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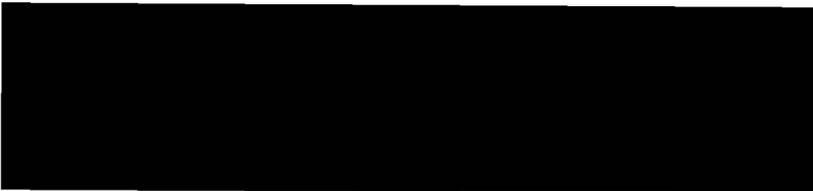
Petitioner:

Beneficiary:



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:



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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the employment-based immigrant visa petition. The Administrative Appeals Office (AAO) remanded the matter for further consideration. The director again denied the petition. The matter is now before the AAO on certification. The AAO will affirm the director's decision to deny the petition.

The petitioner is a residential school for mentally disabled children. 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 co-worker and curative educator. The director determined that the petitioner has not established that it is a qualifying tax-exempt religious organization, or that the beneficiary's position qualifies as a religious occupation.

The term "counsel" in this decision shall refer to any of various attorneys who have filed Form G-28, Notice of Entry of Appearance as Attorney or Representative, and who work for the firm of Steel, Rudnick & Rubin, which represents the petitioner.

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).

RELIGIOUS ORGANIZATION

Citizenship and Immigration Service (CIS) regulations at 8 C.F.R. § 204.5(m)(3)(i) requires the petitioner to submit evidence that the organization seeking to employ the beneficiary qualifies as a non-profit organization in the form of either:

(A) Documentation showing that it is exempt from taxation in accordance with section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations (in appropriate cases, evidence of the organization's assets and methods of operation and the organization's papers of incorporation under applicable state law may be requested); or

(B) Such documentation as is required by the Internal Revenue Service to establish eligibility for exemption under section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations.

According to documentation from the Internal Revenue Service (IRS), the petitioner's tax-exempt status derives from classification not under section 170(b)(1)(A)(i) of the Internal Revenue Code of 1986 (the Code or IRC), which pertains to churches, but rather under section 170(b)(1)(A)(ii) of the Code, which pertains to schools, both religious and secular. The director initially denied the petition on August 25, 2003, on the grounds that the petitioner "has a major religious component" but, nevertheless, does not qualify as a church or as an internally supported, integrated auxiliary of a church. The petitioner, appealing that decision, did not contest the director's specific findings of fact. Instead, counsel argued that the director relied on too narrow a definition of what constitutes a religious organization.

Subsequent to the denial of the petition, William R. Yates, Associate Director of Operations, issued a memorandum entitled *Extension of the Special Immigrant Religious Worker Program and Clarification of Tax Exempt Status Requirements for Religious Organizations* (December 17, 2003). In that memorandum, Mr. Yates acknowledged that an organization that is neither a church nor an integrated auxiliary of a church can still qualify as a religious organization. To do so, Mr. Yates stated, an organization must establish not only that it qualifies for tax-exempt status; it must also provide "[d]ocumentation which establishes the religious nature and purpose of the organization. This documentation should include, at a minimum:"

- (1) A properly completed IRS Form 1023;
- (2) A properly completed Schedule A supplement, if applicable;
- (3) A copy of the organizing instrument of the organization that contains the appropriate dissolution clause required by the IRS and that specifies the purposes of the organization;
- (4) Brochures, calendars, flyers and other literature describing the religious purpose and nature of the activities of the organization.

Counsel observes that the Yates memorandum does not have the force of regulation. Our purpose in citing it here is simply to clarify the regulation at 8 C.F.R. § 204.5(m)(3)(i)(B), which requires "[s]uch documentation as is required by the Internal Revenue Service," but does not specify the nature of that documentation.

The Code and its implementing regulations do not specifically define "religious organization," but IRS regulations indicate that the terms "religious organization" and "church" are not synonymous; for instance, 26 C.F.R. § 1.511-2(a)(3)(i) acknowledges the existence of "religious organizations" that are "not themselves churches." IRS Publication 1828, *Tax Guide for Churches and Religious Organizations*, also specifically states that the term "religious organizations" is *not* strictly limited to churches: "Religious organizations that

are not churches typically include nondenominational ministries, interdenominational and ecumenical organizations, and other entities whose principal purpose is the study or advancement of religion.” *Id.* at 2. What must be determined, therefore, is not whether the intending employer is a church *per se*, but rather an entity whose principal purpose is the study or advancement of religion.

