

9 FAM 41.56 ATHLETES, ARTISTS, AND ENTERTAINERS

(a) Requirements for P classification.

(TL:VISA-153; 9-10-96)

An alien shall be classifiable under the provisions of INA 101(a)(15)(P) if:

(1) The consular officer is satisfied that the alien qualifies under the provisions of that section; and *either*:

(2) *With respect to the principal alien, the consular officer has received official evidence of the approval by INS of a petition to accord such classification or the extension by INS of the period of authorized stay in such classification; or*

(3) The consular officer is satisfied the alien is the spouse or child of an alien so classified and is accompanying or following to join the principal alien.

[Amended by 61 FR 1832, Jan. 24, 1996.]

(b) Approval of visa.

(TL:VISA-50; 11-15-91)

The approval of a petition by INS does not establish that the alien is eligible to receive a nonimmigrant visa.*[Added by 57 FR 31446, Jul. 10, 92.]*

(c) Validity of visa.

(TL:VISA-70; 11-15-92)

The period of validity of a visa issued on the basis of paragraph (a) to this section must not exceed the period indicated in the petition, confirmation, or extension of stay required in paragraph (2) of this section.

(d) Alien Not Entitled to P Classification

(TL:VISA-50; 11-15-91)

The consular officer must suspend action on the alien's application and submit a report to the approving INS office if the consular officer knows or has reason to believe that an alien applying for a visa under INA 101(a)(15)(P) is not entitled to the classification as approved.

9 FAM 41.56 Related Statutory Provisions

INA 101(a)(15)(P)

(TL:VISA-70; 11-15-92)

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens—...

(P) an alien having a foreign residence which the alien has no intention of abandoning who-

(i)(a) is described in section 214(c)(4)(A) (relating to athletes), or (b) is described in section 214(c)(4)(B) (relating to entertainment groups;

(ii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or entertainer or with such a group under a reciprocal exchange program which is between an organization or organizations in the United States and an organization or organizations in one or more foreign state and which provides for the temporary exchange of artists and entertainers,

(iii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

(II) seeks to enter the United States temporarily and solely to perform, teach, or coach as such an artist or entertainer or with such a group under a commercial or noncommercial program that is culturally unique; or

(iv) is the spouse or child of an alien described in clause (i), (ii), (iii) and is accompanying, or following to join, the alien.

[Added by sec. 207(A)(3) of Pub. L. 101-649, November 29, 1990. Amended by secs. 203(A), 206(B), 206(c), and 206(D), of Pub. L. 102-232; December 12, 1991.]

INA 214(a)(2)(B)

(TL:VISA-70; 11-15-92)

(B)(i) The period of authorized status as a nonimmigrant described in section 101(a)(15)(P) shall be for such period as the Attorney General may specify in order to provide for the competition, event, or performance for which the nonimmigrant is admitted. In the case of nonimmigrants admitted as individual athletes under section 101(a)(15)(P), the period of authorized status may be for an initial period (not to exceed 5 years) during which the nonimmigrant will perform as an athlete and such period may be extended by the Attorney General for an additional period of up to 5 years.

[Added by Sec. 207(b)(1) of Pub. L. 101-649, November 29, 1990. Amended by sec. 206(A) of Pub. L. 102-232, December 12, 1991.]

INA 214(c), in part

(TL:VISA-70; 11-15-92)

(c)(1) The question of importing any alien as a nonimmigrant under section 101(a)(15)(H), (L), (O), or (P)(i) in any specific case or specific cases shall be determined by the Attorney General, after consultation with appropriate agencies of the Government, upon petition of the importing employer. Such petition shall be made and approved before the visa is granted. The petition shall be in such form and contain such information as the Attorney General shall prescribe. The approval of such petition shall not, of itself, be construed as establishing that the alien is a nonimmigrant...

(4)(A) For the purposes of section 101(a)(15)(P)(i)(a), an alien is described in this subparagraph if the alien—

(i) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, and

(ii) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

(B)(i) For purposes of section 101(a)(15)(P)(i)(b), an alien is described in this subparagraph if the alien—

(l) performs with or is an integral and essential part of the performance of an entertainment group that has (except as provided in clause(ii)) been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time,

(II) in the case of a performer or entertainer, except as provided in clause (iii), has had a sustained and substantial relationship with that group (ordinarily for at least one year) and provides functions integral to the performance of the group, and

(III) seeks to enter the United States temporarily and solely for the purpose of performing as such a performer or entertainer or as an integral and essential part of a performance.

(ii) In the case of an entertainment group that is recognized nationally as being outstanding in its discipline for a sustained and substantial period of time, the Attorney General may, in consideration of special circumstances, waive the international recognition requirement of clause (i)(I).

