

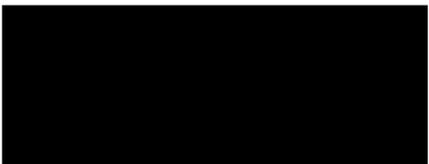


U.S. Department of Justice

Immigration and Naturalization Service

106

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



File: LIN 99 024 50984

Office: Nebraska Service Center

Date: OCT 15 2001

IN RE: Petitioner:
Beneficiary:



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

IN BEHALF OF PETITIONER: Self-represented

Public Copy

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

This is the decision 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.

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 that 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 that 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, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a rancher who seeks to employ the beneficiary as a trainee for an unspecified period. The director determined that the beneficiary's training program deals largely in generalities with no fixed schedule, objectives, and means of evaluation.

On appeal, the petitioner argues that he has complied with pertinent regulations.

Section 101(a)(15)(H)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(H)(iii) describes an H-3 trainee as:

Having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States as a trainee, other than to receive graduate medical education in a training program that is not designed primarily to provide productive employment
....

8 C.F.R. 214.2(h)(7)(ii) provides a list of criteria for H-3 training programs. A training program may not be approved if it deals in generalities with no fixed schedule, objectives or means of evaluation. In Matter of Koyama, 11 I&N Dec. 424 (Reg. Comm. 1965), the regional commissioner determined that a petition for an H-3 trainee was properly denied because the training program was excessive in length, repetitious, and would consist principally of on-the-job experience.

The petitioner indicates that the beneficiary's training time will be divided between on-the-job training and instruction. The petitioner has not shown that the proposed instruction has an objective or means of evaluation. Furthermore, the petitioner has not established that the training will not be excessive in length. The petitioner indicates that he wants to train the beneficiary for as "long as possible." In view of the foregoing, it is concluded that the petition may not be approved.

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. Accordingly, the decision of the director will not be disturbed.

ORDER: The appeal is dismissed.