Clearly, an organization that qualifies for tax exemption as a school under section 170(b)(1)(A)(ii) of the Code can be either religious or non-religious, as there exist both secular and parochial private schools. The burden of proof is on the petitioner to establish that its classification under section 170(b)(1)(A)(ii) of the Code derives principally from its religious character. We note that the petitioner’s printed letterhead, reproduced in the record, refers to “the Camphill Community” as “a 501(c)(3) non-profit educational organization.”

The petitioner filed the Form I-360 petition on October 16, 2002. The petitioner’s initial submission included an IRS letter dated September 2, 1982, which states, in part: “Our records indicate that you are exempt from Federal Income Taxes.” The wording indicates that this 1982 letter is not the original IRS determination letter, but rather a subsequent letter reiterating an earlier determination. The petitioner also submitted a copy of the bylaws of the Camphill Association of North America, dated March 1, 1996. Article II, “Purposes,” contains no explicit mention of religion of any kind, although Article II, paragraph 2, refers to “the Principles of the Camphill Movement. (See Article III).” Article III bears the title “Statement of Principles of the Camphill Movement.” Article III, paragraph 1 of the bylaws states, in part: “The international Camphill Movement is . . . based on Anthroposophy as developed by Rudolf Steiner.” The same paragraph quotes Rudolf Steiner as calling for “a Christianizing of ordinary life, a complete Christianizing of the treasures of cosmic wisdom and of the earth’s evolution.” Article III, paragraph 4, calls for “the Christianizing of all aspects of life through nondenominational forms, accepting of all genuine religious beliefs.” There is, thus, a mention of Christianity, but it is not evident from the bylaws that religion is the “principal purpose” of the Camphill Movement in general or of the petitioning entity in particular.

On April 24, 2003, the director instructed the petitioner to “submit any additional evidence” that may clarify the nature of the petitioner’s tax-exempt status. In response, the petitioner submitted a copy of IRS Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, dated April 30, 2003 (six days after the date of the director’s notice). Part III, line 9 of the Form 1023 called on the petitioner to identify the section of law under which it claimed to qualify for exemption. The list of ten types of qualifying organizations begins with the following:

- | | | |
|---|--|---|
| a | <input checked="" type="checkbox"/> As a church or a convention or association of churches
(CHURCHES MUST COMPLETE SCHEDULE A.) | Sections 509(a)(1) and
170(b)(1)(A)(i) |
| b | <input type="checkbox"/> As a school (MUST COMPLETE SCHEDULE B.) | Sections 509(a)(1) and
170(b)(1)(A)(ii) |
| c | <input type="checkbox"/> As a hospital or a cooperative hospital service organization,
or a medical research organization operated in conjunction
with a hospital (these organizations, except for hospital
service organizations, MUST COMPLETE SCHEDULE C.) | Sections 509(a)(1) and
170(b)(1)(A)(iii) |

As shown above, when the petitioner executed the Form 1023 in 2003, it checked only box “a,” which pertains to churches.

On Part III, line 14 of the same form, the petitioner answered “Yes” to the question “Is the organization a church?,” but the petitioner also answered “Yes” when asked “Is the organization, or any part of it, a school?” and, following the directions on the form, the petitioner completed Schedule A (which applies to churches) and Schedule B (which applies to schools). The Schedule A advised that, to qualify for classification as a church, “[t]he organization’s activities in furtherance of its beliefs must be *exclusively* religious” (emphasis added).

The Form 1023 application included a copy of the petitioner’s bylaws. Under Article III, “Purposes,” paragraph 5 reads: “To foster and maintain a religious community based on the ecumenical Christianity found in Rudolf Steiner’s Anthroposophy,” thus asserting a conceptual or ideological link between Christianity and Anthroposophy.

The petitioner submitted several pages of promotional literature under various headings. “General Admission Information” contains no mention of religion. “Admission Criteria” states that the petitioner “enrolls children 5 years and older of any . . . creed.” “Educational Programs” contains the following passage:

[The petitioner] offers a wide range of educational programs for children and young people with developmental disabilities. . . . The aim of the school program is to enhance and maximize each child’s potential for growth, and to bring latent abilities to their fullest expression. Academic and skills training is complemented with an emphasis on developing social, artistic, and practical abilities. . . .

