

## Sec. 214.2(p) Artists, athletes, and entertainers .--

### (1) Classifications .--

(i)

General

. Under section 101(a)(15)(P) of the Act, an alien having a residence in a foreign country which he or she has no intention of abandoning may be authorized to come to the United States temporarily to perform services for an employer or a sponsor. Under this nonimmigrant category, the alien may be classified under section 101(a)(15)(P)(i) of the Act as an alien who is coming to the United States to perform services as an internationally recognized athlete, individually or as part of a group or team, or member of an internationally recognized entertainment group; under section 101(a)(15)(P)(ii) of the Act, who is coming to perform as an artist or entertainer under a reciprocal exchange program; under section 101(a)(15)(P)(iii) of the Act, as an alien who is coming solely to perform, teach, or coach under a program that is culturally unique; or under section 101(a)(15)(P)(iv) of the Act, as the spouse or child of an alien described in section 101(a)(15)(P)(i), (ii), or (iii) of the Act who is accompanying or following to join the alien. These classifications are called P-1, P-2, P-3, and P-4 respectively. The employer or sponsor must file a petition with the Service for review of the services to be performed and for determination of the alien's eligibility for P-1, P-2, or P-3 classification before the alien may apply for a visa or seek admission to the United States. This paragraph sets forth the standards and procedures applicable to these classifications. (Paragraph (i) revised 8/15/94; 59 FR 41818 - 41842)

### (ii) Description of classification --

(A) A 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

(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, and who has had a sustained and substantial relationship with the group (ordinarily for at least 1 year) and provides functions integral to the performance of the group.

(B) A 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 to perform 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, or groups of artists and entertainers.

(C) A 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.

(2) Filing of petitions --

(i)

General

. A P-1 petition for an athlete or entertainment group shall be filed by a United States employer, a United States sponsoring organization, a United States agent, or a foreign employer through a United States agent. For purposes of paragraph (p) of this section, a foreign employer is any employer who is not amenable to service of process in the United States. Foreign employers seeking to employ a P-1 alien may not directly petition for the alien but must use a United States agent. A United States agent petitioning on behalf of a foreign employer must be authorized to file the petition, and to accept service of process in the United States in proceedings under section 274A of the Act, on behalf of the foreign employer. A P-2 petition for an artist or entertainer in a reciprocal exchange program shall be filed by the United States labor organization which negotiated the reciprocal exchange agreement, the sponsoring organization, or a United States employer. A P-3 petition for an artist or entertainer in a culturally unique program shall be filed by the sponsoring organization or a United States employer. Essential support personnel may not be included on the petition filed for the principal alien(s). These aliens require a separate petition. Except as provided for in paragraph (p)(2)(iv)(A) of this section, petitioner shall file a P petition on Form I-129, Petition for Nonimmigrant Worker, with the Service Center which has jurisdiction in the area where the alien will work. The petition may not be filed more than 6 months before the actual need for the alien's services. A P-1, P-2, or P-3 petition shall be adjudicated at the appropriate Service Center, even in emergency situations.

(Revised 4/16/97; 62 FR 18508.)

(ii) Evidence required to accompany a petition for a P nonimmigrant . Petitions for P nonimmigrant aliens shall be accompanied by the following:

(A) The evidence specified in the specific section of this part for the classification;

(B) Copies of any written contracts between the petitioner and the alien beneficiary or, if there is no written contract, a summary of the terms of the oral agreement under which the alien(s) will be employed;

(C) An explanation of the nature of the events or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events or activities; and

(D) A written consultation from a labor organization.

(iii)

Form \_\_\_\_\_ of \_\_\_\_\_ documentation

. The evidence submitted with a P petition should conform to the following:

(A) Affidavits, contracts, awards, and similar documentation must reflect the nature of the alien's achievement and be executed by an officer or responsible person employed by the institution establishment, or organization where the work was performed.

(B)

Affidavits written by present or former employers or recognized experts certifying to the recogn extraordinary ability, or, in the case of a motion picture or television production, the extraordin achievement of the alien, which shall specifically describe the alien's recognition and ability or achievement in factual terms. The affidavit must also set forth the expertise of the affiant and the manner in which the affiant acquired such information.

