

**The statutory authority is** section 101(a)(15)(O), 101(a)(46) and 214(a) and (c)(1) of the Immigration and Nationality Act (INA); 8 U.S.C. 1101(a)(15)(O), 1101(a)(46) and 1184(a) and (c)(1).

101(a)(15)(O)

### **§1101. Definitions**

(a) As used in this chapter-

(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 longstanding 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;

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101(a)(46)

### **§1101. Definitions**

(a) As used in this chapter-

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

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214(a)

### **§1184. Admission of nonimmigrants**

(a) *Regulations*

(1) The admission to the United States of any alien as a nonimmigrant shall be for such time and under such conditions as the Attorney General may by regulations prescribe, including when he deems necessary the giving of a bond with sufficient surety in such sum and containing such conditions as the Attorney General shall prescribe, to insure that at the expiration of such time or upon failure to maintain the status under which he was admitted, or to maintain any status subsequently acquired under [section 1258 of this title](#), such alien will depart from the United States. No alien admitted to Guam or the Commonwealth of the Northern Mariana Islands without a visa pursuant to [section 1182\(l\) of this title](#) may be authorized to enter or stay in the United States other than in Guam or the Commonwealth of the Northern Mariana Islands or to remain in Guam or the Commonwealth of the Northern Mariana Islands for a period exceeding 45 days from date of admission to Guam or the Commonwealth of the Northern Mariana Islands. No alien admitted to the United States without a visa pursuant to [section 1187 of this title](#) may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission.

(2)(A) The period of authorized status as a nonimmigrant described in [section 1101\(a\)\(15\)\(O\) of this title](#) 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.

(B) The period of authorized status as a nonimmigrant described in [section 1101\(a\)\(15\)\(P\) of this title](#) 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 1101\(a\)\(15\)\(P\) of this title](#), 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.

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214(c)(1)

## **§1184. Admission of nonimmigrants**

### *(c) Petition of importing employer*

(1) The question of importing any alien as a nonimmigrant under subparagraph (H), (L), (O), or (P)(i) of [section 1101\(a\)\(15\) of this title](#) (excluding nonimmigrants under [section 1101\(a\)\(15\)\(H\)\(i\)\(b1\) of this title](#)) 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 a petition shall not, of itself, be construed as establishing that the alien is a nonimmigrant. For purposes of this subsection with respect to nonimmigrants described in [section 1101\(a\)\(15\)\(H\)\(ii\)\(a\) of this title](#), the term "appropriate agencies of Government" means the Department of Labor and includes the Department of Agriculture. The provisions of [section 1188 of this title](#) shall apply to the question of importing any alien as a nonimmigrant under [section 1101\(a\)\(15\)\(H\)\(ii\)\(a\) of this title](#).

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**The regulatory authority** is 8 CFR 214.2(o)(2)(i).

## **§ 214.2 Special requirements for admission, extension, and maintenance of status.**

The general requirements in [§ 214.1](#) are modified for the following nonimmigrant classes:

### **Sect. 214.2(o)**

#### **(o) Aliens of extraordinary ability or achievement -**

##### **(2) Filing of petitions -**

**(i) General.** Except as provided for in [paragraph \(o\)\(2\)\(iv\)\(A\)](#) of this section, a [petitioner](#) seeking to classify an alien as an O-1 or O-2 nonimmigrant shall file a [petition](#) on [Form I-129, Petition](#) for a Nonimmigrant Worker. The [petition](#) may not be filed more than one year before the actual need for the alien's services. An O-1 or O-2 [petition](#) shall be adjudicated at the appropriate [Service](#) Center, even in emergency situations. Only one beneficiary may be included on an O-1 [petition](#). O-2 aliens must be filed for on a separate [petition](#) from the O-1 alien. An O-1 or O-2 [petition](#) may only be filed by a [United States employer](#), a [United States](#) agent, or a foreign employer through a [United States](#) agent. For purposes of [paragraph \(o\)](#) of this section, a foreign employer is any employer who is not amenable to [service](#) of process in the [United States](#). A foreign employer may not directly [petition](#) for an O nonimmigrant alien but instead must use the [services](#) of a [United States](#) agent to file a [petition](#) for an O nonimmigrant alien. A [United States](#) agent [petitioning](#) on behalf of a foreign employer must be authorized to file the [petition](#), and to accept [services](#) of process in the [United States](#) in proceedings under section 274A of the [Act](#), on behalf of the foreign employer. An O alien may not [petition](#) for himself or herself.