(iii)(I) The one-year relationship requirement of clause (i)(II) shall not apply to 25 percent of the performers and entertainers in the group.

(II) The Attorney General may waive such one-year relationship requirement for an alien who because of illness or unanticipated and exigent circumstances replaces an essential member of the group and for an alien who augments the group by performing a critical role.

(iv) The requirements of subclauses (I) and (II) of clause (i) shall not apply to alien circus personnel who perform as part of a circus or circus group or who constitute an integral and essential part of the performance of such circus or circus group, but only if such personnel are entering the United States to join a circus that has been recognized nationally as outstanding for a sustained and substantial period of time or as part of such a circus.

(C) A person may petition the Attorney General for classification of an alien as a nonimmigrant under section 101(a)(15)(P).

(D) The Attorney General shall approve petitions under this subsection with respect to nonimmigrants described in clause (i) or (iii) of section 101(a)(15)(P) only after consultation in accordance with paragraph (6).

(E) The Attorney General shall approve petitions under this subsection for nonimmigrants described in section 101(a)(15)(P)(ii) only after consultation with labor organizations representing artists and entertainers in the United States.

(5)....

(B) In the case of an alien who enters the United States in nonimmigrant status under section 101(a)(15)(O) or 101(a)(15)(P) and whose employment terminates for reasons other than voluntary resignations, the employer whose offer of employment formed the basis of such nonimmigrant status and the petitioner are jointly and severally liable for the reasonable cost of return transportation of the alien abroad. The petitioner shall provide assurance satisfactory to the Attorney General that the reasonable cost of that transportation will be provided.

(6)(A)....

(iii) To meet the consultation requirement of paragraph (4)(D) in the case of a petition for a nonimmigrant described in section 101(a)(15)(P)(i) or 101(a)(15)(P)(iii), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the specific field of athletics or entertainment involved.

(B) To meet the consultation requirements of subparagraph (A), unless the petitioner submits with the petition an advisory opinion from an appropriate labor organization, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization within 5 days of the date of receipt of the petition. If there is a collective bargaining representative of an employer's employees in the occupational classification for which the alien is being sought, that representatives shall be the appropriate labor organization.

(C) In those cases in which a petitioner described in subparagraph (A) establishes that an appropriate peer group (including a labor organization) does not exist, the Attorney General shall adjudicate the petition without requiring an advisory opinion....

(E)(i) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant artists or entertainers described in section 101(a)(15)(O) or 101(a)(15)(P) to accommodate the exigencies and scheduling of a given production or event.

(ii) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant athletes described in section 101(a)(15)(O)(i) or 101(a)(15)(P)(i) in the case of emergency circumstances (including trades during a season)....

[Amended and added by sec. 207(b)(2), November 29, 1990. Pub. L. 101-649. Amended by secs. 203(b), 204(3), 204(4), 206(c)(2), 207(a) and 204(6) of Pub. L. 102-232, December 12, 1991.]

INA 214(g), in part

(TL:VISA-153; 9-10-96)

(g)(1) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year (beginning with fiscal year 1992)—...

(C) under section 101(a)(15)(P)(i) or section 101(a)(15)(P)(iii) may not exceed 25,000.

(2) The numerical limitations of paragraph (1) shall only apply to principal aliens and not to the spouses or children of such aliens.

(3) Aliens who are subject to the numerical limitations of paragraph (1) shall be issued visas (or otherwise provided nonimmigrant status) in the order in which petitions are filed for such visas or status.

[Added by Sec. 205(a) of Pub. L. 101-649, November 29, 1990.]

9 FAM 41.56 NOTES

(CT:VISA-763; 08-24-2005)
(Office of Origin: CA/VO/L/R)

9 FAM 41.56 N1 INTRODUCTION

(CT: VISA-668; 12-22-2004)

The P nonimmigrant visa classification was created by the Immigration Act of 1990, Public Law 101-649 of November 29, 1990, specifically to provide for certain athletes, entertainers, and artists who are coming to perform in the United States. Every P-1, P-2, or P-3 alien must be the beneficiary of a petition approved by Department of Homeland Security (DHS) prior to visa issuance.