An example of a typical school day for Grade 6 is as follows:

9:00-9:40 a.m.	Opening Activities: Verse, singing, movement exercises, poem/speech chorus
9:40-10:10 a.m.	Roman History: part of a 6-week block
10:10-10:30 a.m.	Lesson Book activities: writing, drawing, painting related to the unit on Roman History
10:30-11:00 a.m.	Recess
11:00-11:45 a.m.	Individual and small group work on functional academics
11:45 a.m.-12:30 p.m.	Handbell choir
12:30-3:15 p.m.	Lunch Break & Rest Hour
3:15-4:15 p.m.	Woodworking

The “typical school day” schedule offers no hint of religious activity.

The clearest mention of religion appears in “Cultural Life & Festivals,” which indicates that “children take part in both non-denominational services on Sundays, and celebrations of seasonal festivals throughout the

year.” Many of the “seasonal festivals” correlate to Christian holidays, such as All Souls’ Day and Epiphany, but the petitioner’s promotional materials emphasize “their meaning in relation to nature and its seasons” rather than to their religious significance. Other festival days are secular (e.g., “Martin Luther King Day”) and others are non-Christian religious holidays (“Hanukah and Passover celebrations are also observed”).

In its remand order of October 5, 2006, the AAO withdrew the director’s decision, stating that the director had improperly found that an organization must be a “church” in order to qualify as a “religious organization.” The AAO nevertheless agreed with the director that the petitioner had failed to establish that it qualifies as a “religious organization” for the purposes of the classification sought. The AAO instructed the director to solicit from the petitioner the necessary evidence as described in the Yates memorandum, including a copy (not a re-creation) of the *original* IRS Form 1023 which the petitioner submitted to the IRS and by which the petitioner received acknowledgment of tax-exempt status from the IRS.

The AAO also indicated that the petitioner must identify the religious denomination with which it is affiliated, because if the petitioner is not, itself, a church, then it must be associated with a *bona fide* religious denomination. The AAO noted that the Anthroposophical Society had argued in federal court that Anthroposophy is not a religion (notwithstanding “the ecumenical Christianity found in Rudolf Steiner’s Anthroposophy”),¹ and therefore the petitioner would have to establish affiliation with some particular religious denomination if it is to qualify as a religious organization. The AAO added: “The petitioner’s own promotional materials give barely any play to religious ideas.”

On May 14, 2007, pursuant to the AAO’s instructions, the director issued a request for evidence, instructing the petitioner to “[i]dentify the religious denomination to which the beneficiary’s proposed employing organization belongs. For example: Hindu, Moslem, Reformed Jewish, Roman Catholic, Southern Baptist, Zen Buddhist, etc.” The director also instructed the petitioner to submit the evidence described in the Yates memorandum. The director emphasized: “The memorandum specifically states that the above materials are, collectively, the ‘minimum’ documentation that can establish ‘the religious nature and purpose of the organization.’” The director instructed the petitioner to submit a copy of its original IRS Form 1023, “rather than a newly executed version” of the application.

In response, counsel asserted “[m]ost of the requested evidence was submitted with the original Petition” or at other times in the proceeding. Counsel stated: “Petitioner has already submitted a properly completed IRS Form 1023.” Counsel did not address the director’s specific request for the original Form 1023, rather than the “newly executed version” that the petitioner had prepared and submitted in 2003.

Counsel claimed that the petitioner had previously submitted “brochures, calendars, flyers and other literature describing [the petitioner’s] religious purpose, nature, and activities.” Counsel did not elaborate as to how the petitioner’s literature matched counsel’s description. The petitioner submitted copies of books and essays describing the history and purpose of the Camphill Movement, but there is no indication that these writings were disseminated in the same manner as brochures, calendars or fliers (which constitute “literature” of a

¹ The argument was advanced in an *amicus curiae* brief filed in *PLANS, Inc. v. Sacramento City Unified School District et al.*, CIV. S-98-0266 FCD PAN. See <https://www.anthroposophy.org/Announcements/getfile.php?bn=anboard&key=1091036814> (visited September 21, 2006).

promotional rather than scholarly nature). As already discussed, the literature submitted with the copy of IRS Form 1023 does not suggest a religious purpose or nature, and the only arguably religious activities described therein concern “seasonal festivals” with an emphasis on natural cycles.