(C) A legible copy of a document in support of the petition may be submitted in lieu of the original. However, the original document shall be submitted if requested by the Director.

(iv) Other filing situations --

(A) Services in more than one location . A petition which requires the alien to work in more than one location ( e.g., a tour) must include an itinerary with the dates and locations of the performances and must be filed with the Service Center which has jurisdiction in the area where the petitioner is located. The address which the petitioner specifies as its location on the petition shall be where the petitioner is located for purposes of this paragraph. (Paragraph (p)(2)(iv) revised 4/16/97; [62 FR 18508](#) )

(B) Services for more than one employer . If the beneficiary or beneficiaries will work for more than one employer within the same time period, each employer must file a separate petition with the Service Center that has jurisdiction over the area where the alien will perform the services, unless an agent files the petition pursuant to paragraph (p)(2)(iv)(E) of this section.

(C) Change of employer - ( 1 ) General . 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 both a petition and a request to extend the alien's stay in the United States. The alien may not commence employment with the new employer or sponsor until the petition and request for extension have been approved.

( 2 ) Traded professional P-1 athletes . In the case of a professional P-1 athlete who is traded from one organization to another organization, employment authorization for the player will automatically continue for a period of 30 days after acquisition by the new organization, within which time the new organization is expected to file a new Form I-129 for P-1 nonimmigrant classification. If a new Form I-129 is not filed within 30 days, employment authorization will cease. If a new Form I-129 is filed within 30 days, the professional athlete shall be deemed to be in valid P-1 status, and employment shall continue to be authorized, until the petition is adjudicated. If the new petition is denied, employment authorization will cease.

(D)

Amended petition . The petitioner shall file an amended petition, with fee, with the Service Center where the original petition was filed to reflect any material changes in the terms and conditions of employment or beneficiary's eligibility as specified in the original approved petition. A petitioner may add additional similar or comparable performances, engagements, or competitions during the validity period of the petition without filing an amended petition.

(E) Agents as petitioners

. A United States agent may file a petition in cases involving workers who are traditionally self-employed or workers who use agents to arrange short-term employment on their behalf with nur employers, and in cases where a foreign employer authorizes the agent to act on its behalf. A United States agent may be: the actual employer of the beneficiary; the representative of both the employer and the beneficiary; or, a person or entity authorized by the employer to act for, or in place of, the employer as its agent. A petition filed by an United States agent is subject to the following conditions:

( 1

) An agent performing the function of an employer must specify the wage offered and the other terms and conditions of employment by contractual agreement with the beneficiary or beneficiaries. agent/employer must also provide an itinerary of definite employment and information on any other services planned for the period of time requested.

( 2

) A person or company in business as an agent may file the P petition involving multiple employers as the representative of both the employers and the beneficiary or beneficiaries if the supporting documentation includes a complete itinerary of services or engagements. The itinerary shall specify the dates of each service or engagement, the names and addresses of the actual employers, the names and addresses of the establishment, venues, or locations where the services will be performed. questionable cas es, a contract between the employer(s) and the beneficiary or beneficiaries may required. The burden is on the agent to explain the terms and conditions of the employment and to provide any required documentation.

( 3

) A foreign employer who, through a United States agent, files a petition for a P nonimmigrant ali responsible for complying with all of the employer sanctions provisions of section 274A of the Act and 8 CFR part [274a](#).

(F) Multiple beneficiaries

. More than one beneficiary may be included in a P petition if they are members of a group see 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.

(G) Named beneficiaries

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

(H) Substitution of beneficiaries

. A petitioner may request substitution of beneficiaries in approved P-1, P-2, and P-3 petitions for groups. To request substitution, the petitioner shall submit a letter requesting such substitution, along with a copy of the petitioner's approval notice, to the consular office at which the alien will apply for a visa or the Port-of-Entry where the alien will apply for admission. Essential support personnel may not be substituted at consular offices or at Ports-of-entry. In order to add additional new essen tial su personnel, a new I-129 petition must be filed with the appropriate Service Center.

(3) Definitions . As used in this paragraph, the term::

Arts includes fields of creative activity or endeavor such as, but not limited to, fine arts, visual arts, and performing arts.