9 FAM 41.56 N2 DEFINITIONS

(CT: VISA-668; 12-22-2004)

The Department of Homeland Security (DHS) uses the following definitions in adjudicating P petitions:

- (1) "Competition, event, or performance" is an activity such as an athletic competition or season, tournament, tour, exhibit, project, or entertainment event or engagement. Such activity could include short vacations, promotional appearances, and stopovers which are incidental and/or related to the activity. An athletic competition or entertainment event could include an entire season of performances. A group of related activities shall also be considered an event;
- (2) "Culturally unique" is a style of artistic expression, methodology, or medium which is unique to a particular country, nation, society, class, ethnicity, religion, tribe, or other group of persons;
- (3) "Essential support alien" is a highly-skilled, essential person determined by DHS to be an integral part of the performance of a P-1, P-2, or P-3 alien because he or she performs support services which cannot be readily performed by a United States worker and which are essential to the successful performance of services by the P-1, P-2, or P-3 alien. Such alien must have appropriate

qualifications to perform the services, critical knowledge of the specific services to be performed, and experience in providing support to the P-1, P-2, or P-3 alien;

- (4) "Group" is two or more persons established as one entity or unit to perform or to provide a service;
- (5) "Internationally recognized" is having a high level of achievement in a field evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading, or well-known in more than one country;
- (6) "Member of a group" is a person who is actually performing the entertainment services;
- (7) "Sponsor" is an established organization in the United States which will not directly employ a P-2 or P-3 alien but will assume responsibility for the accuracy of the terms and conditions specified in the petition; and
- (8) "Team" is two or more persons organized to perform together as a competitive unit in a competitive event.

9 FAM 41.56 N3 DESCRIBING P NONIMMIGRANTS

(TL:VISA-68; 10-20-1992)

Under INA 101(a)(15)(P), an alien having a residence abroad which he or she has no intention of abandoning may be authorized to come to the United States to perform certain services as an artist, athlete, or entertainer for an employer or sponsor. The P classification is divided into four categories.

9 FAM 41.56 N3.1 P-1 Nonimmigrants

(CT: VISA-668; 12-22-2004)

The P-1 classification applies to an alien who is coming temporarily to the United States:

- (1) To perform at a specific athletic competition as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, or to provide essential support to

such athlete; or

- (2) To perform with, or as an integral and essential part of the performance of, an entertainment group that has been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time, except as indicated in 9 FAM 41.56 N4.1 and 9 FAM 41.56 N4.2. Such alien ordinarily must have had a sustained and substantial relationship with the group for at least one year, providing functions integral to the performance of the group. The one-year relationship requirement does not apply to 25 percent of the members of a group, nor to circus personnel, and may be waived by DHS in certain circumstances per 9 FAM 41.56 N4-3.

9 FAM 41.56 N3.2 P-2 Nonimmigrants

(TL:VISA-68; 10-20-1992)

The P-2 classification applies to an alien who is coming temporarily to the United States to perform as an artist or entertainer, individually or as part of a group, or as an integral part of the performance of such a group, and who seeks to perform under a reciprocal exchange program which is between an organization or organizations in the United States and an organization or organizations in one or more foreign states, and which provides for the temporary exchange of artists and entertainers.

9 FAM 41.56 N3.3 P-3 Nonimmigrants

(TL:VISA-125; 09-25-1995)

The P-3 classification applies to an alien artist or entertainer who is coming temporarily to the United States, either individually or as part of a group, or as an integral part of the performance of the group, to perform, teach, or coach under a commercial or noncommercial program that is culturally unique. A P-3 group is not required to have performed together for any specific period of time.

9 FAM 41.56 N3.4 P-4 Nonimmigrants

(TL:VISA-125; 09-25-1995)

The P-4 classification applies to the spouse and children accompanying or following to join an alien classified P-1, P-2, or P-3 (see 9 FAM 41.56 N16).

9 FAM 41.56 N4 CRITERIA FOR P-1 STATUS

9 FAM 41.56 N4.1 P-1 Classification for Individual Athletes

(TL:VISA-68; 10-20-1992)

A P-1 classification may be granted to an alien who is an internationally recognized athlete based on his or her own reputation and achievements as an individual. The alien must be coming to the United States to perform services, either individually or as a member of a United States team, which require an internationally recognized athlete.

9 FAM 41.56 N4.2 P-1 Classification for Members of Entertainment Groups and Athletic Teams

(TL:VISA-436; 07-09-2002)

- a. To qualify for P-1 status, an entertainment group or athletic team as a unit must be internationally recognized as outstanding in the discipline, and must be coming to perform services which require an internationally recognized entertainment group or athletic team. An alien who is a member of such a group or team may be granted P-1 classification based on that relationship, but may not perform services separate and apart from the group or team.
- b. An entertainment group must have been established for a minimum of one year. At least 75 percent of the members of the group must have had a sustained and substantial relationship with the group for at least one year and must provide functions integral to the group's performance.

9 FAM 41.56 N4.3 P-1 Classification for Essential Support Aliens

(TL:VISA-68; 10-20-1992)

An alien providing essential support services to an individual athlete, athletic team, or entertainment group may be granted P-1 classification based on that support relationship.