Counsel argued: “Petitioner has never claimed that Anthroposophy is a religion. . . . Within Christianity, the specific denomination to which Petitioner belongs is the International Camphill Movement.” The petitioner had previously submitted a photocopy of *The Camphill Movement* by Karl König (identified as the movement’s founder), which “describes the spiritual background of the Camphill Movement” (Preface) and indicates that “for the children as well as for us, a deeply religious life was a need” (p. 11). The same book, however, states on page 36:

For the Camphill Movement, Christianity is an indispensable part of its life and work; it works out of Christianity, not for Christianity. Thus it is not an organization for the purpose of disseminating Christian faith.

Just as the Movement is not an anthroposophical group or society, it is equally little a Christian sect or congregation. Those who work in and for the Movement are entirely free to be members of any Christian church as well as of any group or society if they so wish.

It is a personal matter to belong to a church, a club, a society or an association. The Camphill Movement is none of these. It is an attempt, an impulse, a community of men and women who try to live and work in common for a spiritual purpose.

The quoted passage supports counsel’s argument that the Camphill Movement, and hence the petitioner, does not regard Anthroposophy as a religious denomination; but it also explicitly denies that the Movement is “a Christian sect or congregation” or “an organization for the purpose of disseminating Christian faith.” These assertions, by the Movement’s own founder, contradict the assertion that the Movement itself is “a specific denomination” as counsel claimed. (Indeed, counsel’s own prior correspondence referred to Camphill’s “nondenominational” character.)

Counsel stated that the Camphill Movement meets the regulatory definition of a religious denomination because “[i]t is ‘a religious group or community of believers having some form of ecclesiastical government.’” It is not clear in what sense Camphill consists of “believers,” given that the petitioner accepts both students and workers of all creeds, as the record amply documents. While there may be Christian elements of the Movement’s underlying philosophy, one need not profess Christian beliefs in order to work there or be accepted as a student. Counsel averred that the Camphill Movement lacks the “intolerance” necessary to “reject all non-Christian religions,” but counsel failed to explain how non-Christian Camphill workers, living and working with non-Christian Camphill students, could comprise a Christian religious denomination.

The petitioner submitted copies of event schedules from “The Religious Community at Camphill Special Schools,” filled with biblical readings, as well as documents listing the “Religion Lesson Groups.” All of these documents are dated 2005 and later, well after the director first disputed the religious nature of the

petitioning organization. A petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to CIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Commr. 1998); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971).

As we have already noted, the petitioner's own promotional materials indicate that the petitioner welcomes students "of any . . . creed." These materials describe "a typical school day schedule" with no reference to any religious services or studies. We must conclude one of two things: either the petitioner has overemphasized the religious character of its program for purposes of this petition, or else the petitioner significantly underemphasized that religious character in its promotional efforts. The claim that the Camphill Movement is a Christian religious denomination appears nowhere except in counsel's arguments, made in response to the instruction to identify the denomination to which the Movement ostensibly belongs.

On October 11, 2007, the director concluded that "the evidence presented does not appear to satisfactorily address the concerns raised by the Administrative Appeals Office in the remand" and reiterated that the petitioner's own materials intended for public consumption fail to establish the religious element that allegedly pervades every aspect of life at the petitioning school.

In response, counsel repeats prior arguments and condemns "the continued hostility of the USCIS to the religious worker category." Counsel cites only two examples of denied petitions (filed by the instant petitioner and one other Camphill school). Such a small sample cannot establish "hostility . . . to the religious worker category." The two denials could more plausibly be attributed to the inability of Camphill schools to establish, for purposes of section 203(b)(4) of the Act, that Camphill schools are religious organizations that employ religious workers.

