



Different public policy approaches to skilled immigration

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Keywords:

Skilled Immigration

H-1B Visas

Foreign Professional Athletes

Immigration Policy

Labor Market Impacts.

Received: 24 August 2026

Revised: 23 September 2026

Accepted: 12 October 2026

Published: 23 October 2026

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Abstract

The influx of skilled foreign workers has been considered a necessity for growth. To fill a gap in the supply of skilled workers, Congress created the H-1B visa program. The visas were for three years with an option of renewal to six years. This would allow the H-1B visa holder to seek permanent status either via a green card or citizenship. A second group of skilled immigrants entered with different visa classifications. These were professional athletes. Professional athletes entered using the P-1A visa. Athletes with extraordinary skills received an O-1A visa. The visas allowed foreign professional players both men and women the ability to compete in U.S. professional leagues. Immigration has become controversial with arguments that foreign workers depressed compensation of native workers and that firms hired foreign workers over available native workers. Recent public policy actions have sought to curtail H-1B visas. However, nothing has been proposed to curtail foreign professional athletes who hold a significantly higher percentage of their labor force positions (47.1 %) than H-1B visa recipients have among high tech workers (5.0 %).

1. Introduction

The H-1B program was not without critics. The biggest concern was that the influx of international workers would take positions from skilled native workers and depress salaries. Highly skilled international workers might impede organizational performance through dissent and lack of group cooperation.

The economic concerns about immigration may raise the cost of hiring foreign workers (Wiener-Bronner, 2018).

2. Background

The H-1B visa program allowed international workers to enter the U.S. and fill a gap in the supply of highly skilled and educated workers. The H-1B visa was issued for a three-year term and was renewable with a 6-year maximum. A lottery determined the annual winners of the 85,000 H-1B visas. H-1B visas applications at nonprofits and educational institutions were exempt from the 85,000-visa cap (Carrillo, Kraft, & Kraft, 2025; Roush, 2025). In any given year H-1B visa approvals could reach 400,000 which included renewals, cap approvals (85,000), and non-cap exempt petitions from non-profits (Carrillo et al., 2025; Im, Cahn, & Mukherjee, 2025).

A second group of skilled immigrants entered with different visa classifications. These were professional athletes. Professional athletes entered the U.S. labor force using P-1A (highly skilled) and O-1A (extraordinarily skilled) visas. These visas allowed foreign players both men and women the ability to compete in U.S. professional sports leagues. The professional athletes could receive a visa for one to three years with unlimited one-year extensions. If an athlete holding one of these visas was traded, the visa remained valid.

The debate on entry of foreign workers has centered on displacing native workers and depressing native workers' compensation. Several research studies have provided positive evidence that the entry of highly skilled foreign workers had an overall positive impact on job growth (Card, 1990; Peri, 2016) patents (Dimmock, Huang, & Weisbenner, 2022) entrepreneurship (Tareque, Guzman, & Wang, 2024) innovation (Choudhury & Kim, 2019; Doran & Yoon, 2018) and firm's profits (Doran, Gelber, & Isen, 2022).

Glennon, Morales, Carnahan and Hernandez using individual player data from high level European soccer clubs found the influx of highly skilled foreign athletes had an impact on organizational performance and specifically each additional foreign player improved the club's margin of victory (Glennon, Morales, Carnahan, & Hernández, 2025). Similar outcomes can be expected where an individual's contribution can be measured in number of patents held, publications, or copyrights (Clemens, 2013).

3. Outcomes

The H-1B program achieved significant scale. Approvals in a typical year approached 400,000, most of the approvals were renewals rather than applications for new employment. The stock of H-1B holders in the United States has been estimated at more than 730,000 H-1B visa holders, of whom about 71 percent were born in India and 12 percent in China (Torry, Ettenheim, & Pipe, 2025). Two-thirds of approvals are in computer-related occupations (Torry et al., 2025). Eligible registrations peaked at 758,994 for fiscal 2024, and fell to 470,342 for fiscal 2025 (Torry et al., 2025).

What does the picture look like for highly skilled and extraordinary skilled athletes on P-1A and O-1A visas? Both women and men professional sports leagues were examined to determine the number of women and men international athletes were on their rosters and the percentage of international athletes on each roster. Leagues with similar international counterparts were included in the sample. The women's professional teams were Women's National Basketball Association (WNBA), National Women's Soccer League (NWSL), and the Professional Women's Hockey League and the Women's Pro Baseball League (WPBL). The men's professional teams were the National Basketball Association (NBA), Major League Soccer (MLS), National Hockey League (NHL), and Major League Baseball (MLB). The National Football League (NFL) was not considered since the only similar league outside of the U.S. is the Canadian Football League (CFL). The results of this comparison appear in Table 1.

Table 1. Professional Sports Leagues 2025-2026.