9 FAM 41.56 N4.4 Special Provisions for Certain Entertainment Groups Classifiable P-1

9 FAM 41.56 N4.4-1 Alien Circus Personnel

(TL:VISA-68; 10-20-1992)

The requirement that a P-1 entertainer have a one-year relationship with his or her group does not apply to alien circus personnel who perform as part of a circus or circus group, or who constitute an integral and essential part thereof, provided that the alien is coming to join a circus or circus group which has been recognized nationally as outstanding for a sustained and substantial period of time. The circus or circus group need not have international recognition.

9 FAM 41.56 N4.4-2 Certain Nationally-known Entertainment Groups

(CT: VISA-668; 12-22-2004)

DHS may waive the international recognition requirement in the case of an entertainment group which has been recognized nationally as being outstanding in its discipline for a sustained and substantial period of time under special circumstances. An example of a special circumstance would be when an entertainment group finds it difficult to demonstrate recognition in more than one country due to limited access to news media or consequences of geography.

9 FAM 41.56 N4.4-3 Waiver of One-year Relationship in Certain Circumstances

(TL:VISA-68; 10-20-1992)

DHS may waive the one-year relationship requirement for an alien who, because of illness or unanticipated and exigent circumstances, replaces an essential member of a P-1 entertainment group, or for an alien who augments the group by performing a critical role.

9 FAM 41.56 N5 CRITERIA FOR P-2 CLASSIFICATION

(TL:VISA-125; 09-25-1995)

- a. The reciprocal exchange program under which a P-2 artist, entertainer, or essential support person will be performing (either individually or as part of a group) must have:

- (1) A formal exchange agreement between the United States organization or organizations which will sponsor the aliens and an organization(s) in a foreign country which will receive the United States artists or entertainers; and
 - (2) Reciprocity between the United States and foreign country in terms of the caliber of artists or entertainers, terms and conditions of employment, and numbers of artists or entertainers involved in the exchange. (The last requirement does not preclude individual for group exchanges.) Such a reciprocal exchange program agreement can be between management groups. Petitioners in P-2 cases are not required to establish that the aliens involved in the reciprocal exchange are experienced. P-2 petitions may be approved for the duration of the reciprocal exchange agreement, not to exceed one year.
- b. The U.S. Labor Organization which is party to the reciprocal exchange agreement is permitted to file the P-2 petition.

9 FAM 41.56 N6 CRITERIA FOR P-3 CLASSIFICATION

(TL:VISA-125; 09-25-1995)

- a. A P-3 classification may be accorded to an artist or entertainer, individually or as part of a group, who is recognized by experts in the particular field for excellence in developing, interpreting, representing, coaching, or teaching a unique or traditional cultural performance or presentation, or to an alien who is an integral part of such a performance or presentation.
- b. The artist or entertainer must be coming to the United States for a cultural event to further the understanding or development of his or her art form. The program may be of a commercial or noncommercial nature.

9 FAM 41.56 N7 CONSULTATION REQUIREMENT

(CT: VISA-668; 12-22-2004)

Consultation with an appropriate labor organization having expertise in the specific field involved is required before a petition for a P-1, P-2, or P-3 alien can be approved. This consultation shall be in the form of a written advisory

opinion regarding the nature of the work to be done and the alien's qualifications. The advisory opinion is usually obtained by the petitioner, although DHS may obtain or waive it under certain circumstances. Consultations are advisory in nature and are not binding on DHS.

9 FAM 41.56 N8 EFFECT OF LABOR DISPUTES

(CT: VISA-668; 12-22-2004)

- a. DHS will deny a P petition in the event that the Secretary of Labor certifies that a strike or labor dispute is in progress in the occupation at the place the alien will be employed, and the alien's employment would adversely affect the wages and working conditions of U. S. workers. If the petition has already been approved, but the alien has not yet entered the United States or commenced employment, the approval of the petition is automatically suspended and application for admission shall be denied.
- b. Should a consular office receive notification from DHS, the Department, or another official source that a previously approved petition has been suspended because of a strike or other labor dispute, it shall defer visa issuance and follow whatever instructions are given regarding the disposition of the suspended petition. If a post has any question regarding the validity of a particular petition, it should query the approving DHS office directly.

9 FAM 41.56 N9 TEMPORARINESS OF STAY

9 FAM 41.56 N9.1 Residence Abroad Requirement

(TL:VISA-68; 10-20-1992)

INA 101(a)(15)(P) imposes a residence abroad requirement. Consequently, every P visa applicant must satisfy the consular officer that he or she has a residence abroad which he or she has no intention of abandoning.

