

9 FAM 41.56 NOTES

*(CT:VISA-1681; 09-07-2011)
(Office of Origin: CA/VO/L/R)*

9 FAM 41.56 N1 INTRODUCTION

(CT:VISA-1360; 10-23-2009)

The P nonimmigrant visa (NIV) 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 the Department of Homeland Security (DHS) prior to visa issuance.

9 FAM 41.56 N2 DEFINITIONS

(CT:VISA-1573; 10-04-2010)

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" 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;
- (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 TYPES OF P NONIMMIGRANTS

(CT:VISA-1573; 10-04-2010)

Under INA 101(a)(15)(P), an alien 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: Athletes and Group Entertainers

(CT:VISA-1573; 10-04-2010)

The P-1 classification applies to the following aliens:

- (1) A P1-A petition is authorized in order for an alien to perform as an athlete, either individually or as part of a group or team at an

“internationally recognized” level of performance (for the definition of “international recognition,” see 9 FAM 41.56 N2 paragraph 5). You should note that an athletic team can be as few as two persons. Additionally, the “international recognition” requirement may be waived by DHS in some cases.

- (2) A P-1B petition is authorized for an alien to be able to perform with, or serve 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. 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 performers of any group, nor to circus personnel, and may be waived by DHS in certain circumstances. It is important to note that an entertainment group may have as few as two (2) persons. If an individual entertainer is performing separate and apart from the group, that entertainer should apply for an O-1 petition separately from the rest of the group.

9 FAM 41.56 N3.2 P-2 Nonimmigrants: Reciprocal Exchange Programs

(CT:VISA-1573; 10-04-2010)

The P-2 classification applies to artists or entertainers, individually or as a group, or their essential support personnel, who will be performing under a reciprocal exchange program which is between at least one organization in the United States (including management organizations) and at least one organization in one or more foreign states which provides for the temporary exchange of artists and entertainers. The exchange of artists and entertainers shall be similar in terms of caliber of artists and entertainers, and in terms and conditions of employment.

9 FAM 41.56 N3.3 P-3 Nonimmigrants: Culturally Unique Programs

(CT:VISA-1573; 10-04-2010)

The P-3 Classification is for artists or entertainers, individually or as a group, or their essential support personnel, who wish to come 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 or presentation. The alien must be coming to the United States to participate in a cultural event(s) which will forward the understanding or development of the art form. The program may be of a commercial or noncommercial nature, and does not have to be sponsored by an educational, cultural or government agency. There is no requirement for P-3 aliens that the group have existed before their trip to the United States.

9 FAM 41.56 N3.4 P-4 Nonimmigrants

(CT:VISA-1573; 10-04-2010)

The P-4 classification applies to the spouse and children who are 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 CONSULTATION REQUIREMENT

(CT:VISA-1573; 10-04-2010)

As part of the DHS petition approval process, 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 from the union is usually obtained by the petitioner and filed with the I-129 visa petition, 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 N5 EFFECT OF LABOR DISPUTES

(CT:VISA-1573; 10-04-2010)

- 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 N6 TEMPORARINESS OF STAY

9 FAM 41.56 N6.1 INA 214(B) Residence Abroad Requirement

(CT:VISA-1573; 10-04-2010)

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 N6.2 Dual Intent Provision

(CT:VISA-1573; 10-04-2010)

DHS has determined that the approval of a permanent labor certification or the filing of an immigrant visa petition for an alien shall not be a basis for denying a P petition, or for DHS to deny 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. However, this "dual intent" provision does not apply to essential support personnel.

9 FAM 41.56 N7 SIGNIFICANCE OF APPROVED PETITION

9 FAM 41.56 N7.1 Department of Homeland Security (DHS) Responsible for Adjudicating P Petitions

(CT:VISA-1573; 10-04-2010)

a. 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.