Competition, event, or performance  
means an activity such as an athletic competition, athletic season, tournament, tour, exhibit, or entertainment event, or engagement. Such activity could include short vacations, promotional appearances for the petitioning employer relating to the competition, event, or performance, 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 will also be considered an event. In the case of a P-2 petition, the event may be the duration of the reciprocal exchange agreement. In the case of a P-1 athlete, the event may be the duration of the alien's contract.

Contract  
means the written agreement between the petitioner and the beneficiary(ies) that explains the terms and conditions of employment. The contract shall describe the services to be performed, and specify the wages, hours of work, working conditions, and any fringe benefits.

Culturally unique  
means 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.

Essential support alien  
means a highly skilled, essential person determined by the Director 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 such support to the P-1, P-2, or P-3 alien.

Group  
means two or more persons established as one entity or unit to perform or to provide a service.

Internationally recognized  
means 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.

Member of a group means a person who is actually performing the entertainment services.

Sponsor  
means an established organization in the United States which will not directly employ a P-1, P-2, or P-3 alien but will assume responsibility for the accuracy of the terms and conditions specified in the petition.

Team  
means two or more persons organized to perform together as a competitive unit in a competitive event.

(4)  
Petition for an internationally recognized athlete or member of an internationally recognized entertainment group (P-1) .--

(i) Types of classification .--

(A) P-1 classification as an athlete in an individual capacity . 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 which require an internationally recognized athlete.

(B) P-1 classification as a member of an entertainment group or an athletic team . An entertainment group or athletic team consists of two or more persons who function as a unit. An entertainment group or athletic team as a unit must be internationally recognized as outstanding in discipline and must be coming to perform services which require an internationally recognized entertainment group or athletic team. A person who is a member of an internationally recognized entertainment group or athletic team may be granted P-1 classification based on that relationship, but may not perform services separate and apart from the entertainment group or athletic team. An entertainment group must have been established for a minimum of 1 year, and 75 percent of the members of the group must have been performing entertainment services for the group for a minimum of 1 year.

(ii) Criteria and documentary requirements for P-1 athletes --

(A)

General

A P-1 athlete must have an internationally recognized reputation as an international athlete or he or she must be a member of a foreign team that is internationally recognized. The athlete or team must be coming to the United States to participate in an athletic competition which has a distinguished reputation and which requires participation of an athlete or athletic team that has an international reputation.

(B) Evidentiary requirements for an internationally recognized athlete or athletic team . A

petition for an athletic team must be accompanied by evidence that the team as a unit has achieved international recognition in the sport. Each member of the team is accorded P-1 classification based on the international reputation of the team. A petition for an athlete who will compete individually or as member of a U.S. team must be accompanied by evidence that the athlete has achieved international recognition in the sport based on his or her reputation. A petition for a P-1 athlete or athletic team shall include:

(1) A tendered contract with a major United States sports league or team, or a tendered contract in an individual sport commensurate with international recognition in that sport, if such contracts are normally executed in the sport, and

(2) Documentation of at least two of the following:

(i) Evidence of having participated to a significant extent in a prior season with a major United States sports league;

(ii) Evidence of having participated in international competition with a national team;

(iii) Evidence of having participated to a significant extent in a prior season for a U.S. college or university in intercollegiate competition;

(iv) A written statement from an official of a major U.S. sports league or an official of governing body of the sport which details how the alien or team is internationally recognized;

(v) 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;

(vi) Evidence that the individual or team is ranked if the sport has international rankings; or

(vii) Evidence that the alien or team has received a significant honor or award in the sport.

(iii)

Criteria and documentary requirements for members of an internationally recognized entertainment group --

(A)

General

. A P-1 classification shall be accorded to an entertainment group to perform as a unit based on international reputation of the group. Individual entertainers shall not be accorded P-1 classification perform separate and apart from a group. Except as provided in paragraph (p)(4)(iii)(C)((2)) of this section, it must be established that the group has been internationally recognized as outstanding in its discipline for a sustained and substantial period of time. Seventy-five percent of the members of the group must have had a sustained and substantial relationship with the group for at least 1 year and must provide functions integral to the group's performance.