9 FAM 41.56 N9.2 Effect of Filing Immigrant Visa Petition

(CT: VISA-668; 12-22-2004)

DHS has determined that the approval of a permanent labor certification or the filing of a preference petition for an alien shall not be a basis for denying

a P petition, a request to extend such a petition, or the alien's application for admission, change of status, or extension of stay. The alien may legitimately come to the United States for a temporary period as a P nonimmigrant and depart voluntarily at the end of his or her authorized stay and, at the same time, lawfully seek to become a permanent resident of the United States. This provision does not apply to essential support personnel.

9 FAM 41.56 N10 SIGNIFICANCE OF APPROVED PETITION

9 FAM 41.56 N10.1 Department of Homeland Security (DHS) Responsible for Adjudicating P Petitions

(CT: VISA-668; 12-22-2004)

Every P-1, P-2, and P-3 alien must be the beneficiary of a petition, approved by DHS, prior to visa issuance or, in the case of visa-exempt aliens, admission into the United States. By mandating a preliminary petition, Congress placed responsibility and authority with DHS to determine whether the requirements for P status which are examined in the petition process have been met.

9 FAM 41.56 N10.2 Approved Petition Is Prima Facie Evidence of Entitlement to P Classification for Alien Qualifying Individually

(CT: VISA-668; 12-22-2004)

- a. An approved Form I-129, Petition for Nonimmigrant Worker, or evidence that the P petition has been approved (an acceptable Form I-797, Notice of Action, (see 9 FAM 41.56 N15.1 below) or telegraphic or telephonic notification from DHS or the Department) is, in itself, to be considered by consular officers as prima facie evidence that the alien beneficiary meets the requirements for P classification. Consular officers do not have the authority to question the approval of P petitions without specific evidence, unavailable to DHS at the time of petition approval, that the beneficiary may not be entitled to status. The large majority of petitions approved by DHS are valid, and involve bona fide establishments, relationships, and individual qualifications which conform to regulations in effect at the time the petition was filed.

- b. On the other hand, the approval of a petition by DHS does not relieve the alien of the burden of establishing visa eligibility. If the consular officer has reason to believe, based upon information developed during the visa interview or other evidence which was not available to DHS, that the beneficiary may not be entitled to status, the consular officer may request any additional evidence which bears a reasonable relationship to this issue. Disagreement with DHS interpretation of the law or the facts, however, is not sufficient reason to ask DHS to reconsider its approval of the petition.

9 FAM 41.56 N10.3 Consular Officers Responsible for Determining Qualifications of Team or Group Members

(CT: VISA-668; 12-22-2004)

In adjudicating P petitions for athletic teams and entertainment groups, DHS evaluates whether the team or group as an entity meets the requirements of INA 101(a)(15)(P). Members of a team or group derive their status from their relationship with the team or group. DHS does not examine the individual qualifications of team or group members, other than verifying that 75 percent of the members have had a sustained and substantial relationship with the organization for at least one year. It is the consular officer's responsibility to determine whether the team or group member applying for a P visa is qualified to fill the position described in the approved petition and is otherwise eligible for the visa.

9 FAM 41.56 N10.4 Referring Approved P Petition to the Department of Homeland Security, (DHS) U.S. Citizenship and Immigration Services (USCIS) for Reconsideration

(CT:VISA-763; 08-24-2005)

You must consider all approved P petitions in light of these Notes, process with dispatch those cases which appear legitimate, and identify those which require local investigation or referral to the approving *U.S. Citizenship and Immigration Services (USCIS)* office for reconsideration. Posts should refer cases to *USCIS* for reconsideration sparingly, to avoid inconveniencing bona fide petitioners and beneficiaries and causing duplication of effort by *USCIS*. *You must* have specific evidence *of a requirement for automatic revocation*, lack of qualification on the part of the beneficiary, misrepresentation in the petition process, or of previously unknown facts, which might alter *USCIS's*

finding, before requesting review of a Form I-129, Petition for Nonimmigrant Worker approval. When seeking reconsideration, you must, under cover of Form DS-3096, Consular Return/Case Transfer Cover Sheet, forward the petition, all pertinent documentation, and a written memorandum of the evidence supporting the request for reconsideration to the *Kentucky Consular Center (KCC), which will forward the request to the approving USCIS office. The KCC will maintain a copy of the request and all supporting documentation, and will track all consular revocation requests. You are no longer required to maintain a copy of all documents, although scanning the revocation request and supporting documents into the case file is recommended.*

9 FAM 41.56 N11 PETITION PROCEDURES

9 FAM 41.56 N11.1 Using Form I-129, Petition for Nonimmigrant Worker to File Petition

(CT: VISA-668; 12-22-2004)

- a. A U.S. or foreign employer uses Form I-129, Petition for Nonimmigrant Worker, to classify an athlete, a member of an athletic team, or a member of an entertainment group as a P-1 nonimmigrant. An employer or sponsoring organization in the United States uses Form I-129 to petition for a P-2 or P-3 artist or entertainer in a reciprocal exchange or culturally unique program. Essential support personnel may not be included on the petition filed for the principal alien, team, or group; rather, these aliens require a separate petition.
- b. Form I-129 must be filed only with the DHS Service Center having jurisdiction in the area where the alien will work. The petition may not be filed more than six months before the actual need for the alien's services. Form I-129 is also used to request extensions of petition validity and extensions of stay in P status (see 9 FAM 41.56 N14.1).

