



U.S. Citizenship
and Immigration
Services



FILE: SRC 02 202 52170 Office: TEXAS SERVICE CENTER Date: JUN 23 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:



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, Director
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a professional association that seeks to employ the beneficiary as a 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.

Citizenship and Immigration Services (CIS) regulations specifically state that a change of status may not be approved for an alien who failed to maintain the previously accorded status or where such status expired before the application or petition was filed. 8 C.F.R. § 248.1(b). The instant petition was filed on June 17, 2002, after the expiration of the beneficiary's previously accorded status. Thus, the director denied the change of status and the H-1B petition. There is no appeal from the denial of an application for a change of status. 8 C.F.R. § 248.3(g). accordingly, the AAO will reject the appeal pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.