(B) Evidentiary criteria for members of internationally recognized entertainment groups. A petition for P-1 classification for the members of an entertainment group shall be accompanied by:

(1) Evidence that the group has been established and performing regularly for a period of at least 1 year;

(2) A statement from the petitioner listing each member of the group and the exact dates for which each member has been employed on a regular basis by the group; and

(3) Evidence that the group has been internationally recognized in the discipline for a sustained and substantial period of time. This may be demonstrated by the submission of evidence of the group's nomination or receipt of significant international awards or prizes for outstanding achievement in its field or by three of the following different types of documentation:

(i) Evidence that the group has performed, and will perform, as a starring or lead entertainment group in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications, contracts, or endorsements;

(ii) Evidence that the group has achieved international recognition and acclaim for outstanding achievement in its field as evidenced by reviews in major newspapers, trade journals, magazines, or other published material;

(iii) Evidence that the group has performed, and will perform, services as a leading or starring group for organizations and establishments that have a distinguished reputation evidenced by articles in newspapers, trade journals, publications, or testimonials;

(iv) Evidence that the group has a record of major commercial or critically acclaimed successes, as evidenced by such indicators as ratings; standing in the field; box office receipts; record sales, or video sales; and other achievements in the field as reported in trade journals, major newspapers, or other publications;

(v) Evidence that the group has achieved significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field. Such testimonials must be in a form that clearly indicates the author's authority, expertise, and knowledge of the achievements; or

(vi) Evidence that the group has either commanded a high salary or will command a high salary or other substantial remuneration for services comparable to others similarly situated in the field as evidenced by contracts or other reliable evidence.

(C) Special provisions for certain entertainment groups --

(1)

Aliencircuspersonnel

. The 1-year group membership requirement and the international recognition requirement are not applicable 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, provided that the alien or aliens are coming 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.

(2) Certain nationally known entertainment groups . The Director 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 in consideration of special circumstances. An example of a special circumstance would be when an entertainment group may find it difficult to demonstrate recognition in more than one country due to such factors as limited access to news media or consequences of geography.

(3) Waiver of 1-year relationship in exigent circumstances . The Director may waive the 1-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 an alien who augments the group by performing a critical role. The Department of State is hereby delegated the authority to waive the 1-year relationship requirement in the case of consular substitutions involving P-1 entertainment groups.

(iv) P-1 classification as an essential support alien .--

(A)

General

. An essential support alien as defined in paragraph (p)(3) of this section may be granted P-1 classification based on a support relationship with an individual P-1 athlete, P-1 athletic team, or P-1 entertainment group.

(B) Evidentiary criteria for a P-1 essential support petition . A petition for P-1 essential support personnel must be accompanied by:

(1) A consultation from a labor organization with expertise in the area of the alien's skill;

(2) A statement describing the alien(s) prior essentiality, critical skills, and experience with the principal alien(s); and

(3) A copy of the written contract or a summary of the terms of the oral agreement between the alien(s) and the employer.

## Sec. 214.2(p)(5)

### (5) Petition for an artist or entertainer under a reciprocal exchange program (P-2) --

#### (i) General.

(A) A P-2 classification shall be accorded to artists or entertainers, individually or as a group, who will be performing under a reciprocal exchange program which is between an organization or organizations in the United States, which may include a management organization, and an organization or organizations in one or more foreign states and which provides for the temporary exchange of artists and entertainers, or groups of artists and entertainers.

(B) The exchange of artists or entertainers shall be similar in terms of caliber of artists or entertainers, terms and conditions of employment, such as length of employment, and numbers of artists or entertainers involved in the exchange. However, this requirement does not preclude an individual for group exchange.

(C) An alien who is an essential support person as defined in paragraph (p)(3) of this section may be accorded P-2 classification based on a support relationship to a P-2 artist or entertainer under a reciprocal exchange program.

(ii) Evidentiary requirements for petition involving a reciprocal exchange program. A petition for P-2 classification shall be accompanied by:

(A) A copy of the formal reciprocal exchange agreement between the U.S. organization or organizations which sponsor the aliens and an organization or organizations in a foreign country which will receive the U.S. artist or entertainers;

(B) A statement from the sponsoring organization describing the reciprocal exchange of U.S. artists or entertainers as it relates to the specific petition for which P-2 classification is being sought;

(C) Evidence that an appropriate labor organization in the United States was involved in negotiating, or has concurred with, the reciprocal exchange of U.S. and foreign artists or entertainers; and

(D) Evidence that the aliens for whom P-2 classification is being sought and the U.S. artists or entertainers subject to the reciprocal exchange agreement are artists or entertainers with comparable skills, and that the terms and conditions of employment are similar.

