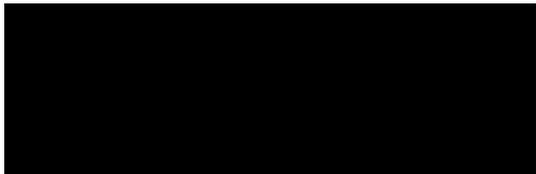




U.S. Citizenship  
and Immigration  
Services



*[Handwritten signature]*

FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: JUN 15 2004

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

*[Handwritten signature]*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a church. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(4), to perform services as the pastor of the Divine Chinese Ministry, a branch of the petitioning church. The director determined that the petitioner had not established that the beneficiary qualifies as a minister under the governing regulations.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C), which pertains to an immigrant who:

(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

(ii) seeks to enter the United States--

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(II) before October 1, 2008, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before October 1, 2008, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Code of 1986) at the request of the organization in a religious vocation or occupation; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

At issue in this proceeding is whether the beneficiary qualifies as a minister. The regulation at 8 C.F.R. § 204.5(m)(2) offers the following definition:

*Minister* means an individual duly authorized by a recognized religious denomination to conduct religious worship and to perform other duties usually performed by authorized members of the clergy of that religion. In all cases, there must be a reasonable connection between the activities performed and the religious calling of the minister. The term does not include a lay preacher not authorized to perform such duties.

While the determination of an individual's status or duties within a religious organization is not under the purview of Citizenship and Immigration Services (CIS), the determination as to the individual's qualifications to receive benefits under the immigration laws of the United States rests within CIS. Authority over the latter determination lies not with any ecclesiastical body but with the secular authorities of the United States. *Matter of Hall*, 18 I&N, Dec. 203 (BIA 1982); *Matter of Rhee*, 16 I&N Dec. 607 (BIA 1978).

In a letter accompanying the petition, Debbie L. Tausch, vice president and treasurer of the petitioner's executive board, states that the beneficiary "has been trained in seminary with her masters degree in Divinity

[and] was ordained by an international group as Christian clergy.” In a separate letter, [redacted] states that the beneficiary’s responsibilities include “[c]onducting wedding and funeral ceremonies.” The petitioner submits a copy of the beneficiary’s 1993 Master of Divinity diploma from [redacted] Seminary. The petitioner also submits a copy of a certificate of ordination, issued in 1999, from World Christianship Ministries. The certificate states “World Christianship authorizes this individual the authority to perform standard Christian religious services on behalf of the Christian faith and in accordance with the teachings of the Holy Bible.”

[redacted] asserts that the beneficiary’s duties include “conducting baptisms, funerals, [and] weddings,” but she also asserts that “[t]he church membership figures are nineteen members.” There is no evidence that the beneficiary has, in fact, performed any baptisms, funerals or weddings for this very small congregation.

Documentation in the record indicates that the petitioning church is a member of the [redacted] based in Lee’s Summit, Missouri (as of 1970); this would appear to be the petitioner’s denomination. There is no evidence in the record that the association’s headquarters has acknowledged or recognized the beneficiary’s ordination, or ordinations in general that are granted by organizations outside of the denomination.

The director denied the petition, stating that the petitioner had failed to provide a “detailed description of the beneficiary’s theological education and proof that it is recognized by the governing body of the U.S. denomination.” The director cited *Matter of Rhee, supra*, in which the Board of Immigration Appeals discounted a certificate of ordination that was “not [based] on any theological training or education.” The Board further concluded “We do not agree that the issuance of a piece of paper entitled ‘certification of ordination’ by a religious organization should be conclusive as to who qualifies as a minister for immigration purposes. Otherwise, Congressional policy in the field of immigration could be readily circumvented by accommodating religious organizations.” *Id* at 610.

