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U.S. Citizenship  
and Immigration  
Services



FILE: WAC 02 202 50543 Office: CALIFORNIA SERVICE CENTER Date: JUL 22 2004

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

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)

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.

*Mari Johnson*

 Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The service center director denied the nonimmigrant visa petition and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is again before the AAO on motion to reconsider. The motion will be dismissed.

The petitioner is a school that seeks to employ the beneficiary as a kindergarten teacher. The petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The director denied the petition on the basis that the proffered position did not meet the definition of a specialty occupation. The AAO affirmed the director's findings.

The beneficiary, not an authorized representative of the petitioner, signed the Form G-28, Entry of Appearance as Attorney or Representative that was submitted in conjunction with the motion. Citizenship and Immigration Services (CIS) regulations specifically state that a beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). As the beneficiary is not a recognized party, counsel is not authorized to file a motion. 8 C.F.R. § 103.3(a)(1)(iii)(B). Any motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4). Accordingly, the AAO will dismiss the motion.

As always, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

**ORDER:** The motion is dismissed.