#### (iii) P-2 classification as an essential support alien. --

(A) General. An essential support alien as defined in paragraph (p)(3) of this section may be granted P-2 classification based on a support relationship with a P-2 entertainer or P-2 entertainment group.

(B) Evidentiary criteria for a P-2 essential support petition. A petition for P-2 essential support personnel must be accompanied by:

(1) A consultation from a labor organization with expertise in the area of the alien's skill;

(2) A statement describing the alien(s) prior essentiality, critical skills, and experience with the principal alien(s); and

(3) A copy of the written contract or a summary of the terms of the oral agreement between

the alien(s) and the employer.

(6) Petition for an artist or entertainer under a culturally unique program --

(i)-- General.

(A) A P-3 classification may be accorded to artists or entertainers, individually or as a group coming to the United States for the purpose of developing, interpreting, representing, coaching, or teaching a unique or traditional ethnic, folk, cultural, musical, theatrical, or artistic performance presentation.

(B) The artist or entertainer must be coming to the United States to participate in a cultural event or events which will further the understanding or development of his or her art form. The program may be of a commercial or noncommercial nature.

(ii) Evidentiary criteria for a petition involving a culturally unique program. A petition for P-3 classification shall be accompanied by:

(A) Affidavits, testimonials, or letters from recognized experts attesting to the authenticity of the alien's or the group's skills in performing, presenting, coaching, or teaching the unique or traditional art form and giving the credentials of the expert, including the basis of his or her knowledge of the alien's or group's skill, or

(B) Documentation that the performance of the alien or group is culturally unique, as evidenced by reviews in newspapers, journals, or other published materials; and

(C) Evidence that all of the performances or presentations will be culturally unique events.

(iii) P-3 classification as an essential support alien. --

(A) General. An essential support alien as defined in paragraph (p)(3) of this section may be granted P-3 classification based on a support relationship with a P-3 entertainer or P-3 entertainment group.

(B) Evidentiary criteria for a P-3 essential support petition. A petition for P-3 essential support personnel must be accompanied by:

(1) A consultation from a labor organization with expertise in the area of the alien's skill;

(2) A statement describing the alien(s) prior essentiality, critical skills and experience with the principal alien(s); and

(3) A copy of the written contract or a summary of the terms of the oral agreement between the alien(s) and the employer.

(7) Consultation --

(i) General.

(A) Consultation with an appropriate labor organization regarding the nature of the work to be done and the alien's qualifications is mandatory before a petition for P-1, P-2, or P-3 classification can be approved.

(B)

Except as provided in paragraph (p)(7)(i)(E) of this section, evidence of consultation shall be a writ advisory opinion from an appropriate labor organization.

(C)

Except as provided in paragraph (p)(7)(i)(E) of this section, the petitioner shall obtain a written advisory opinion from an appropriate labor organization. The advisory opinion shall be submitted along with the petition when the petition is filed. If the advisory opinion is not favorable to the petitioner, the advisory opinion must set forth a specific statement of facts which support the conclusion reached in the opinion. Advisory opinions must be submitted in writing and signed by an authorized official of the organization.

(D)

Except as provided in paragraph (p)(7)(i)(E) and (F) of this section, written evidence of consultation shall be included in the record of every approved petition. Consultations are advisory and are not binding on the Service.

(E)

In a case where the Service has determined that a petition merits expeditious handling, the Service shall contact the labor organization and request an advisory opinion if one is not submitted by the petitioner. The labor organization shall have 24 hours to respond to the Service's request. The Service shall adjudicate the petition after receipt of the response from the labor organization. The labor organization shall then furnish the Service with a written advisory opinion within 5 working days of the request. If the labor organization fails to respond within 24 hours, the Service shall render a decision on the petition without the advisory opinion.

(F)

In those cases where it is established by the petitioner that an appropriate labor organization does not exist, the Service shall render a decision on the evidence of record.

