

Individual Athletes and How to Qualify to Work in the U.S.



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Trying to grow and develop as an athlete is challenging in so many ways — and no one wants to be limited in how, where or whether they can participate in their sport internationally.

When an athlete is playing with a team, obtaining status to work in the United States can be fairly straightforward. But internationally recognized individual athletes have unique challenges to overcome, including:

1. The athlete must be coming to the United States to participate in a specific athletic competition in a sport in which he or she is internationally recognized. The athlete's international recognition can be proven by things such as showing participation in competitions where other international athletes have participated or placed, international ranking on recognized or prominent lists of athletes in the sport or through press published and/or circulated internationally speaking to the athlete's achievements in their sport.
2. The athlete must have a "high level of achievement" in his or her sport, demonstrated by a degree of skill and recognition substantially above that ordinarily encountered. Again, this can be shown by the same evidence described above, as well as awards received, prize money won, contracts for sponsorships or engagements with

prominent employers in the field (e.g., for equestrians, that they are being engaged to represent famous stables run by well-known equestrian athletes).

3. Importantly, the athlete's achievement must be renowned, leading or well-known in more than one country. My favourite way to show this is by showing that athletes have participated in competitions for their country, at worldwide events. But lesser evidence of placing in international competitions outside their home country can also help athletes to meet this requirement.

4. Finally, the competition(s) in which the athlete plans or desires to participate must "have a distinguished reputation, and be at an internationally recognized level of performance such that [they] require the participation of an internationally recognized athlete." This one can be tricky, as most competitions do not "require" but rather "desire" the participation of international athletes. Showing that the competition bills itself as an international competition, is prominent in the sport worldwide or is a qualifying competition for higher-level competition can work to meet this requirement. Also, by analyzing past winners and showing their prominence in the field of competition and their foreign citizenship, you can demonstrate that the competition is at an internationally recognized level of performance and "requires" the participation of international athletes to maintain its relevance. Likely the easiest evidence to obtain to demonstrate the international notoriety and distinguishment of the competition or event would be press in major media, though.

If your prominence in your sport doesn't rise to the level described above, you may still be able to work in the United States as an "amateur athlete." This qualification category has different standards and requirements than internationally recognized individual athletes, and can be a fallback option for lesser-known or lower-achieving athletes. Amateur athletes utilizing this category must be coming to the United States as part of a team or franchise that is located in the United States that is a member of a foreign league or association with at least 15 amateur sports teams as members. Also, the qualifying league or association in the foreign country must be the highest level of amateur performance of that sport in the applicant's country, and you have to be able to demonstrate that participation in the league or association makes the athlete ineligible under NCAA rules to earn a scholarship in the sport at a U.S. college or university, or participate in the sport at a U.S. college or university. These are limiting factors that can make applying for status as an amateur athlete deeply unappealing to young athletes hoping to use their talent to gain affordable access to a U.S. education.

Lastly, amateur athletes have to be able to demonstrate that a significant number of the individuals who play in the league or association with which they plan to participate are drafted by a major sports league or a minor league affiliate.

Coming to the United States as a young or independent athlete certainly requires jumping through some serious hoops, but many athletes feel that it is worth the effort in order to grow and develop past the level of professional development available to them in their home country or elsewhere abroad. The United States is a vast landscape of opportunity for athletes, and with an inherently competitive culture and strong sports fandom, it has cultivated leagues and a competitive landscape unmatched by many other countries worldwide.

If you would like more information on whether you qualify to participate in international competitions in the U.S., or whether work authorization is needed, our Immigration Practice Team at Lippes Mathias LLP stands ready to assist. Please contact Elizabeth M. Klarin (eklarin@lippes.com) or Eileen M. Martin (emartin@lippes.com) with any questions.

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