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U.S. Citizenship  
and Immigration  
Services

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[Redacted]

FILE: [Redacted] Office: VERMONT SERVICE CENTER Date: **AUG 03 2007**  
EAC 06 025 51120

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:  
[Redacted]

**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.

*Maura Deadrick*  
fr Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be sustained and the petition will be approved.

The petitioner is a Yoga ashram. It seeks to classify the beneficiary as a 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), to perform services as a religious translator. The director determined that the petitioner had not established that the beneficiary is, or is qualified to be, a religious translator.

On appeal, the petitioner submits a letter as well as various exhibits.

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 Revenue 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).

The issue in contention concerns the beneficiary's occupation and qualifications. The regulation at 8 C.F.R. § 204.5(m)(2) offers the following pertinent definitions:

*Professional capacity* means an activity in a religious vocation or occupation for which the minimum of a United States baccalaureate degree or a foreign equivalent degree is required.

*Religious occupation* means an activity which relates to a traditional religious function. Examples of individuals in religious occupations include, but are not limited to, liturgical workers, religious instructors, religious counselors, cantors, catechists, workers in religious

hospitals or religious health care facilities, missionaries, religious translators, or religious broadcasters. This group does not include janitors, maintenance workers, clerks, fund raisers, or persons solely involved in the solicitation of donations.

8 C.F.R. § 204.5(m)(3) and its subclauses read, in pertinent part:

*Initial evidence.* Unless otherwise specified, each petition for a religious worker must be accompanied by:

\* \* \*

(ii) A letter from an authorized official of the religious organization in the United States which (as applicable to the particular alien) establishes:

\* \* \*

(C) That, if the alien is a religious professional, he or she has at least a United States baccalaureate or its foreign equivalent required for entry into the religious profession. In all professional cases, an official academic record showing that the alien has the required degree must be submitted; or

(D) That, if the alien is to work in another religious vocation or occupation, he or she is qualified in the religious vocation or occupation. Evidence of such qualifications may include, but need not be limited to, evidence establishing that the alien is a nun, monk, or religious brother, or that the type of work to be done relates to a traditional religious function.

In a letter accompanying the initial filing of the petition, [REDACTED], Vice President of the petitioning organization, stated:

[The beneficiary] has been a member of our organization for the past seven years. . . . Since 10/02/2003 . . . he has been in R-1 status performing the same occupation and job description we are now pursuing. . . .

We have found an increasing interest in our religious teachings in both France and in Canada, where a large part of the population is French-speaking. With [the beneficiary's] assistance, we have been expanding our presence in both of these countries, and in other French-speaking areas as well, making our teachings available to those people there who are interested in them. For this reason, we would like to continue to employ [the beneficiary] as a translator/editor of our religious texts, editing same and translating them into French for dissemination in French-speaking countries.

[The beneficiary] has been and will continue to be employed by us as a religious translator. His duties will be to translate religious tracts, texts, pamphlets and other written religious material, in written form, from English into French for dissemination by us in French-speaking countries. . . .

An otherwise competent translator, with a high degree of literacy and fluency in the subject languages, is simply not acceptable as such without more. Rather, we require someone who has been exposed to our teachings, who has studied our teachings, and who has demonstrated a certain level of understanding in regard to them. . . .

Just as a literate and fluent translator is not alone sufficient for the job, neither is simply a dedicated and caring member of the organization. . . . Rather, what is required is a level of religious and spiritual understanding, specific to the teachings of our organization, so as to enable the richness of the teaching with all its subtleties and nuances, its fine points, to be conveyed into the second language. . . . Only a person well versed and grounded in our religious teachings can do this. And that person must also have the other qualifications of fluency and literacy.

[The beneficiary] meets all of the necessary qualifications. He is a literate man with a bachelor's degree . . . although a bachelor's degree is not necessarily required. What is important is that he has demonstrated to us his high degree of literacy and ability to work with the written word. . . . And above all he has demonstrated to us a high intellectual level of religious and spiritual understanding of our religious teachings.

██████████ stated that a copy of the beneficiary's degree was enclosed with the initial filing, but the documentation was not included.

On January 13, 2006, the director issued a request for evidence (RFE), stating that the record did not contain an official academic record of the beneficiary's claimed bachelor's degree. In response, ██████████ stated: "We wish to emphasize that [the beneficiary] is not employed or sought to be employed as a religious professional. Rather, he is employed and sought to be employed solely in the religious occupation of religious translator, which religious occupation is specifically recognized by the Service as such in 8 CFR 204.5(m)(2)." The petitioner submitted copies of various documents and publications, all in the English language.

The director denied the petition on May 25, 2006, noting that the petitioner's publications are in English and stating: "the record contains no evidence that the beneficiary is a translator, qualified or otherwise." The director also noted that the petitioner had not documented the beneficiary's claimed bachelor's degree, and concluded that the petitioner had not persuasively established that the beneficiary is qualified to work as a translator.

On appeal, the petitioner submits a transcript and other documentation of the beneficiary's baccalaureate degree. If this evidence were required, its submission on appeal would be untimely because the director had

previously requested it in the RFE. See *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *Matter of Obaighena*, 19 I&N Dec. 533 (BIA 1988). In this instance, however, the director erred in requesting documentation of the beneficiary's degree.

8 C.F.R. § 204.5(m)(3)(ii)(C) requires the submission of an official academic record *if* the position is a religious profession (*i.e.*, a position requiring at least a bachelor's degree). In this instance, the petitioner has consistently stated that, while the beneficiary *possesses* a bachelor's degree, that degree is not necessary for the position. Rather, the petitioner has indicated, the chief qualifications for the position are bilingual fluency and sufficient familiarity with the religious concepts to allow translated materials to convey not only the letter, but also the spirit of the English-language originals. We note that the beneficiary's transcript shows that his major was not religion, linguistics, or any clearly related field, but biology. His degree, therefore, appears to be irrelevant to his work as a religious translator.

The petitioner submits copies of various church publications that have been translated into French, including an unpublished, 167-page manuscript of *Connaitre le Soi*, a translation of *To Know Yourself*. The manuscript itself does not identify the translator, but the petitioner and the beneficiary both indicate that the beneficiary is the translator responsible for this translation.

Upon consideration, we disagree with the director's finding that the petitioner has failed to establish the qualifications for the position of religious translator. With regard to the director's apparent suspicion that the beneficiary may not be a translator at all, the director, prior to the denial, never specifically requested evidence that the beneficiary *is* a translator. In the absence of such a request, we cannot fault the petitioner for failing to submit such evidence.

The available evidence is entirely consistent with a finding that the beneficiary is a fully qualified religious translator, a position which, in turn, qualifies as a religious occupation. The petitioner's earlier failure to submit documentation of the beneficiary's degree is readily excused by the petitioner's open admission that the degree is not required for the beneficiary's work. Simply mentioning that the beneficiary holds a degree is not sufficient to trigger the documentary requirements of 8 C.F.R. § 204.5(m)(3)(ii)(C).

For the above reasons, we withdraw the director's cited grounds for denial.

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 met that burden. Accordingly, the decision of the director denying the petition will be withdrawn and the petition will be approved.

**ORDER:** The appeal is sustained and the petition is approved.