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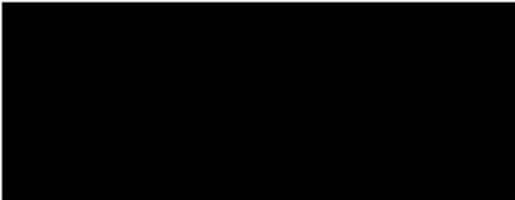


FILE: LIN 03 167 54010 Office: NEBRASKA SERVICE CENTER Date: MAR 30 2006

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 dismissed. The petition will be denied.

The petitioner is a school district 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 because the beneficiary had remained in the United States in H-1B status for over six years and was not entitled to an extension of stay.

On appeal, counsel submits a brief asking that the petitioner's H-1B status be extended.

Citizenship and Immigration Services (CIS) records reflect that the beneficiary granted a change of status to H-1B visa status on July 24, 1997<sup>1</sup>. He was thereafter employed in the United States from July 24, 1997 until August of 2003 in H-1B visa status. On April 28, 2003, the petitioner filed an H-1B petition requesting that the beneficiary be granted continued status and permitted to work from June 9, 2003 until June 30, 2004.

Section 214(g)(4) of the Act, 8 U.S.C. § 1184(g)(4), provides that "[t]he period of authorized admission [of an H-1B nonimmigrant] may not exceed 6 years." The record indicates that the beneficiary was in approved H-1B status from July 24, 1997 until June 8, 2003, and was employed in the United States in H1B status from July 24, 1997 until August of 2003, a period of more than six years. The petitioner is not, therefore, entitled to an extension of the petition, and the petition must be denied.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

**ORDER:** The appeal is dismissed. The petition is denied.

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<sup>1</sup> The petitioner asserts that the beneficiary was in optional practical training from July 24, 1997 through June 11, 1998, and did not change status to H-1B until June 11, 1998. The petitioner does not submit proof of the beneficiary's optional practical training during the stated time period, and the assertion conflicts with CIS records.