- b. Posts generally shall not request that the Department provide status reports on petitions filed with DHS/U.S. Citizenship and Immigration Services (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 N7.2 Transmission of Approved Petition to Post via the Kentucky Consular Center (KCC)

(CT:VISA-1573; 10-04-2010)

U.S. Citizenship and Immigration Services (USCIS) sends all approved NIV petitions to the Kentucky Consular Center (KCC) for transmittal to post. The KCC scans the petition and supporting documents into the Petition Information Management Service (PIMS), which posts can access through the Consular Consolidated Database (CCD). PIMS allows all information on a petitioner, petition, and/or beneficiary to be linked through a centrally managed CCD service. As a result of this change, the KCC has ceased e-mailing scanned copies of approved NIV petitions to posts.

9 FAM 41.56 N7.3 Approved Petition Is Prima Facie Evidence of Entitlement to P Classification

(CT:VISA-1681; 09-07-2011)

- a. You should no longer require that an approved Form I-129, Petition for a Nonimmigrant Worker, or evidence that the P petition has been approved (a Form I-797, Notice of Action (see 9 FAM 41.55 Exhibit I), be presented by an applicant seeking an P visa. All petition approvals must be verified *either* through the Petition Information Management Service (PIMS) *or through the Person Centric Query Service (PCQS), in the CCD under the Cross Applications tab.* Once you have verified approval through PIMS *or PCQS*, consider this as prima facie evidence that the requirements for P classification, which are examined in the petition process, have been met. You may not 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 approved P petitions are valid, and involve bona fide establishments, relationships, and individual qualifications that conform to the DHS regulations in effect at the time the P 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 in the course of which questions may arise as to his or her eligibility to P classification. If you develop information during the visa interview (e.g., evidence which was not available to DHS) that gives you reason to believe that the beneficiary may not be entitled to status, you 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 N7.4 Consular Officers Responsible for Determining Qualifications of Team or Group Members

(CT:VISA-1573; 10-04-2010)

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 N7.5 Referring Approved P Petition to the Department of Homeland Security (DHS)/U.S. Citizenship and Immigration Services (USCIS) for Reconsideration

(CT:VISA-1573; 10-04-2010)

- a. 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 a Nonimmigrant Worker, approval. When seeking reconsideration, you must, under cover of Form DS-3099, NIV Petition Revocation Request Cover Sheet-Kentucky Consular Center, 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.

- b. 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

9 FAM 41.56 N8 PETITION PROCEDURES

9 FAM 41.56 N8.1 Using Form I-129, Petition for a Nonimmigrant Worker, to File Petition

(CT:VISA-1573; 10-04-2010)

- a. A U.S. or foreign employer uses Form I-129, Petition for a 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 one year 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 N8.2 Services in More Than One Location

(CT:VISA-1573; 10-04-2010)

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 petition to the DHS Service Center which has jurisdiction in the area where the petitioner is located.

9 FAM 41.56 N8.3 Services for More Than One Employer

(CT:VISA-1573; 10-04-2010)

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, or one petitioner can petition for the entire itinerary. If the P alien is self employed or there is a foreign employer, there must be a U.S. agent who acts as the petitioner (See 9 FAM 41.56 8.5). If an agent is the petitioner, she or he must have an itinerary and the contract when filing the petition.

9 FAM 41.56 N8.4 Change of Employer

(CT:VISA-1573; 10-04-2010)

If a P-1, P-2, or P-3 alien in the United States seeks to change employers, the new employer must file a petition with DHS as well as 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.

9 FAM 41.56 N8.5 Agents as Petitioners

(CT:VISA-1573; 10-04-2010)

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 his or her behalf with numerous employers. An agent may also file a petition on behalf of a foreign employer.

9 FAM 41.56 N8.6 Multiple Beneficiaries

(CT:VISA-1573; 10-04-2010)

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 (POE) at which visa-exempt beneficiaries will apply for admission.

9 FAM 41.56 N8.7 Named Beneficiaries

(CT:VISA-1573; 10-04-2010)

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

9 FAM 41.56 N8.8 Substituting Beneficiaries

(CT:VISA-1573; 10-04-2010)

Beneficiaries may be substituted on P-1, P-2, and P-3 petitions for 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 (POE) 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 N7.4 regarding responsibility for adjudicating visa applications for team and group members). You should note that essential support personnel cannot be substituted. In order to add different essential support personnel to an existing P visa petition, a new I-129 must be filed at the appropriate DHS service center.