Counsel cites *Camphill Soltane v. US Department of Justice, Immigration & Naturalization Service*, 381 F.3d 143, 2004, stating: "in *Camphill Soltane*, the Court accepted the concession of the USCIS that it had erroneously applied the definition of a religious organization to exclude Camphill." The "concession" so referenced was a general acknowledgment that an entity need not be a "church" *per se* in order to qualify as a "religious organization." In a letter dated December 3, 2003, the United States Attorney for the Eastern District of Pennsylvania informed the Court that, pursuant to the Yates memorandum that was then in preparation, "CIS is withdrawing the argument set forth in Section IV of its appellate brief that the Camphill Soltane had not qualified for the special immigration visa because it does not qualify as a 'church' under the applicable Internal Revenue Code provision." The United States Attorney did not stipulate that Camphill Soltane specifically, or Camphill schools in general, qualify as religious organizations for the purposes of the special immigrant religious worker classification. Rather than acknowledge this distinction, the Court stated: "We accept this concession, and therefore proceed under the assumption that Camphill qualifies as a 'religious organization.'" *Id.* at 149. It is significant that the Court issued no *finding* that "Camphill qualifies as a 'religious organization.'" This was, rather, a plainly-labeled "assumption" by the Court.

As a basis for its "assumption," the Court noted that CIS was preparing a memorandum that would more clearly set forth the criteria for classification as a religious organization. *Id.* at 148. The memorandum in question, identified at page 149, n.5 of the Court's decision, is William R. Yates' December 17, 2003 memorandum quoted elsewhere in this decision. Because the Court approvingly cited that memorandum, and

did not take issue with its content or reasoning, there is every reason to believe that a decision in conformity with that memorandum would be acceptable to the Court.

As noted above, the IRS Form 1023 submitted by the petitioner is not the same Form 1023 (or precursor form) upon which the IRS based its determination; the IRS letter in the record predates the Form 1023 by more than 20 years, and even then the 1982 letter repeats information from a still earlier determination. It is not known whether or not the petitioner identified itself as a “church” when it first applied for recognition of tax-exempt status, but the record conclusively proves that the IRS does not consider the petitioner to be a church described at section 170(b)(1)(A)(i) of the Code. The IRS instead classified the petitioner as a school as described at section 170(b)(1)(A)(ii) of the Code. The record contains no evidence that the IRS concurs with, or is even aware of, the petitioner’s 2003 attempt to redesignate itself as a church.

The instructions to Form 1023 indicate that, when determining whether an organization qualifies as a church, the IRS looks for fourteen specified characteristics, including “regular congregations” and “a membership not associated with any other church or denomination.”² The Internal Revenue Manual repeats this list and states: “An organization qualifies as a church only if its principal purpose or function is that of a church,” which disqualifies such organizations as “a hospital, elementary school, orphanage, old age home, and university” even if those organizations are affiliated with a recognized church or religious denomination.³

Because the 2003 version of the petitioner’s IRS Form 1023 repeatedly refers to the petitioner as a “church,” whereas the record firmly establishes otherwise, the AAO cannot and does not consider the 2003 version of the Form 1023 to be a reliable indicator of the primary purpose underlying the petitioner’s tax-exempt designation, which was already in place as of 1982. Instead, the form has every appearance of a self-serving document created specifically for the express purpose of persuading immigration authorities that the petitioner qualifies as a “religious organization.”

Counsel states:

The assertion of the Vermont Service Center that the religious organization must have as its principal purpose the advancement of religion is not based on the applicable law. This is the type of assertion rejected by Justice Alito in *Camphill Soltane*. Nowhere is this requirement stated in the statute or regulations. While there certainly has to be a religious component, there is no requirement that it be the principal or only component. Again, this type of flawed reasoning was thoroughly rejected in *Camphill Soltane*.

We can find, in the *Camphill Soltane* decision, no finding of the nature described by counsel. The discussion of whether or not *Camphill Soltane* qualified as a religious organization occupied only two paragraphs in the Court’s decision, and the Court found only that an entity need not be a “church” in order to qualify as a religious organization. The question of what, exactly, *does* constitute a religious organization is left to the IRS, under whose jurisdiction the issue lies. Here, as we have noted, the IRS has stated in its own Publication

² Source: <http://www.irs.gov/instructions/i1023/ch02.html#d0e3880> (visited June 10, 2008).

³ Source: <http://www.irs.gov/irm/part7/ch11s02.html> (visited June 9, 2008).

