



# Questions and Answers

## National Hockey League (NHL) and Vermont Service Center Meeting June 27, 2014

### Overview

The National Hockey League (NHL) requested USCIS to hold a teleconference during its annual conference. During that teleconference, NHL counsel posed several questions to USCIS. The question and answers are provided below for the benefit of interested stakeholders.

In order to avoid repetition in the answers, USCIS notes that it stated several times that each petition must establish visa eligibility on its own merits. The Vermont Service Center (VSC) does not maintain a central document depository for O and P nonimmigrant visa petitions. If there is information that is helpful for understanding the case, then it should be included when the petition is filed.

### Questions and Answers

- 1. Staffing: Please let us know of any recent staffing changes at VSC and any anticipated staffing changes. Will any of these impact NHL cases?**

**Response:** Like any large organization, people leave and join the Vermont Service Center (VSC) all the time. At this time, the VSC does not anticipate any staffing changes that will impact O and P visa application filings, including NHL filings.

- 2. Does the VSC have a “sports” unit or would it consider creating one to build institutional knowledge based on the O and P visas for athletes? Does it have or would it consider creating a hockey unit?**

**Response:** VSC has a dedicated group of officers assigned to the O and P petition workload, but not specifically to sports visas. Given the processing time goal of 14 days, we need to ensure we have flexibility and resources to adjudicate these cases should the need arise. While the VSC is currently processing the O and P petitions within USCIS’s targeted 14-day processing timeframe, we cannot guarantee this processing time, but we do monitor it closely and strive to meet that goal.

- 3. NHL described rules governing contracts in trade situations and when “free assignability” clauses of the Standard Player’s Contract (SPC) are utilized. The contract with the old team goes to the new team with no new contract being executed.**

**Response:** It may be helpful to indicate that this is a trade situation and then explain how the particular trade worked, and reference any relevant portions of the Collective Bargaining Agreement (CBA).

- 4. Does the VSC require entire contracts to be filed or will it accept initial pages naming parties and the salary with the final signatory page?**

**Response:** The VSC will accept evidence that satisfies the P regulations, which require that a contract explain the terms and conditions of the employment or services. The contract shall also: describe the services to be performed, specify the wage offered, hours of work, working conditions and any fringe benefits.

- 5. Proof of Trade: What is the preferred evidence, e.g. a Standard Assignment Agreement between two teams, a statement of trade in team letter and/or a press release?**

**Response:** USCIS does not require a specific type of evidence. The Standard Assignment Agreement between two teams, statement of trade in team letter and/or press release could be examples of a trade. However, evidence is not limited to these documents. As always, the petitioner bears the burden of establishing eligibility for the benefit being sought.

- 6. NHL described the rules governing contract slides and evidence of same. The CBA provides that in certain situations where a rookie does not play in 10 games, the SPC “slides” and is automatically extended for an additional year. The effect is that the player could have a contract expiring this year on its face, which is valid for another year.**

**Response:** It may be helpful in these situations to explain in the cover letter that this is a “slide,” and that there will not be a new contract executed. It is also helpful to indicate how many games the player played during his rookie year to document that he is eligible for the slide, and that the contract is automatically extended. Documents explaining how the particular slide worked, including references to the relevant section of the CBA, may be submitted.

- 7. Contract signatures: in the past we have been allowed to submit contracts with only the club’s signature. Is this still acceptable, or are we now required to have both parties’ signatures on the contract?**

**Response:** It is acceptable to submit contracts with only the club’s signature; however, as explained previously, it is always helpful for the submission to explain why certain documents are being presented.

- 8. Waivers: NHL explained waivers and how it works when someone is claimed off waivers and then either (i) assigned to a new club, or (ii) assigned to the new club’s affiliate.**

**Response:** It is always helpful for the submission to explain for the meaning of and the purpose for which certain documents are being presented.

9. **P-1S petitions: what is the preferred evidence of the presence of P-1A athletes? In the past, teams have provided a list of all P-1A athletes with EAC numbers. Recent RFEs have requested copies of all I-797 notices for P-1A players. If I-797 notices are required, can a small sample of one to five be provided with a comprehensive list of all P-1A players?**

**Response:** As always, the petitioner bears the burden of establishing eligibility for the benefit being sought. USCIS does not require a specific kind of evidence to be submitted. The VSC does not need to see all Form I-797 notices for athletes with P-1A status on a specific team, but the record must establish that there is a P-1A which requires the P-1S support services.

