

9 FAM 41.55

ALIENS WITH EXTRAORDINARY ABILITY

(CT:VISA-1564; 10-01-2010)
(Office of Origin: CA/VO/L/R)

9 FAM 41.55 RELATED STATUTORY PROVISIONS

(CT:VISA-1564; 10-01-2010)

See INA 101(a)(15)(O) (8 U.S.C. 1101(a)(15)(O)), INA 101(a)(46) (8 U.S.C. 1101(a)(46)), INA 214(a)(2)(A) (8 U.S.C. 1184(a)(2)(A)), and INA 214(c) (8 U.S.C. 1184(c)).

INA 101(a)(15)(O)

- (15) The term “immigrant” means every alien except an alien who is within one of the following classes of nonimmigrant aliens
- (O) an alien who:
- (i) has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim or, with regard to motion picture and television productions a demonstrated record of extraordinary achievement, and whose achievements have been recognized in the field through extensive documentation, and seeks to enter the United States to continue work in the area of extraordinary ability; or
 - (ii) (I) seeks to enter the United States temporarily and solely for the purpose of accompanying and assisting in the artistic or athletic performance by an alien who is admitted under clause (i) for a specific event or events,
 - (II) is an integral part of such actual performance,
 - (III) (a) has critical skills and experience with such alien which are not of a general nature and which cannot be performed by other individuals, or
 - (b) in the case of a motion picture or television

production, has skills and experience with such alien which are not of a general nature and which are critical either based on a pre-existing long-standing working relationship or, with respect to the specific production, because significant production (including pre- and post-production work) will take place both inside and outside the United States and the continuing participation of the alien is essential to the successful completion of the production, and

- (IV) has a foreign residence which the alien has no intention of abandoning; or
- (iii) is the alien spouse or child of an alien described in clause
- (i) or (ii) and is accompanying, or following to join, the alien;

INA 101(a)(46)

(46) The term "extraordinary ability" means, for purposes of subsection (a)(15)(O)(i) of this section, in the case of the arts, distinction.

INA 214(a)(2)(A)

- a. (2)(A) The period of authorized status as a nonimmigrant described in section 101(a)(15)(O) shall be for such period as the Attorney General may specify in order to provide for the event (or events) for which the nonimmigrant is admitted.

9 FAM 41.55 RELATED REGULATORY PROVISIONS

(CT:VISA-1564; 10-01-2010)

See 22 CFR 41.55.

Section 41.55 Aliens with extraordinary ability.

(a) Requirements for O classification. An alien shall be classifiable under the provisions of INA 101(a)(15)(O) 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 DHS of a petition to accord such classification or of the extension by DHS 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.
- (b) Approval of visa. The approval of a petition by DHS does not establish that the alien is eligible to receive a nonimmigrant visa.
- (c) Validity of visa. 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, notification, or confirmation required in paragraph (a)(2) of this section.
- (d) Alien not entitled to O classification. The consular officer must suspend action on the alien's application and submit a report to the approving DHS office if the consular officer knows or has reason to believe that an alien applying for a visa under INA 101(a)(15)(O) is not entitled to the classification as approved.

[57 FR 31450, July 16, 1992; as amended at 61 FR 1833, Jan. 24, 1996.]