1828 that religious organizations are “entities whose principal purpose is the study or advancement of religion.” The same phrase, “principal purpose,” occurs frequently in IRS materials at <http://www.irs.gov>. Therefore, the AAO does not consider the IRS’ use of the phrase to be trivial or arbitrary, nor does the AAO believe the IRS to have been mistaken when the IRS chose to use that phrase in the context discussed above. The AAO defers to the IRS’ interpretation of its own regulations and policies.

Counsel states: “The Immigration Service has frequently noted and ignored the determination of the US District Court for the District of Columbia in the *Lindenberg* case that Camphill organizations can and do qualify as religious organizations.” The cited case is *Lindenberg v. U.S. Department of Justice, INS*, 657 F. Supp. 154 (D.D.C. 1987). The alien in *Lindenberg* sought Schedule A, group III precertification under 20 C.F.R. § 656.10(c)(2), which applied to “[a]liens with a religious commitment who seek admission into the United States in order to work for a nonprofit religious organization.” The judge in *Lindenberg* stated:

The companion regulations at 20 C.F.R. § 656.22(e) explicitly request documentation showing that . . . the alien *either* was engaged primarily in a “religious occupation” *or* in working for a “nonprofit religious organization.” Additional documentation must demonstrate that the alien will spend more than 50 percent of his working time in the United States *either* performing a religious occupation *or* working for a nonprofit religious organization. Nothing in these governing regulations mandates that aliens must pursue “religious work” to qualify for Group III(2) classification.

Id. at 160. In 2002 correspondence, counsel cited *Lindenberg* and its purported “holding that the Camphill Movement is a religious organization within the meaning of the regulations, which have not changed with respect to this issue.” The assertion that “the regulations . . . have not changed” is demonstrably false. There are obvious and very significant differences between the statutory and regulatory scheme in place in 1987, when the *Lindenberg* decision was rendered, and now. The specific statutory and regulatory provisions for special immigrant religious workers under which the present petitioner sought benefits for the present beneficiary did not yet exist in 1987. The Department of Labor regulations cited in *Lindenberg* contained a critical provision that no longer exists in the pertinent statute and regulations. It was under those now-obsolete Department of Labor regulations that the Court found the Camphill Movement to be a religious organization. The Court did not contest or refute the contention that “Camphill . . . is not affiliated with a specific identifiable religion.” *Id.* at 158.

There appears to be some religious component to the Camphill Movement. Older writings by the movement’s founder appear to indicate that the Movement began as an exclusively Christian exercise, but more recent materials prepared for the public show no such sectarian bent. The link between Anthroposophy and the Camphill Movement is clear, but from the available evidence it appears that the Movement is at best influenced by certain Christian principles – more specifically, by Rudolf Steiner’s and Karl König’s interpretations of those principles. Counsel’s contention that the Movement is a Christian denomination is not credible in the face of König’s denial that the Camphill Movement is “a Christian sect or congregation.”

Based on the marked contrasts between statements found in the petitioner’s own promotional literature and the materials prepared to support the petition, the record does not persuasively establish that the petitioner’s

“principal purpose is the study or advancement of religion.” Doubt cast on any aspect of the petitioner’s proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Id.* at 582, 591-92. Section 204(b) of the Act, 8 U.S.C. § 1154(b), provides for the approval of immigrant petitions only upon a determination that “the facts stated in the petition are true.” False, contradictory, or unverifiable claims inherently prevent a finding that the petitioner’s claims are true. *See Anetekhai v. I.N.S.*, 876 F.2d 1218, 1220 (5th Cir. 1989); *Systronics Corp. v. I.N.S.*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C. 1988).

For the reasons explained above, the AAO affirms the director’s finding that the petitioner has not established that its tax-exempt status derives from its religious character.

QUALIFYING OCCUPATION

The AAO, in its remand order, raised the issue of whether or not the position offered to the beneficiary constitutes a religious occupation. The regulation at 8 C.F.R. § 204.5(m)(2) defines “religious occupation” as:

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.

The AAO asserted that “[t]raditional religious functions . . . require members of the particular faith,” and stated:

What religious beliefs *must* a person hold, in order to qualify for the position of a co-worker and curative educator? It cannot suffice to state that certain beliefs are *preferred* for the position; one would not expect a Roman Catholic Church to resort to appointing a Presbyterian deacon if no qualified Catholic seeks the position. If one need not belong to a particular religion in order to work as a co-worker and curative educator, then it becomes very difficult to argue that the duties of a co-worker and curative educator nevertheless relate to a traditional religious function.