On appeal, the petitioner submits further documentation from [redacted], as well as materials from other churches where the beneficiary had served in various capacities, such as assistant pastor and Sunday school teacher. To establish the beneficiary’s recognition as a minister, the petitioner submits a copy of an October 13, 1999 letter from [redacted] vice president of ministry employment and expansion services at the [redacted]. The letter, addressed to the beneficiary, acknowledges the beneficiary’s “new ministry” and expresses support, but also contains the assertion that “you are not a Unity minister” and therefore “this ministry would have to be under the auspices of the existing [redacted].” The letter is dated after the date on the beneficiary’s ordination certificate, and therefore the beneficiary’s ordination by World Christianship Ministries did not make her “a Unity minister” in the eyes of the denomination’s leadership.

The petitioner submits a letter from the petitioner’s former pastor, [redacted] who attests to the beneficiary’s continued training. [redacted] refers to herself as an “Ordained Unity minister,” but she does not state that the beneficiary qualifies for the same title. [redacted] minister at the Unity Church of Pasadena, states that the beneficiary “has been a student in the [redacted] of Pasadena since April, 2000. . . . I can vouch for [the beneficiary’s] . . . commitment to follow the career path of Licensing and Ordination within our movement.” There is no evidence that the beneficiary has already obtained licensing and ordination within the [redacted] movement. Rather, [redacted], in a new letter, states that the beneficiary “continues to study Unity under the guidance and direction of the [redacted].” We note that, while these individuals refer to various Unity ministers by the title “Reverend,” no one outside of the petitioning church in Alhambra applies that title to the beneficiary.

application. The term "continuously" was interpreted to mean that one did not take up any other occupation or vocation. *Matter of B*, 3 I&N Dec. 162 (CO 1948).

The term "continuously" also is discussed in a 1980 decision where the Board of Immigration Appeals determined that a minister of religion was not continuously carrying on the vocation of minister when he was a full-time student who was devoting only nine hours a week to religious duties. *Matter of Varughese*, 17 I&N Dec. 399 (BIA 1980). These past decisions and the intent of Congress indicate that to be continuously carrying on the religious work means to do so on a full-time basis (at least 35 hours per week).

Ms. Tausch provides the following breakdown of the beneficiary's duties:

**Sunday:** Sunday service is two hours and communion supper is one hour. Food preparation is four hours. She joins the English service once a month is [sic] one hour.

**Monday through Friday:** Office hours are from 1:00 pm to 5:00 pm.

**Wednesday:** Extension education for spirituality (most Wednesday) is two hours from 7:00 pm to 9:00 pm

**Thursday:** Once in a month there is a board meeting, which is three hours from 7:15 pm to 10:15 pm regularly.

**Friday:** She serves as coordinator and teacher for the ORTV (Overseas Radio and Television) English class "Let's Talk in English" which is two hours from 9:30 am to 11:30 am.

**Saturday:** Visitation: she visits her parishioners on Saturdays for four hours and once in a month, there is family gathering meeting for the whole congregation with a variety [of] activities and Bible study.

In total, her average weekly working hours varies [sic] from 36 to 40 hours, and there are special whole day seasonal outings as well."

The actual range for the above duties as described is 35 hours most weeks, to at least 39 hours for weeks in which the beneficiary participates in the English service on Sunday, the board meeting on Thursday, and the "family gathering meeting" of indeterminate length on Saturday. It is not readily clear that a congregation consisting of "nineteen members" would require a full-time pastor.

Furthermore, the above schedule does not establish continuous work as a minister. The regulatory definition of a "minister" at 8 C.F.R. § 204.5(m)(2) requires "a reasonable connection between the activities performed and the religious calling of the minister." Teaching English classes is not generally recognized as a ministerial duty. The petitioner has not shown that "Let's Talk in English" is primarily religious rather than secular in character. Information from <http://www.studioclassroom.com.tw> offers detailed information about "Let's Talk in English," but the information contains no references to Christianity or to religion in general. Rather, the program consists of "user-friendly materials to help readers improve their English skills while learning about a wide variety of interesting topics." In short, the beneficiary's English classes appear to represent a pervasively secular activity, and thus the beneficiary is not working *continuously* as a minister. The beneficiary's remaining duties do not appear to be sufficient to comprise full-time work as a minister.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.