9 FAM 41.56 N11.2 Services in More Than One Location

(TL:VISA-68; 10-20-1992)

A petition which requires the alien to work in more than one location (i.e., a tour) must include an itinerary with the dates and locations of the employment, and must be filed with the Service Center which has jurisdiction in the area where the petitioner is located.

9 FAM 41.56 N11.3 Services for More Than One Employer

(CT: VISA-668; 12-22-2004)

If the beneficiary will work concurrently for more than one employer within the same time period, each employer must file a separate petition with its jurisdictional DHS Service Center, unless an established agent (see 9 FAM 41.56 N11.5) files the petition. For the issuance of a single visa to the beneficiary of more than one P petition (see 9 FAM 41.56 N15 below).

9 FAM 41.56 N11.4 Change of Employer

(TL:VISA-125; 09-25-1995)

If a P-1, P-2, or P-3 alien in the United States seeks to change employers or sponsors, the new employer or sponsor must file a petition as well as a request to extend the alien's stay in the United States. If the petition was initially filed by an agent, an amended petition must be filed with information relating to the new employer and with a request for an extension of stay.

9 FAM 41.56 N11.5 Agents as Petitioners

(TL:VISA-125; 09-25-1995)

An established U.S. agent may file a P petition for an alien who is traditionally self-employed or who uses agents to arrange short-term employment on their behalf with numerous employers. An agent may also file a petition on behalf of a foreign employer.

9 FAM 41.56 N11.6 Multiple Beneficiaries

(TL:VISA-68; 10-20-1992)

More than one beneficiary may be included on a P petition if they are members of a group seeking classification based on the reputation of the group as an entity, or if they will provide essential support to P-1, P-2, or P-3 beneficiaries performing in the same location and in the same occupation. The petitioner must submit a separate petition for each consulate at which the aliens will apply for visas, or for each port of entry at which visa-exempt beneficiaries will apply for admission.

9 FAM 41.56 N11.7 Named Beneficiaries

(TL:VISA-68; 10-20-1992)

Petitions for P classification must include the names of beneficiaries and other required information at the time of filing.

9 FAM 41.56 N11.8 Substituting Beneficiaries

(TL:VISA-436; 07-09-2002)

Beneficiaries may be substituted on P-1, P-2, and P-3 petitions for other groups. It should be noted that all groups qualified for P status may benefit from the substitution procedures. The petitioner must submit a letter requesting the substitution, along with a copy of the petitioner's approval notice Form I-797, Notice of Action, to the consular office where the alien will apply for a visa or the port of entry where the visa-exempt alien will apply for admission. The petitioner must state the alien's date of birth, country of nationality, and position, and must certify that the alien is qualified to fill the position described in the approved petition. (See 9 FAM 41.56 N10.3 regarding responsibility for adjudicating visa applications for team and group members.)

9 FAM 41.56 N11.9 Department of Homeland Security (DHS) Notification to Petitioner of Petition Approval

(CT: VISA-668; 12-22-2004)

DHS uses Form I-797, Notice of Action, to notify the petitioner that the P petition filed by the petitioner has been approved or that the extension of stay in P status for the employee has been granted. The approval notice shall include the alien beneficiary's name and classification and the petition's period of validity. The petitioner may furnish Form I-797 to the employee for the purpose of applying for his or her P visa, or to facilitate the employee's entry into the United States, either initially or after a temporary absence abroad during the employee's stay in P status (also see 9 FAM 41.56 N12.1).

9 FAM 41.56 N12 VALIDITY OF APPROVED P PETITIONS

9 FAM 41.56 N12.1 Initial Period of Validity

(CT: VISA-668; 12-22-2004)

The periods of validity for approved P petitions are as follows:

- (1) P-1 individual athlete - up to five years;
- (2) P-1 athletic team - period of time to be determined by DHS to be necessary to complete the competition or event, not to exceed one year;
- (3) P-1 entertainment group - period of time necessary to complete the performance or event, not to exceed one year;
- (4) P-2 or P-3 artist or entertainer - period of time necessary to complete the event or performance, not to exceed one year; and
- (5) Essential support personnel to P-1, P-2 and P-3 aliens - period of time to complete the event, activity, or performance for which the P-1, P-2 or P-3 alien is admitted, not to exceed one year.

