

The P-3 Nonimmigrant Classification—§214.2(p)(6)

The P-3 classification relates to aliens, either individually or as part of a group, who are coming to the United States solely to perform, teach, or coach under a culturally unique program. A number of commenters stated that the standard and criteria for this classification as contained in the interim rule were very restrictive and imposed a number of requirements and qualitative standards which had no statutory basis. For example, eight commenters noted that there was no statutory support for the concept that P-3 aliens had to have achieved international acclaim while fifty-eight commenters stated that there was no statutory requirement that P-3 beneficiaries must perform for cultural, governmental, or educational institutions.

The Service has carefully reviewed the many comments received concerning the P-3 nonimmigrant classification and has made a number of changes in the final rule to incorporate these suggestions. The final rule requires only that the P-3 alien be coming to the United States solely to perform, teach, or coach in culturally unique events. The petitioner may be a commercial producer and there is no longer a requirement that the events must be performed at cultural, governmental, or education institutions.

However, all of the events in which the aliens will be performing must be culturally unique. Consistent with the interim rule, there is no requirement that a P-3 group have performed together for any specific period of time. The documentary requirements for a P-3 petition have also been amended in response to the comments. Petitioners merely have to submit evidence addressing the cultural uniqueness of the performance and evidence that all performances are culturally unique. The qualitative standards contained in the interim rule for P-3 nonimmigrant aliens have been removed.

One commenter suggested that consultations for P-3 petitions should not be required as it should be assumed that there are no consulting organizations for P-3 petitions due to the uniqueness of the performances or the art form. The Service cannot adopt this suggestion since the consultation from a labor organization will provide the Service with the important information necessary to make the determination as to whether the performance is, in fact, culturally unique. Seven commenters suggested that the regulations were too restrictive with respect to folk and traditional artists. As stated earlier, the documentary requirements relating to P-3 petitions contained in the interim rule have been altered. These alterations should make it easier for prospective petitioners to petition for folk or traditional artists. Petitioners must still establish, however, that the folk music is culturally unique.