team is being admitted, not to exceed 1 year.

Amateur athletes and teams with approved P-1 petitions can get P-1S visas for international workers who are essential to their athletic performance. This can include coaches, trainers and potentially anyone else who is essential to the athlete.



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2. ATHLETES MAKING A TRANSITION FROM AMATEUR OR COLLEGIATE LEVEL (USUALLY AGES 18 TO 22)

I see two common situations for this age group: international athletes over the age of 18 who want to continue training and competing in the U.S. in order to qualify for a professional tour or sports contract and international athletes who have graduated from U.S. universities and want to continue living and working in the U.S.

a. Athletes Over 18 Who Want to Complete Professionally

The problem for this group is that an athlete who is over the age of 18 and wants to compete professionally is usually no longer attending school. Therefore, the athlete can no longer qualify for an F-1 Student Visa. At the same time, the athlete often has not had enough success to easily qualify for a P-1 visa as a professional athlete.

Before the athlete qualifies for a professional tour or contract, his or her options are limited.

The athlete can come to the U.S. to train or participate in tournaments or competitions using a visa waiver (if he or she comes from a visa waiver country) or by using a B-1/B-2 Visitor visa.

If using a visa waiver, the athlete can be admitted for up to 90 days per trip. A border officer often may permit the athlete to re-enter the U.S. for several consecutive 90 day periods, but there is never a guarantee that this will be permitted. It is not possible to extend the 90 day waiver period from within the U.S.

If the athlete applies for a B visa, then he or she must explain clearly to the home consulate what he or she intends to do while in the U.S. If the athlete is coming solely to train or practice with a coach for international competition outside the U.S., then the athlete can seek a B-2 Visitor visa (visitor for pleasure) for the purpose of completing a "short course of vocational training." If the athlete is coming to compete in professional tournaments or competitions inside the U.S., then the athlete can seek a B-1 Visitor visa (visitor for business). This B-1 visa is available for professional athletes coming to compete in the U.S.

An athlete who is admitted on a B-2 Visitor visa will usually be admitted for six months. An athlete who is admitted on a B-1 Visitor visa will often be asked how long he or she needs to be in the U.S. to complete the competition and will be admitted only until that date. But, the athlete can sometimes be admitted in B-1 status for six months.



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Once in the U.S. in B-1 or B-2 status, then it is possible to request an extension of status for another six months without leaving the U.S.

In some cases, the young or pre-professional athlete can qualify for a P-1 visa as an internationally recognized athlete. This visa will permit the athlete to live and work in the U.S. full time for up to five years. As the name suggests, this visa is issued to individual athletes who want to come to the U.S. to compete.

To qualify for the P-1 visa, the athlete must show that he or she has achieved international recognition. The government has a list of six criteria for showing international recognition and the athlete must meet at least two of these six criteria.

The six P-1 criteria are listed below. I have underlined the criteria that are most commonly used by young athletes over the age of 18 who want to compete professionally:

- Evidence of having participated to a significant extent in a prior season with a major United States sports league;
- Evidence of having participated in international competition with a national team;
- Evidence of having participated to a significant extent in a prior season for a U.S. college or university in intercollegiate competition;
- A written statement from an official of the governing body of the sport which details how the alien or team is internationally recognized;
- A written statement from a member of the sports media or a recognized expert in the sport which details how the alien or team is internationally recognized;
- Evidence that the individual or team is ranked if the sport has international rankings; or
- Evidence that the alien or team has received a significant honor or award in the sport.

The more challenging part of the P-1 visa for athletes in this age group is the requirement that the visa application must be submitted by an *employer* or an *agent*. My firm has developed some innovative strategies for finding an employer or agent willing to serve as a P-1 visa sponsor. These can be explained in a consultation.

Once the athlete qualifies for a professional tour or signs a sports contract, then the athlete should not have a problem qualifying for a P-1 visa or even an O-1 visa as an extraordinary ability athlete. Information about options for professional athletes has been provided below.



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b. Recent Graduates from U.S. Universities

Recent foreign graduates from U.S. universities usually qualify for Optional Practical Training (OPT), which permits them to live and work in the U.S. for up to 12 months following graduation. After OPT expires, however, many of these athletes have been in the U.S. for years, speak perfect English, and are not ready to return home.

Some athletes who competed at the university level are able to compete at the professional level. But many others athletes end their competitive career with university graduation.

There are many immigration options for these athletes, but the right temporary visa or green card option depends on the personal situation of the athlete.

For example, there are several temporary visas that we can consider for university graduates who want to work in the U.S. following completion of OPT. We have provided a list below of some temporary visas that permit employment. I often see that athletes want to start to coach or instruct other athletes. Some of the visas below can be used to make a transition into coaching.

