consular officer knows or has reason to believe that an alien applying for a visa as the beneficiary of an approved individual petition under INA 101(a)(15)(L) is not entitled to such classification as approved.

(e) *Labor disputes.* Citizens of Canada or Mexico shall not be entitled to classification under this section if the Secretary of Homeland Security and the Secretary of Labor have certified that:

(1) There is in progress a strike or lockout in the course of a labor dispute in the occupational classification at the place or intended place of employment; and

(2) The alien has failed to establish that the alien's entry will not affect adversely the settlement of the strike or lockout or the employment of any person who is involved in the strike or lockout.

(f) *Alien not entitled to L–1 classification under blanket petition.* The consular officer shall deny L classification based on a blanket petition if the documentation presented by the alien claiming to be a beneficiary thereof does not establish to the satisfaction of the consular officer that

(1) The alien has been continuously employed by the same employer, an affiliate or a subsidiary thereof, for 1 year within the 3 years immediately preceding the application for the L visa;

(2) The alien was occupying a qualifying position throughout that year; or

(3) The alien is destined to a qualifying position identified in the petition and in an organization listed in the petition.

(g) *Former exchange visitor.* Former exchange visitors who are subject to the 2-year foreign residence requirement of INA 212(e) are ineligible to apply for visas under INA 101(a)(15)(L) until they have fulfilled the residence requirement or obtained a waiver of the requirement.

[57 FR 31449, July 16, 1992, as amended at 58 FR 68527, Dec. 28, 1993; 61 FR 1833, Jan. 24, 1996]

§ 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]

§ 41.56 Athletes, artists and entertainers.

(a) *Requirements for P classification.* An alien shall be classifiable under the provisions of INA 101(a)(15)(P) 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