(ii) Consultation requirements for P-1 athletes and entertainment groups. Consultation with a labor organization that has expertise in the area of the alien's sport or entertainment field is required in the case of a P-1 petition. If the advisory opinion is not favorable to the petitioner, the advisory opinion must set forth a specific statement of facts which support the conclusion reached in the opinion. If the advisory opinion provided by the labor organization is favorable to the petitioner, it should evaluate and/or describe the alien's or group's ability and achievements in the field of endeavor, comment on whether the alien or group is internationally recognized for achievements, and state whether the services the alien or group is coming to perform are appropriate for an internationally recognized athlete or entertainment group. In lieu of the above, a labor organization may submit a letter of no objection if it has no objection to the approval of the petition.

(iii) Consultation requirements for P-1 circus personnel. The advisory opinion provided by the labor organization should comment on whether the circus which will employ the alien has national recognition as well as any other aspect of the beneficiary's or beneficiaries' qualifications which the labor organization deems appropriate. If the advisory opinion is not favorable to the petitioner, it must set forth a specific statement of facts which support the conclusion reached in the opinion. In lieu of

above, a labor organization may submit a letter of no objection if it has no objection to the approval of the petition.

(iv) Consultation requirements for P-2 alien in a reciprocal exchange program . In P-2 petitions where an artist or entertainer is coming to the United States under a reciprocal exchange program, consultation with the appropriate labor organization is required to verify the existence of a viable exchange program. The advisory opinion from the labor organization shall comment on the bona fides of the reciprocal exchange program and specify whether the exchange meets the requirements of paragraph (p)(5) of this section. If the advisory opinion is not favorable to the petitioner, it must also set forth a specific statement of facts which support the conclusion reached in the opinion.

(v) Consultation requirements for P-3 in a culturally unique program . Consultation with an appropriate labor organization is required for P-3 petitions involving aliens in culturally unique programs. If the advisory opinion is favorable to the petitioner, it should evaluate the cultural uniqueness of the alien's skills, state whether the events are cultural in nature, and state whether the event or activity is appropriate for P-3 classification. If the advisory opinion is not favorable to the petitioner, it must also set forth a specific statement of facts which support the conclusion reached in the opinion. In lieu of the above, a labor organization may submit a letter of no objection if it has no objection to the approval of the petition. .

(vi) Consultation requirements for essential support aliens . Written consultation on petitions for P-1, P-2, or P-3 essential support aliens must be made with a labor organization with expertise in the skill area involved. If the advisory opinion provided by the labor organization is favorable to the petitioner, it must evaluate the alien's essentiality to and working relationship with the artist or entertainer, and state whether United States workers are available who can perform the support services. If the advisory opinion is not favorable to the petitioner, it must also set forth a specific statement of facts which support the conclusion reached in the opinion. A labor organization may submit a letter of no objection if it has no objection to the approval of the petition.

(vii) Labor organizations agreeing to provide consultations . The Service shall list in its Operations Instructions for P classification those organizations which have agreed to provide advisory opinions to the Service and/or petitioners. The list will not be an exclusive or exhaustive list. The Service and petitioners may use other sources, such as publications, to identify appropriate labor organizations. The Service will also list in its Operations Instructions those occupations or fields of endeavor where it has been determined by the Service that no appropriate labor organization exists.

#### (8) Approval and validity of petition --

(i) Approval . The Director shall consider all the evidence submitted and such other evidence as he or she independently require to assist in his or her adjudication. The Director shall notify the petitioner of approval of the petition on Form I-797, Notice of Action. The approval notice shall include the beneficiary's name and classification and the petition's period of validity.

(ii) Recording the validity of petitions . Procedures for recording the validity period of petitions are:

(A) If a new P petition is approved before the date the petitioner indicates the services will begin, the approved petition and approval notice shall show the actual dates requested by the petitioner as the validity period, not to exceed the limit specified in paragraph (p)(8)(iii) of this section or other Service policy.

(B) If a new P petition is approved after the date the petitioner indicates the services will begin, the approved petition and approval notice shall generally show a validity period commencing with the date of approval and ending with the date requested by the petitioner, not to exceed the limit specified in paragraph (p)(8)(iii) of this section or other Service policy.

