



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



Public Copy

JUN 7 2001

File: EAC 00 056 50934 Office: Vermont Service Center Date:

IN RE: Petitioner:
Beneficiary:



Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(H)(i)(b)

IN BEHALF OF PETITIONER:



Identifying data deleted to
prevent clearly unwarranted
disclosure of personal privacy

INSTRUCTIONS:

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

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected.

The petitioner is a kindergarten and pre-school teaching and day care center. It seeks to employ the beneficiary as a group teacher for a period of three years. The director determined the petitioner had failed to establish that it qualifies for a fee exemption as an institution of higher education. The director then found that the petitioner had failed to pay \$500 of the required filing fee.

On appeal, the petitioner states "Since you find that the organization does not qualify as exempt, I hereby pay your fee of \$500."

The petitioner has provided no evidence establishing that it qualifies for a fee exemption as an institution of higher education as defined in Section 101(a) of the Higher Education Act of 1965. Additionally, the record contains no evidence that the petitioner has paid the additional required filing fee.

8 C.F.R. 103.2(7)(i) provides that a petition shall be regarded as properly filed when it is signed, executed and the required filing fee is attached and/or a waiver of the filing fee is granted. A petition that is submitted with the wrong filing fee shall be rejected as improperly filed.

Without the required filing fee, the director should not have issued a decision, but should have returned it to the petitioner as an improperly filed petition.

ORDER: The appeal is rejected.