We note that the “Becoming a Resident Co-Worker” page of the petitioner’s own web site⁴ lists requirements such as English proficiency, but there is no indication that applicants must be a member of a specific religious faith.

. . . The petitioner must . . . show that only an individual of a particular religious background can perform the duties of the position offered to the beneficiary; otherwise, those duties cannot reasonably be deemed “religious functions.”

The director repeated many of these concerns in the request for evidence and subsequent certified denial.

In a letter dated June 20, 2000, [REDACTED], Director of the petitioning entity, stated that the beneficiary’s position “requires a minimum of three years of experience and religious training within Camphill. Such training is focused in (but not exclusive to) the Camphill Seminar in Curative Education.” A pamphlet from the Camphill Education Trust describes the three years of coursework required for a Diploma in Curative Education. The only mention of religion in the pamphlet concerns “the Christian festivals of the year which form an essential part of the general life of the community.”

In a July 17, 2007 letter, [REDACTED] indicated that the petitioner employs 16 “religious workers. . . . Each one is a Camphill Community Coworker and Religious Educator.” The beneficiary’s name does not appear on the list. The petitioner also submitted a list of 53 “non-religious salaried employees,” including 15 teachers and 19 aides. The implication is that “co-workers” are religious workers, whereas salaried employees (including teachers and aides) are not. But this does not answer the question of what distinguishes the petitioner’s claimed religious workers from its admittedly secular workers.

In responding to the director’s request for evidence, counsel asserted that the Camphill Movement is its own religious denomination. The AAO has already addressed this claim and will not repeat its arguments here. We will add that counsel’s argument appears to be circular: in order to work for the Camphill Movement, one must belong to the Camphill Movement – but the record contains no evidence that the Camphill Movement consists of anyone *other* than its workers. Rather than set forth the specific beliefs that one must hold in order to qualify as a co-worker, counsel stated only that “intolerance is not part of the Camphill Movement.” It appears that, while co-workers and other employees may be expected, in their personal conduct, to *abide by* the philosophy underlying the Movement, there is no requirement that this must reach the level of religious belief.

In response to the certified denial of the petition, counsel cites the *Lindenberg* and *Camphill Soltane* decisions and asserts: “the two courts that have reviewed the issue of . . . whether the individuals who are committed members of Camphill engage in religious occupations have answered in the affirmative.” The decision in *Lindenberg* dates from before there was a specific immigrant classification relating to “religious occupations.” With respect to *Camphill Soltane*, the Court did not find “in the affirmative” that Camphill

⁴ Available at <http://www.beaverrun.org/volunteer.asp> (visited September 21, 2006). [Footnote reproduced from AAO remand notice.]

workers are in religious occupations. Rather, the Court found “we cannot sustain the decision of the AAO on this ground *without further evidence or explanation*” (emphasis added). *Camphill Soltane* at 151.

Counsel has effectively conceded what was already clear from the petitioner’s own promotional publications, specifically that the religious beliefs of individual Camphill workers have no necessary connection or relevance to the work performed. Under such circumstances, it is difficult to conclude that those workers are “religious workers” in any coherent sense of the phrase. We reiterate, here, that while the petitioner claims to be a church in its own right, the IRS’ own guidelines for what constitutes a “church” include “a membership not associated with any other church or denomination.” This requirement exists not as a means to institutionalize “intolerance” or to discourage ecumenism, but as a means to distinguish what is a church from what is not, and to prevent the definition of “church” from becoming so broad as to be meaningless.

For the foregoing reasons, the AAO affirms the director’s finding that the petitioner has not established that Camphill co-workers qualify as religious workers under section 101(a)(27)(C)(ii)(III) of the Act.

The AAO will affirm the certified denial for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

This decision is without prejudice to the Form I-140 immigrant worker petition, receipt number SRC 07 277 58414, that the petitioner filed on the beneficiary’s behalf in September 2007, seeking to classify the beneficiary as a skilled worker, professional, or other worker under section 203(b)(3) of the Act. That petition was approved on June 10, 2008. Because that proceeding is not before the AAO on appeal or certification, the AAO takes no position at this time regarding that merits of that petition.

ORDER: The appeal is dismissed.