Temporary visas that may permit employment of former collegiate athletes include:

- H-1B visa for workers in specialty occupations. This visa is issued for up to three years and is renewable for three-years. The visa will permit the athlete to work for an American company in a position that normally requires a university degree. Sometimes this visa will work for an athlete who wants to work as a coach, but not always. It depends on whether the employer normally hires coaches with university degrees. This visa is very popular and the government normally used up the available H-1B visas before the end of its fiscal year.
- J-1 visa for participants in exchange programs. This visa is issued for up to 18 months and will permit the athlete to complete a training internship with an American company.
- O-1 visa for aliens with extraordinary ability. This visa is issued for up to three years. To qualify, the athlete must show he or she has received sustained national or international acclaim and recognition for achievement in the sport and that the athlete has at least three criteria out of a list of eight (the criteria include receipt of awards and prizes, news articles about the athlete, etc.). For recent university graduates, this visa can be difficult to get, because the athlete has not achieved enough in the sport. But, occasionally it is an option.
- P-1 visa for internationally recognized athletes. This visa is issued for up to five years. Our firm has developed an innovative strategy that can enable a competitive athlete to make the transition to coaching on a P-1 visa. Also, a recent change to the P-1 rules allows athletes in some sports (not tennis or golf) to work as coaches on P-1 visas.



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- P-3 visa for culturally unique performers/Q-1 visa for participants in cultural exchange programs. If the athlete participates in a sport in which his or her country or culture is particularly skilled, then the athlete can sometimes qualify for a P-3 or Q-1 visa to teach that sport in the U.S. For example, a Brazilian soccer player who understands the techniques that are unique to Brazilian soccer might qualify for a P-3 or Q-1 visa to teach Brazilian-style soccer in the U.S. The P-3 is a 12 month visa that is renewable every 12 months. The Q-1 visa is valid one time for 15 months.

Some university graduates want to work in the U.S. following OPT, but they do not want to work for someone else or they cannot find an American company willing to serve as an employer or sponsor. When this happens, it is sometimes possible for us to make a temporary visa application that permits the athlete to work for his or her own business. The best visa for this is the E-2 Investor Visa, which is available only to athletes whose country of citizenship has an investment treaty with the U.S. More information about this option can be provided on request.

Finally, some university graduates are able to stay in the U.S. permanently through marriage to a U.S. citizen. After four or more years at an American university, it is not uncommon for an athlete to be in a serious relationship. If the athlete marries a U.S. citizen or permanent resident, then he or she can qualify for a green card to live in the U.S. permanently.

The application process is different, depending on whether the athlete marries a U.S. citizen or permanent resident. But often, the green card application and issuance process can be completed in the U.S. Processing can take a year or less. While the case is pending, the athlete can usually qualify for a temporary employment authorization document and advance parole document that permits international travel.



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3. PROFESSIONAL ATHLETES

a. Temporary Visas for Professional Athletes (B-1, P-1 and O-1 Visas)

Professional athletes can come to the U.S. to participate in tournaments or competitions using a visa waiver (if he or she comes from a visa waiver country) or by using a B-1/B-2 Visitor visa.

If using a visa waiver, the athlete can be admitted for up to 90 days per trip. A border officer often may permit the athlete to re-enter the U.S. for several consecutive 90 day periods, but there is never a guarantee that this will be permitted. It is not possible to extend the 90 day waiver period from within the U.S.

If the professional athlete does not come from a visa waiver country, then the professional athlete can seek a B-1 Visitor visa (visitor for business). This B-1 visa is available for professional athletes coming to compete in the U.S.

A professional athlete who is in the U.S. on a visa waiver or B-1 visa cannot earn money in the U.S. other than prize money from tournaments. The professional athlete is expected to have a residence outside the U.S. that he or she will return to after the competition is complete. This visa is not appropriate if the athlete wants to live in the U.S. full time.

Professional athletes who want to live in the U.S. full time (or earn income other than prize money) generally must qualify for either the P-1 visa for athletes who have achieved international recognition or the O-1 visa for aliens with extraordinary ability.

In either case, the professional athlete's visa application must be sponsored by an employer or agent. My firm has developed innovative techniques for athletes who are traditionally self-employed, such as tennis or golf athletes.

The P-1 visa is usually easier for a professional athlete to qualify for. It will be issued for the length of the season or contract up to five years. The visa is renewable.

The government has a list of six criteria for showing international recognition and the athlete must meet at least two of these six criteria.

The six P-1 criteria are listed below:



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- Evidence of having participated to a significant extent in a prior season with a major United States sports league;
- Evidence of having participated in international competition with a national team;
- Evidence of having participated to a significant extent in a prior season for a U.S. college or university in intercollegiate competition;
- A written statement from an official of the governing body of the sport which details how the alien or team is internationally recognized;
- A written statement from a member of the sports media or a recognized expert in the sport which details how the alien or team is internationally recognized;
- Evidence that the individual or team is ranked if the sport has international rankings; or
- Evidence that the alien or team has received a significant honor or award in the sport.

Further information about the P-1 visa requirements can be provided on request.