9 FAM 41.56 N8.9 Department of Homeland Security (DHS) Notification to Petitioner of Petition Approval

(CT:VISA-1573; 10-04-2010)

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

should 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 making a visa appointment, 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.

9 FAM 41.56 N9 VALIDITY OF APPROVED P PETITIONS

9 FAM 41.56 N9.1 Petition Approval

(CT:VISA-1681; 09-07-2011)

- a. The approval of a petition by the Department of Homeland Security (DHS) or by the Department of Labor (DOL) does not establish that the alien is eligible to receive a nonimmigrant visa (NIV). You may not authorize a petition-based NIV without verification of petition approval through the Petition Information Management Service (PIMS) *or through the Person Centric Query Service (PCQS)*.
- b. PIMS *and PCQS are the sources* of confirmation for consular officers that a petition for a visa has been approved. Verification in PIMS *or PCQS* is prima facie evidence of entitlement to P classification.
- c. You must suspend action on an alien's application and submit a report to the approving DHS office if you know or have 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 N9.2 Consular Consolidated Database (CCD) Access to Approved Nonimmigrant Visa (NIV) Petitions

(CT:VISA-1681; 09-07-2011)

- a. *The* Petition Information Management Service (PIMS) *or the Person Centric Query Service (PCQS) are the sources* of confirmation for consular officers that a petition for a visa has been approved. Verification in PIMS *or PCQS* is prima facie evidence of entitlement to P classification.
- b. Posts must use *either* the electronic PIMS record created by the Kentucky Consular Center (KCC) *or the record obtained through PCQS* to verify petition approval. Posts are able to access the details of approved

nonimmigrant visa (NIV) petitions through *these reports in* the CCD. All users with roles that allow access to the current NIV Petitioner Applicant report will be able to see this information. The PIMS Petition Report is listed under a sub-category of the NIV menu called "NIV Petitions." *The PCQS Report is listed under the Cross Applications tab in the CCD.*

- c. The PIMS Petition Report contains a record of all petitioners recorded by the KCC as having approved petitions since 2004. In addition, the KCC FPU has provided informational memos on a large percentage of these petitioners. Each new, approved petition is linked to a base petitioner record, allowing superior tracking of NIV petitioner and petition information. As a result of this change, the KCC has ceased e-mailing scanned copies of approved NIV petitions to posts.
- d. If you are unable to immediately locate information on a specific petition *either through PIMS or PCQS*, you must send an e-mail to PIMS@state.gov. KCC's FPU will research approval of the petition and, if able to confirm its approval, will make the details available through the CCD within 2 working days. You may submit your request to KCC only within five (5) working days of the scheduled interview date and you must have checked PIMS before submitting to KCC. KCC will check the USCIS CLAIMS database, and will upload the CLAIMS report into PIMS so that you can proceed with the scheduled interview. KCC will not process PIMS requests submitted by post prior to the five day window. Please be sure to conduct a PIMS query before sending in these special requests, in order to reduce KCC's workload. Posts may use approved Forms I-129 and Forms I-797 presented at post as sufficient proof to schedule an appointment, or may schedule an appointment based on the applicant's confirmation that the petition has been approved, but only PIMS *or PCQS* is sufficient evidence for visa adjudication.

9 FAM 41.56 N9.3 Initial Period of Validity

(CT:VISA-1573; 10-04-2010)

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.
- (6) P-4 spouse and unmarried minor children are subject to the same period of admission and time limitations as the alien beneficiary. They must be either accompanying or following-to-join the P-1, P-2, or P-3 alien.

9 FAM 41.56 N9.4 Petition Extension

(CT:VISA-1573; 10-04-2010)

The petitioner should file a request to extend the validity of a P petition on Form I-129, Petition for a 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 N10 ADMISSION BEFORE PETITION VALIDITY

(CT:VISA-1573; 10-04-2010)

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 generally tied to the period of validity of the petition by DHS (See 9 FAM 41.56 Note 15.2 for a discussion of how to annotate P visas.).