9 FAM 41.56 N12.2 Petition Extension

(CT: VISA-668; 12-22-2004)

The petitioner shall file a request to extend the validity of a P petition on Form I-129, Petition for Nonimmigrant Worker in order to continue or complete the same activity or event specified in the original petition. Supporting evidence is not required unless requested by DHS. A petition extension may be filed only if the validity of the original petition has not expired.

9 FAM 41.56 N13 LENGTH OF STAY

(TL: VISA-668; 12-22-2004)

A P nonimmigrant may be admitted to the United States for the validity period of the petition, plus up to ten days before the validity period begins and ten days after it ends. The alien may not work except during the validity period of the petition. The length of stay is tied to the period of validity of the petition by DHS.

9 FAM 41.56 N14 EXTENSION OF STAY

9 FAM 41.56 N14.1 Extension Procedures

(CT:VISA-668; 12-22-2004)

The petitioner shall request the extension of an alien's stay in the United States to continue or complete the same event or activity by filing Form I-129, Petition for Nonimmigrant Worker accompanied by a statement explaining the reasons for the extension. The extension dates shall be the same for the petition and the beneficiary's stay. The beneficiary must be physically present in the United States at the time the extension of stay petition is filed. If the alien is required to leave the United States for business or personal reasons while the extension requests are pending, the petitioner may ask DHS to cable notification of the petition extension to the consular office abroad where the alien will apply for a visa.

9 FAM 41.56 N14.2 Extension Periods

9 FAM 41.56 N14.2-1 P-1 Individual Athletes

(TL:VISA-68; 10-20-1992)

An extension of stay for a P-1 individual athlete and his or her essential support personnel may be authorized for a period of up to five years for a total period of stay not to exceed ten years.

9 FAM 41.56 N14.2-2 Other P-1 Aliens and P-2 and P-3 Nonimmigrants

(TL:VISA-68; 10-20-1992)

An extension of stay may be authorized in increments of one year for P-1 athletic teams and entertainment groups, P-2 aliens in reciprocal exchange programs, P-3 aliens in culturally unique programs, and their essential support personnel to continue or complete the same event or activity for which they were admitted.

9 FAM 41.56 N15 ISSUING P VISAS

9 FAM 41.56 N15.1 Evidence Forming Basis for Issuing P Visas

(CT: VISA-668; 12-22-2004)

The appropriate evidence forming the basis for P visa issuance consists of an approved Form I-129 Petition for Nonimmigrant Worker, telegraphic or telephonic notification from DHS or the Department of the approval of such a petition, or a Form I-797, Notice of Action, presented by the visa applicant, which shows that the petition on his or her behalf has been approved or that his or her authorized stay in P status has been extended. Form I-797, must include the date of the Notice, name of the petitioner, name of the beneficiary (or beneficiaries), the petition/receipt number, expiration date of the petition, visa classification, and the name, address and telephone number of the approving DHS office. It is a computer-generated form and is not signed. The only Form I-797 which is valid for visa issuance is one which, at a minimum, contains the above information. If a post has any question regarding the bona fides of a particular Form I-797, it should query the originating DHS office directly.

9 FAM 41.56 N15.2 Validity of P Visas

(CT: VISA-668; 12-22-2004)

- a. The validity of a P visa may not exceed the period of validity of a petition approved to accord P status or the period for which the alien's authorized stay in P status was extended. If the period of reciprocity shown in the **reciprocity schedules** is less than the validity period of the approved petition or extension of stay, it shall prevail.
- b. Posts are authorized to accept and issue visas to qualified applicants up to 90 days in advance of applicants' beginning of status as noted on the Form I-797. Post must inform applicants verbally and in writing that they can only use the visa to apply for reentry to the U.S. starting ten day prior to the beginning of the approved status period noted on their Form I-797. In addition, such visas must be annotated, "Not valid until (ten days prior to the petition validity date.)"

9 FAM 41.56 N15.3 Annotating P Visas

(CT:VISA-763; 08-24-2005)

Posts shall enter the number of the alien's approved petition (or the number of the principal alien's petition in the case of P-4 dependents) immediately below the lower margin of the visa, followed by the name and location of the alien's employer. Posts should follow appropriate operating instructions for annotating visas.