The O-1 visa for aliens with extraordinary ability is more difficult to obtain than a P-1 visa for athletes with international recognition, but the requirements for the O-1 are similar to a green card. If the athlete thinks that he or she may possibly want a green card sometime in the future, then it is not a bad idea to start with an O-1 rather than a P-1 visa. Also, the O-1 visa often will give the professional athlete the option of earning more from outside activity and not just sports competition (e.g. television appearances or commentary). The O-1 visa is usually issued for the length of a season or a contract up to three years. The visa is renewable.

The government has a list of eight criteria for showing extraordinary ability in athletics in order to qualify for the O-1 visa and the athlete must meet at least three of these eight criteria.

The eight O-1 criteria are listed below:

- Documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
- Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields
- Published material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation;
- Evidence of the alien's participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought;



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- Evidence of the alien's original scientific, scholarly, or business-related contributions of major significance in the field;
- Evidence of the alien's authorship of scholarly articles in the field, in professional journals, or other major media;
- Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation;
- Evidence that the alien has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence.

Further information about the O-1 visa requirements can be provided on request.

b. Permanent Residence for Professional Athletes

There are a number of options for professional athletes who want to live in the U.S. permanently.

- EB-1 alien with extraordinary ability. This can be a self-petition, no employer is required.
- EB-2 alien with exceptional abilities in the arts, sciences or business WITH a national interest waiver. The USCIS has stated that the “arts” include athletics. This can be a self-petition, no employer is required.
- EB-2 alien with exceptional ability or advanced degreed professional WITH pre-certification under Schedule A Group II (exceptional ability in the arts and sciences). The USCIS has stated that the “arts” include athletics.
- EB-2 alien with exceptional ability in the arts, sciences or business or advanced degreed professionals. The USCIS has stated that the “arts” include athletics.
- EB-3 skilled or professional worker. An athlete or coach can be viewed as a skilled or professional position.

For all but the first two options, an employer/sponsor and permanent job offer is required. In the last three options, the athlete and employer must complete a process called PERM labor certification, which can take 6 to 9 months.



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4. COACHES AND OTHER WORKERS WHO SUPPORT ATHLETES

There are many immigration options for coaches and other workers who support athletes, such as trainers, mental conditioning consultants, movement specialists, nutritional advisors, etc.

- H-1B visa for workers in specialty occupations. This visa is issued for up to three years and is renewable for a second three-year period. The visa will permit the athlete to work for an American company in a position that normally requires a university degree. Sometimes this visa will work for an athlete who wants to work as a coach or instructor, but not always.
- O-1 visa for aliens with extraordinary ability. This visa is issued for up to three years. To qualify, the coach must show he or she has received sustained national or international acclaim and recognition for achievement as a coach. Usually it is not enough for a coach to show extraordinary ability as an athlete, the coach must show extraordinary ability as a coach.
- O-1 visa for aliens with extraordinary ability. This visa is issued for up to three years. To qualify, the coach must show he or she has received sustained national or international acclaim and recognition for achievement as a coach. Usually it is not enough for a coach to show extraordinary ability as an athlete, the coach must show extraordinary ability as a coach.
- O-2 accompanying alien visa. This visa can be issued to a person who will assist the athletic performance of O-1 alien, such as a coach.
- P-1 visa for internationally recognized athletes. This visa is issued for up to five years. It permits internationally recognized athletes to compete in their sport in the U.S.
- P-1S essential support worker. This visa can be issued to a person who will assist the athletic performance of a P-1 alien, such as a coach.
- P-3 visa for culturally unique performers/Q-1 visa for participates in cultural exchange programs. If the coach instructs athletes in a sport in which his or her country or culture is particularly renowned, then the coach can sometimes qualify for a P-3 or Q-1 visa to teach that sport in the U.S. For example, a Brazilian soccer player who knows techniques that are unique to Brazilian soccer might qualify for a P-3 visa to teach Brazilian-style soccer in the U.S. The P-3 visa is valid up to 1 year and is renewable. The Q-1 visa is valid one time for 15 months.



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5. PARENTS OF ATHLETES TRAINING OR COMPETING IN THE U.S.

Younger athletes often qualify for F-1 Student Visas while training for extended periods at sports academies in the U.S. or qualify for P-1 Visas if they attain international recognition in the sport. But, this does not entitle the parents to qualify for a visa to live in the U.S. with their children.

For parents, we often suggest the following options:

- If athlete has F-1 Student Visa, then parent can enter on visa waiver and/or B-2 Visitor Visa as long as the parent can show a residence and continuing ties abroad.
- If the athlete has an O-1 or P-1 visa, then the parent can possibly seek an O-2 or P-1S visa if the parent can show he or she is essential to the athlete's performance (possibly as a traveling or wellness coach).
- The parent can qualify for a temporary visa on his or her own, such as an E-2 Treaty Investor visa, if the parent invests money in a business; or an H-1B work visa, if the parent has a U.S. employer willing to employ him or her.
- The parent can become a student and seek an F-1 Student Visa to study at least 12 hours per week.