(C) If the period of services requested by the petitioner exceeds the limit specified in paragraph (p)(8)(iii) of this section, the petition shall be approved only up to the limit specified in that paragraph.

(iii) Validity. The approval period of a P petition shall conform to the limits prescribed as follows:

(A) P-1 petition for athletes. An approved petition for an individual athlete classified under section 101(a)(15)(P)(i) of the Act shall be valid for a period up to 5 years. An approved petition for an athletic team classified under section 101(a)(15)(P)(i) of the Act shall be valid for a period of time determined by the Director to complete the competition or event for which the alien team is being admitted, not to exceed 1 year.

(B) P-1 petition for an entertainment group. An approved petition for an entertainment group classified under section 101(a)(15)(P)(i) of the Act shall be valid for a period of time determined by Director to be necessary to complete the performance or event for which the group is being admitted, not to exceed 1 year.

(C) P-2 and P-3 petitions for artists or entertainers. An approved petition for an artist or entertainer under section 101(a)(15)(P)(ii) or (iii) of the Act shall be valid for a period of time determined by the Director to be necessary to complete the event, activity, or performance for which the P-2 or P-3 alien is admitted, not to exceed 1 year.

(D) Spouse and dependents. The spouse and unmarried minor children of a P-1, P-2, or P-3 alien beneficiary are entitled to nonimmigrant classification, subject to the same period of admission and limitations as the alien beneficiary, if they are accompanying or following to join the alien beneficiary in the United States. Neither the spouse nor a child of the alien beneficiary may accept employment unless he or she has been granted employment authorization.

(E) Essential support aliens. Petitions for essential support personnel to P-1, P-2, and P-3 aliens shall be valid for a period of time determined by the Director to be necessary to complete the event, activity, or performance for which the P-1, P-2, or P-3 alien is admitted, not to exceed 1 year.

(9) Denial of petition --

(i) Notice of intent to deny. When an adverse decision is proposed on the basis of derogatory information of which the petitioner is unaware, the Director shall notify the petitioner of the intent to deny the petition and the basis for the denial. The petitioner may inspect and rebut the evidence and will be granted a period of 30 days from the date of the notice in which to do so. All relevant rebuttal material will be considered in making a final decision.

(ii) Notice of denial. The petitioner shall be notified of the decision, the reasons for the denial, and the right to appeal the denial under 8 CFR part 103. There is no appeal from a decision to deny an extension of stay to the alien or a change of nonimmigrant status.

(10) Revocation of approval of petition --

(i) General.

(A) The petitioner shall immediately notify the Service of any changes in the terms and conditions of employment of a beneficiary which may affect eligibility under section 101(a)(15)(P) of the Act and paragraph (p) of this section. An amended petition should be filed when the petitioner continues to employ the beneficiary. If the petitioner no longer employs the beneficiary, the petitioner shall send a letter explaining the change(s) to the Director who approved the petition.

(B) The Director may revoke a petition at any time, even after the validity of the petition has expired.

(ii) Automatic revocation. The approval of an unexpired petition is automatically revoked if the petitioner, or the employer in a petition filed by an agent, goes out of business, files a written withdrawal of the petition, or notifies the Service that the beneficiary is no longer employed by the petitioner.

(iii) Revocation on notice --

(A) Grounds for revocation. The Director shall send to the petitioner a notice of intent to revoke the petition in relevant part if he or she finds that:

(1) The beneficiary is no longer employed by the petitioner in the capacity specified in the petition;

(2) The statement of facts contained in the petition were not true and correct;

(3) The petitioner violated the terms or conditions of the approved petition;

(4) The petitioner violated requirements of [section 101\(a\)\(15\)\(P\)](#) of the Act or paragraph (p) of this section; or

(5) The approval of the petition violated paragraph (p) of this section or involved gross error.

(B) Notice and decision. The notice of intent to revoke shall contain a detailed statement of the grounds for the revocation and the time period allowed for the petitioner's rebuttal. The petitioner may submit evidence in rebuttal within 30 days of the date of the notice. The Director shall consider all relevant evidence presented in deciding whether to revoke the petition.

(11) Appeal of a denial or a revocation of a petition --

(i) Denial. A denied petition may be appealed under 8 CFR part [103](#).