9 FAM 41.56 N15.4 Issuing Single P Visa Based on

More Than One Petition

(TL:VISA-125; 09-25-1995)

If the alien is the beneficiary of two or more P petitions and does not plan to depart from the United States between engagements, consular officers may issue a single P visa valid until the expiration date of the last expiring petition, reciprocity permitting. The required annotations (see 9 FAM 41.56 N15.3) from all petitions shall be placed below the visa.

9 FAM 41.56 N15.5 Limitation of P Visas

(TL:VISA-125; 09-25-1995)

Consular officers may restrict visa validity in some cases to less than the period of validity of the approved petition or authorized period of stay (for example, on the basis of reciprocity or the terms of an order waiving a ground of ineligibility). In any such case, in addition to the notations described in 9 FAM 41.56 N15.3, posts shall insert the following:

"PETITION VALID TO (date)".

9 FAM 41.56 N15.6 Reissuing P Visas

(CT:VISA-668; 12-22-2004)

When a P visa is limited by reciprocity to a period of validity less than the validity of the petition or authorized period of stay, consular officers may reissue the visa any number of times within the period allowable. If a fee is prescribed by the [reciprocity schedules](#), posts must collect the fee for each reissuance of the P visa.

9 FAM 41.56 N16 SPOUSE AND CHILDREN OF P-1, P-2, OR P-3 ALIENS

(TL:VISA-68; 10-20-1992)

The spouse and children of a P-1, P-2, or P-3 alien, who are accompanying or following to join him or her in the United States, are entitled to P-4 classification and are subject to the same visa validity, period of admission, and limitations as the P-1, P-2, or P-3 principal alien. For a general discussion of the classification of the spouse and children of a nonimmigrant, see 9 FAM 41.11 N4 and 9 FAM 41.11 N5.

9 FAM 41.56 N16.1 Employment in United States by P-4 Dependent Aliens Prohibited

(TL:VISA-68; 10-20-1992)

Aliens in P-4 status are not authorized to accept employment. The spouse and children of a P-1, P-2, or P-3 principal alien may not accept employment unless they qualify independently for a classification in which employment is, or can be, authorized. The consular officer shall take this into account in evaluating whether family members have furnished adequate evidence of their support while in the United States. P-4 aliens are permitted to study during their stay in the United States.

9 FAM 41.56 N16.2 Verifying Principal Alien is Maintaining Status

(TL:VISA-436; 07-09-2002)

When an alien applies for a P-4 visa to follow to join a principal alien already in the United States, the consular officer must be satisfied that the principal alien is maintaining P status before issuing the visa. If there are no other readily available means of verification, the consular officer may suggest to the applicant that the principal alien in the United States submit a copy of his or her Form I-94, Arrival-Departure Record (both sides) and a copy of his or her current visa for presentation to the consular officer.

9 FAM 41.56 N16.3 Return Transportation When Employment Involuntarily Terminated

(TL:VISA-68; 10-20-1992)

If a P nonimmigrant's employment terminates for reasons other than voluntary resignation, the employer and petitioner who sought the alien's P status are responsible for providing the reasonable cost of the alien's transportation to his or her last place of residence prior to entry into the United States.

9 FAM 41.56 PROCEDURAL NOTES

*CT:VISA-763; 08-24-2005)
(Office of Origin: CA/VO/L/R)*

9 FAM 41.56 PN1 POSTS NOT TO REQUEST STATUS OF PETITIONS FILED WITH DEPARTMENT OF HOMELAND SECURITY (DHS), U.S. CITIZENSHIP AND IMMIGRATION SERVICES (USCIS)

CT:VISA-763; 08-24-2005)

Posts generally shall not request the Department to provide status reports on petitions filed with *DHS, USCIS*, nor shall they contact *DHS, USCIS* directly for such reports. As an alternative, posts may suggest that the applicant communicate with his or her sponsor. Cases of public relations significance may be submitted to the Department (TAGS: CVIS). Justification for such action must be included with post's request.

9 FAM 41.56 PN2 TRANSMITTAL OF APPROVED PETITIONS

CT:VISA-763; 08-24-2005)

U.S. Citizenship and Immigration Services (USCIS) send all approved petitions to the Kentucky Consular Center (KCC) for transmittal to post. The KCC scans and emails the petition approvals to posts within forty-eight hours of receipt. The KCC normally transmits only the approved Form I-129, Petition for Nonimmigrant Worker and retains the complete file. Posts may request that the entire file or portions of the file be scanned and emailed by contacting the KCC at KCCNIVI129@state.gov.

9 FAM 41.56 PN3 REQUESTS FOR PETITION REVOCATION

CT:VISA-763; 08-24-2005)

Send requests for petition revocation to the following address, using registered mail or express mail:

*Attention: Fraud Prevention Manager
Kentucky Consular Center
3505 N. Hwy 25W
Williamsburg, KY 40769*