9 FAM 41.56 N11 EXTENSION OF STAY

9 FAM 41.56 N11.1 Extension Procedures

(CT:VISA-1573; 10-04-2010)

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 a 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 N11.2 Extension Periods

9 FAM 41.56 N11.2-1 P-1 Individual Athletes

(CT:VISA-1573; 10-04-2010)

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 N11.2-2 Other P-1 Aliens and P-2 and P-3 Nonimmigrants

(CT:VISA-1573; 10-04-2010)

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 N12 ISSUING P VISAS

9 FAM 41.55 N12.1 Evidence Forming Basis for P Visa Issuance

(CT:VISA-1681; 09-07-2011)

- a. The basis for P visa eligibility consists of an approved Form I-129, Petition for a Nonimmigrant Worker, that must be verified through *the* Petition Information Management Service (PIMS) *or the Person Centric Query Service (PCQS)* before issuing a visa. The Form I-797 is no longer

required to be presented to a consular officer at the time of the applicant's interview. *If post finds a petition approval in PCQS that was not in PIMS, the post should send an email to PIMS@state.gov as follows: Petition with Receipt Number EAC1234567890 was found in PCQS but not in PIMS.*

- b. Posts must use *either* the electronic PIMS record created by the KCC *or the record in PCQS* to verify petition approval. Posts are able to access the details of approved NIV petitions through the CCD, through the PIMS Petition Report *or through PCQS*.
- c. Though no longer required, a valid Form I-797 will include the date of the Notice, the name of the petitioner, the name of the beneficiary, the petition/receipt number, the expiration date of the petition, and the name, address, and telephone number of the approving DHS office (the paper Form I-797 is an unsigned computer-generated form). The petition (Form I-129) must be confirmed and adjudication processing initiated through PIMS *or the PCQS*.
- d. If PIMS does not contain the petition approval, before sending an email to KCC, post has the option to look for petition approval in PCQS in the CCD under the Cross Applications tab. In PCQS, under Search Criteria, select Receipt Number; then enter the number from the Form I-797; e.g., EAC1234567890. First, search just CISCOR to find the petition, but if not found in CISCOR, you should also check CLAIMS 3. If post finds a petition approval in PCQS that was not in PIMS, the post should send an e-mail to PIMS@state.gov as follows: Petition with Receipt Number EAC1234567890 was found in PCQS but not in PIMS. You may not authorize a petition-based NIV without verification of petition approval either through PIMS or PCQS.*

9 FAM 41.56 N12.2 Validity of P Visas

(CT:VISA-1573; 10-04-2010)

- 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 United States 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 N12.3 Annotating P Visas

(CT:VISA-1573; 10-04-2010)

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 N12.4 Annotating a Single P Visa Based on More Than One Petition

(CT:VISA-1573; 10-04-2010)

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 on the visa.

9 FAM 41.56 N12.5 Limitation of P Visas

(CT:VISA-1573; 10-04-2010)

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 N12.6 Reissuing P Visas

(CT:VISA-1573; 10-04-2010)

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 using the

same still-valid petition. If an application or reciprocity fee is prescribed by the reciprocity schedules, posts must collect the fee for each reissuance of the P visa.

9 FAM 41.56 N13 SPOUSE AND CHILDREN OF P-1, P-2, OR P-3 ALIENS

(CT:VISA-1573; 10-04-2010)

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 N13.1 Employment in United States by P-4 Dependent Aliens Prohibited

(CT:VISA-1573; 10-04-2010)

Aliens in P-4 status are generally 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 or unless that employment is authorized by DHS. 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.

9 FAM 41.56 N13.2 Verifying Principal Alien is Maintaining Status

(CT:VISA-1573; 10-04-2010)

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. You may also wish to check PIMS or ADIS.

9 FAM 41.56 N13.3 Return Transportation When Employment Involuntarily Terminated

(CT:VISA-1573; 10-04-2010)

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.