(ii) Revocation. A petition that has been revoked on notice may be appealed under 8 CFR part [103](#). Automatic revocations may not be appealed.

(12)

Admission

. A beneficiary may be admitted to the United States for the validity period of the petition, plus a period of up to 10 days before the validity period begins and 10 days after the validity period ends. The beneficiary may not work except during the validity period of the petition.

(13) Extension of visa petition validity. The petitioner shall file a request to extend the validity of the original petition under [section 101\(a\)\(15\)\(P\)](#) of the Act on Form I-129 in order to continue or complete the same activity or event specified in the original petition. Supporting documents are not required unless requested by the Director. A petition extension may be filed only if the validity of the original petition has not expired.

(14) Extension of stay --

(i)

Extension procedure

. The petitioner shall request extension of the alien's stay to continue or complete the same event or activity by filing Form I-129, accompanied by a statement explaining the reasons for the extension. The petitioner must also request a petition 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 is filed. Even though the requests to extend the petition and the alien's stay combined on the petition, the Director shall make a separate determination on each. If the alien leaves the United States for business or personal reasons while the extension requests are pending, the

petitioner may request the Director to cable notification of approval of the petition extension to the consular office abroad where the alien will apply for a visa.

(ii) Extension periods --

(A) P-1 individual athlete

. An extension of stay for a P-1 individual athlete and his or her essential support personnel may authorized for a period up to 5 years for a total period of stay not to exceed 10 years.

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

(15)

Effect of approval of a permanent labor certification or filing of a preference petition on P classification . 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 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 include essential support personnel.

(16) Effect of a strike --

(i) If the Secretary of Labor certifies to the Commissioner that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation at the place where the beneficiary is to be employed, and that the employment of the beneficiary would adversely affect the wages and working conditions of U.S. citizens and lawful resident workers:

(A) A petition to classify an alien as a nonimmigrant as defined in [section 101\(a\)\(15\)\(P\)](#) of the Act shall be denied; or

(B) If a petition has been approved, but the alien has not yet entered the United States, or has entered the United States but has not commenced employment, the approval of the petition is automatically suspended, and the application for admission on the basis of the petition shall be denied.

(ii) If there is a strike or other labor dispute involving a work stoppage of workers in progress, but such strike or other labor dispute is not certified under paragraph (p)(16)(i) of this section, the Commissioner shall not deny a petition or suspend an approved petition.

(iii) If the alien has already commenced employment in the United States under an approved petition and is participating in a strike or labor dispute involving a work stoppage of workers, whether or

not such strike or other labor dispute has been certified by the Secretary of Labor, the alien shall not be deemed to be failing to maintain his or her status solely on account of past, present, or future participation in a strike or other labor dispute involving a work stoppage of workers but is subject to following terms and conditions:

(A) The alien shall remain subject to all applicable provisions of the Immigration and Nationality Act and regulations promulgated thereunder in the same manner as all other P nonimmigrant aliens;

(B) The status and authorized period of stay of such an alien is not modified or extended in any way by virtue of his or her participation in a strike or other labor dispute involving a work stoppage of workers; and

(C) Although participation by a P nonimmigrant alien in a strike or other labor dispute involving a work stoppage of workers will not constitute a ground for deportation, an alien who violates his or her status or who remains in the United States after his or her authorized period of stay has expired, will be subject to deportation.

(17) Use of approval notice, Form I-797 . The Service shall notify the petitioner on Form I-797 whenever a visa petition or an extension of a visa petition is approved under the P classification. A beneficiary of a P petition who does not require a nonimmigrant visa may present a copy of the approval notice at a Port-of-Entry to facilitate entry into the United States. A beneficiary who is required to present a visa for admission, and whose visa expired before the date of his or her intended return, may use Form I-797 to apply for a new or revalidated visa during the validity period of the petition. The copy of Form I-797 shall be retained by the beneficiary and presented during the validity of the petition when reentering the United States to resume the same employment with the same petitioner.

(18) Return transportation requirement . In the case of an alien who enters the United States under section 101(a)(15)(P) of the Act and whose employment terminates for reasons other than voluntary resignation, 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. For the purposes of this paragraph, the term "abroad" means the alien's last place of residence prior to his or her entry into the United States.