10. **Confusion concerning RFEs: many teams report seeing RFEs being issued on case extensions that have been approved for as long as 14 years where an RFE had never been issued in the past. Would it be possible to defer to prior adjudications where the underlying facts have not changed? Have there been policy or personnel changes that are triggering this situation?**

**Response:** When the underlying facts have not materially changed and the extension petition involves the same parties, officers are to defer to prior adjudications.

11. **Affiliates: NHL described the NHL affiliates and process for identifying the specific relationships in the future.**

**Response:** The petitioner bears the burden of establishing the affiliate relationship between the major league and the affiliate, which may include an affiliate list and the CBA reference.

12. **Are there expedite procedures to address situations where a U.S. team trades for a Canadian player and requires the services of the new player as soon as possible due to the fact that the U.S. team is short a player during this period?**

**Response:** The VSC will continue to adhere to established practice and policy involving premium processing cases. As in other filings, considerations present in the case are reviewed consistent with current policy and while keeping in mind the needs presented by the petitioner.

13. **Social security card: can you explain the process by which the SSA is able to determine that a person is eligible for a social security number via information provided by the VSC and how long this is expected to take?**

**Response:** The VSC is not involved in the process of providing the Social Security Administration (SSA) with citizenship and/or immigration status of applicants for Social Security numbers. SSA has access to USCIS's Systematic Alien Verification for Entitlements (SAVE) Program, an inter-governmental service that provides immigration status information from records contained in the Department of Homeland Security databases. SAVE helps benefit-granting agencies including SSA confirm the immigration status of benefit applicants. For more information about SSA's process for determining eligibility for Social Security number issuance, please contact SSA directly.

**14. Change of status or extension of status without I-94: In some cases, the player's I-94 cannot be retrieved from the Customs and Border Protection website and there is an urgent need to file a change of status or extension of status. As proof of legal admission, will VSC accept a statement from a petitioner verifying the date of entry and flight number with a copy of the itinerary as proof of legal admission?**

**Response:** The petitioner must submit evidence to establish the beneficiary's entry and maintenance of current status. As with other extensions of stay and change of status applications for other visa categories, the VSC may accept a statement from the petitioner detailing the date of entry and flight number, but USCIS must be able to verify this information through systems checks.

If the VSC is able to verify the information provided:

- For Canadians without I-94 arrival/departure record numbers - the VSC will issue a new I-94 number to the beneficiary.
- All others – the VSC will process under the old I-94 number.

If the VSC is not able to confirm the information:

- It would issue a request for evidence (RFE) for additional information and possibly deny the extension of stay/change of status request if we still are not able to confirm the entry or status.

**15. Is there a specific order the VSC adjudicators want the supporting documentation submitted in?**

**Response:** Below is an example of how the evidence can be organized in the Form I-129 P petition.

- Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative.
- Form I-129, Petition for a Nonimmigrant Worker.
- U.S. employer, U.S. sponsoring organization, or U.S. agent letter of support.
- Tendered contract.
- Explanation of the nature of events and a copy of any itinerary.
- Consultation with appropriate labor organization, or expert/peer in the field where the labor organization does not exist.
- Evidence the petitioner is:
  - A member of a team that is a member of an association of six or more professional sports teams whose total combined revenues exceed \$10,000,000 per year, if the association governs the conduct of its members and regulates the contests and exhibitions in which its member teams regularly engage, or;
  - A member of any minor league team that is affiliated with such an association.
- Evidence of passport, Form I-797, or similar documents.

**16. How can the NHL and NHL teams help the VSC to do their job in the easiest and most efficient manner? For example (i) is there a standard form or list of required documents that can be given to each club to use to expedite the process; (ii) can they provide the VSC with a binder that includes relevant CBA provisions and lex scripta sections, with explanations, in addition to sample contracts that include concepts such as slides, etc., a list of NHL-related jobs that have traditionally qualified as P1-S and more to better expedite the process?**

**Response:** How a petition is presented is really up to the petitioner's best judgment. Any petition must establish eligibility for the benefit sought, resting on the evidence presented. Many petitions include cover letters which provide detailed information on the nature of the submission. Such letters may be useful to adjudicators because they provide an overview of the filing and of the proposed services (or employment). Any information that can be provided on the cover letter or in the filing to help USCIS understand the NHL and how business is conducted is always welcome.

**17. Is the RFE issued on an automated basis, i.e. are certain missing elements in the application flagged and then the RFE is automatically issued?**

**Response:** RFEs are not issued on an automated basis. RFEs are issued only after the evidence provided is reviewed by an officer. The VSC does use a nationally-approved P RFE template. Each officer tailors the RFE template to the case at hand.

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