Women	Active Roster Players	Foreign Players	Foreign Player %
WNBA	180	51	28.3%
NWSL	352	78	21.6%
PWHL	200	125	62.5%
WPBL	65	32	49.2%
Total women	797	286	28.6%
Men			
NBA	450	135	30.0%
MLS	874	572	65.4%
NHL	776	571	73.6%
MLB	948	249	26.3%
Total men	3,048	1,527	50.1%
Total	3,845	1,813	47.2%

Source: WNBA, NWSL, PWHL, WPBL, NBA, MLS, NHL, MLB.

Taken together men and women skilled foreign athletes occupied 47.2% of the available roster spots in the U.S. professional sports leagues. While entrance into each league was controlled by a combination of player drafts, international drafts, selected picks and other mechanisms, the numbers continued to grow. The growth of skilled international professional athletes will grow due to both adding more international players per team and due to league expansion. The PWHL added four teams for the 2026-2027 season, and the NBA has committed to expand from 30 teams to 32 teams over the next two years. International players will fill most of these roster spots. Teams want to win and team owners are focused on winning. To accomplish this teams will continue to add skilled foreign athletes. Also, as professional leagues for men and women expand outside of the U.S. and more international athletes play college sports, the professional teams will have better information about the athlete's skill set and their ability to generate wins. The contribution of a professional athlete and their measurable skill set was more visible than an H-1B visa lottery winner. The exception would be an H-1B visa holder who had patents, publications, or copyrights. Nationally H-1B visa holders account for 5.0 % of technology workers with heavy concentrations in select metropolitan areas (Anderson, 2025; Im et al., 2025).

4. Policy Changes Impacting the H-1B Visa Program

On September 19, 2025, the White House proposed a \$100,000 fee that must be paid for each visa application to the lottery (White House, 2025). The payment applied to new petitions, and its stated purpose was to discourage petitions from lower-paid positions and reduce the displacement of native workers. Because the restriction was attached to the petition rather than the numerical cap, it impacted employers previously exempt from the cap, including institutions of higher education and their affiliated nonprofit and research organizations, which for the first time faced a six-figure cost per new hire (Roush, 2025).

Litigation followed and on June 8, 2026, the United States District Court for the District of Massachusetts, vacated the fee, holding it unlawful on constitutional and Administrative Procedure Act grounds (MacIlwaine, Fink, & Goray, 2026; Radnofsky, 2026). The First Circuit denied the government's request for a stay on July 24, 2026, so the fee remained unenforceable while the appeal proceeded.

The Department of Homeland Security responded in August 2026 with a proposed rule imposing a \$103,265 fee under its fee-setting authority. The proposed fee would be payable before adjudication and would exempt hospitals, research institutions, and other nonprofits (Hackman, 2026).

Whatever the eventual legal outcome, the sequence had transmitted a sustained negative signal to prospective applicants abroad and to current H-1B visa holders who sought renewals.

In addition to federal action states have initiated actions with the intent of protecting native workers. On January 2026, Florida paused new H-1B hiring and renewals at its public universities ("Florida moves forward" 2026), and Texas followed with its own pause (Levy, 2026). In August 2026, the Governor of Texas proposed extending the prohibition to public schools (Menchaca, 2026).

The proposed Training and Education for American Members in University Sports and Athletics Act would limit international student athlete participation in college varsity sports teams to 20 % of a team's roster (Mastrangelo, 2026). To date little has been done to restrict the entry of highly skilled foreign professional athletes even though the foreign professional athletes were a larger share of the stock of professional athletes (47.2 %) than H-1B visa holders were in the stock of total employed skilled tech workers (5.0 %) (Anderson, 2025). Professional sports teams break even or even operate at a loss. The most prominent sports teams recruit the most talented players in pursuit of winning titles. Professional teams that employ these players were owned by individuals not shareholders. The owners preferred to maximize team appreciated value not profits.

The skills of professional athletes and their individual contributions were more visible than the contributions made by highly skilled workers on a team within a firm. Professional international athletes' skills were vertically differentiated whereas international workers outside of professional sports had skills that were horizontally differentiated.

Peri and Sparber (2009) these highly skilled foreign workers possessed skills and abilities that allowed their employing organizations to implement different strategies and tactics than their competitors.

5. Policy Implications

Any proposed restrictions on H-1B visas applications created a perverse incentive: in the pursuit of highly skilled talent companies established R&D centers outside the United States where talented international graduates resided and thus offshored U.S. innovation capacity (Collins, Krolik, & Gebeloff, 2025). China launched its K-visa targeting young STEM talent with streamlined pathways (Bhaya, 2025). Germany, the United Kingdom, Canada, and South Korea recruited the talent displaced by the U.S. H-1B visa restrictions (Mariniello & Ruer, 2025). Policies designed to protect native workers may reduce opportunities and offshore future jobs (Startz, 2025).

The asymmetric approach to highly skilled foreign workers remained questionable if protecting jobs of native workers was the objective. Why are highly skilled foreign professional athletes given a pass while their numbers uncapped and they occupy 47.2 % of the professional sports roster slots in the eight major professional sports. H-1B foreign workers in science, medicine and engineering numbers were capped, and these workers were 5.0 % of the U.S. tech workers (Anderson, 2025). If protecting the jobs of native workers was the priority, then public policy has targeted the wrong group.

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