

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

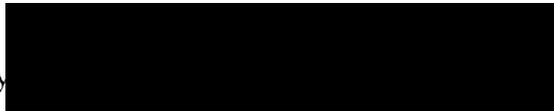
PUBLIC COPY

D2



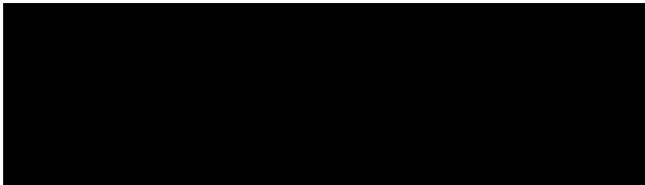
FILE: WAC 02 140 50192 Office: CALIFORNIA SERVICE CENTER Date: AUG 08 2002

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)

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 nonimmigrant visa petition was denied by the Director, Nebraska Service Center. The director's decision was then appealed to the Administrative Appeals Office (AAO). That appeal was dismissed by the AAO. The matter is now before the AAO on a motion to reopen and reconsider pursuant to 8 C.F.R. § 103.5. The motion will be dismissed. The previous decision of the AAO will be affirmed.

The petitioner is a Montessori school, and seeks to employ the beneficiary as a kindergarten teacher. It 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 ground that the petitioner was not qualified to perform the duties of a specialty occupation. The AAO thereafter dismissed the petitioner's appeal on the same ground.

The motion to reconsider requested additional time in which to file a brief supporting the motion. To date, no brief has been received. The record is, therefore, deemed complete.

The AAO notes that the regulation at 8 C.F.R. § 103.5(a)(1)(iii) indicates that the motion may be accompanied by a brief. A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or CIS policy. 8 C.F.R. § 103.5(a)(3). The regulations do not provide for an extension of time within which to file supporting materials in support of the motion.

Further, the motion to reconsider: does not state the reasons for reconsideration; is not supported by pertinent precedent decisions to establish that the decision was based on an incorrect application of law or CIS policy; and does not establish that the decision was incorrect based on the evidence of record at the time of the initial decision. While not styled a motion to reopen, the motion does not state the new facts to be provided and is not supported by affidavits or other documentary evidence. The motion shall accordingly be dismissed.

**ORDER:** The motion is dismissed. The previous decision of the AAO dated November 5, 2004 is affirmed.