

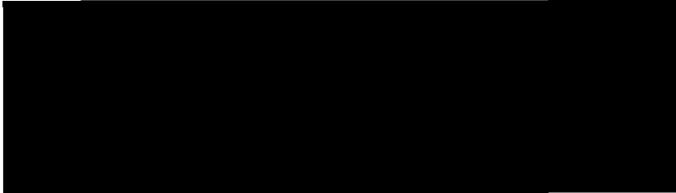
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



C₁

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

APR 29 2010

WAC 05 194 52895

IN RE:

Petitioner:

Beneficiary:



PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew

Perry Rhew

Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, initially approved the employment-based immigrant visa petition. Upon further review, the director determined that the petition had been approved in error. The director properly served the petitioner with a notice of intent to revoke, and subsequently revoked the approval of the petition. The petitioner appealed the decision to the Administrative Appeals Office (AAO). The AAO subsequently remanded the petition to the director for a new decision based on revised regulations. The director determined that the petitioner had failed to submit required evidence, and certified a new adverse decision to the AAO. The AAO will affirm the director's decision.

The petitioner is a Methodist Christian church. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), to perform services as a religious instructor and religious education director. The director determined that the petitioner had not established that the beneficiary had the requisite two years of membership in the petitioner's religious denomination or continuous, qualifying work experience immediately preceding the filing date of the petition. In addition, the director determined that the petitioner had not established that it had made a qualifying, full time job offer to the beneficiary.

In response to the certified decision, the petitioner submitted a brief from the beneficiary's attorney, [REDACTED]. The record contains no Form G-28, Notice of Entry of Appearance as Attorney or Representative, designating [REDACTED] as the petitioner's attorney. We will consider [REDACTED] brief to be, in effect, a witness statement, but we cannot acknowledge him as the petitioner's attorney of record.¹

Section 205 of the Act, 8 U.S.C. § 1155, states: "The Secretary of Homeland Security may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204."

Regarding the revocation on notice of an immigrant petition under section 205 of the Act, the Board of Immigration Appeals has stated:

In *Matter of Estime*, . . . this Board stated that a notice of intention to revoke a visa petition is properly issued for "good and sufficient cause" where the evidence of record at the time the notice is issued, if unexplained and un rebutted, would warrant a denial of the visa petition based upon the petitioner's failure to meet his burden of proof. The decision to revoke will be sustained where the evidence of record at the time the decision is rendered, including any evidence or explanation submitted by the petitioner in rebuttal to the notice of intention to revoke, would warrant such denial.

Matter of Ho, 19 I&N Dec. 582, 590 (BIA 1988) (citing *Matter of Estime*, 19 I&N Dec. 450 (BIA 1987)).

[REDACTED] represents the beneficiary on a motion to reopen the beneficiary's Form I-485 adjustment application, but that motion is a separate proceeding over which the AAO has no jurisdiction. The beneficiary is not an affected party in the petition proceeding. See 8 C.F.R. § 103.3(a)(1)(iii)(B).

By itself, the director's realization that a petition was incorrectly approved is good and sufficient cause for the issuance of a notice of intent to revoke an immigrant petition. *Id.* The approval of a visa petition vests no rights in the beneficiary of the petition, as approval of a visa petition is but a preliminary step in the visa application process. The beneficiary is not, by mere approval of the petition, entitled to an immigrant visa. *Id.* at 589.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C), which pertains to an immigrant who:

(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

(ii) seeks to enter the United States--

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(II) before September 30, 2012, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before September 30, 2012, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

TWO YEARS DENOMINATIONAL MEMBERSHIP

The first issue we will address concerns the beneficiary's membership in the petitioner's religious denomination. The U.S. Citizenship and Immigration Services (USCIS) regulations at 8 C.F.R. § 204.5(m)(1) and (3), taken together, require that, to be eligible for classification as a special immigrant religious worker, the alien (either abroad or in the United States) must have been a member of the prospective employer's religious denomination for at least the two years immediately preceding the filing of the petition. The USCIS regulation at 8 C.F.R. § 204.5(m)(5) defines "denominational membership" as membership during at least the two-year period immediately

preceding the filing date of the petition, in the same type of religious denomination as the United States religious organization where the alien will work.

The petitioner filed the petition on July 6, 2005. The record shows that the beneficiary entered the United States less than two years before the filing date, on July 21, 2003, under a B-2 nonimmigrant visitor's visa. She changed status to R-1 nonimmigrant religious worker on November 7, 2003.

In a letter dated June 30, 2005, [REDACTED] of the petitioning church, stated: "Since [the beneficiary] came into the United States in July 2003, she has been one of our church members." A June 20, 2005 "Certificate of Membership," signed by [REDACTED] indicates that the beneficiary has been a member of the petitioning church "From August 2003 to Present." The record indicates the petitioner's membership in Manmin church in South Korea during the 1990s, but the petitioner has neither claimed nor shown a denominational affiliation between itself and that church.

The petitioner also submitted a copy of its articles of incorporation, filed with the State of California on August 10, 2001. The Internal Revenue Service (IRS) issued a letter on March 20, 2002, recognizing the petitioner's status as a tax-exempt nonprofit organization.

We note that the initial submission does not contain any reference to any prior visits to the United States in general, or to the petitioning church in particular, by the beneficiary prior to her July 2003 entry as a B-2 tourist.

The director approved the petition on December 12, 2005. On March 10, 2006, the beneficiary filed a Form I-485 adjustment application, including Form G-325A, Biographic Information. Instructed to list her residences over the past five years, the beneficiary indicated that she resided in Incheon, South Korea, from February 1998 to July 2003, and afterward in La Crescenta, California. The materials submitted with the adjustment application indicated an entry into the United States on August 27, 1999, but did not show her departure date.

On June 13, 2007, a USCIS immigration officer (IO) visited the petitioning church in order to verify the petitioner's claims. The IO spoke to [REDACTED] who indicated that the church was established in May 2001, and that the beneficiary had belonged to the petitioning church for three years.

On May 15, 2008, the director issued a notice of intent to revoke the approval. As one of several grounds of revocation, the director noted that the "Certificate of Membership" showed less than two years of qualifying denominational membership as of the July 6, 2005 filing date.

In response, [REDACTED] stated: "The beneficiary has been a member of [the petitioning] Church since 1999. Due to human error, the previously submitted Certificate of Membership incorrectly stated that the beneficiary was only a member since August 2003." The petitioner submitted a new "Certificate of Membership," indicating that the beneficiary "has been a member of [the petitioning] church since Fall 1999 to present." [REDACTED] offered no church records to show why the new certificate should be considered more reliable than the previous version.

██████████ claim that “human error” led to an incorrect date on the beneficiary’s membership certificate does not explain ██████████ own assertion, in the letter accompanying the initial filing, that the beneficiary “has been one of our church members” “[s]ince she came into the United States in July 2003.” Even if the revision of the petitioner’s claim did not coincide with the petitioner’s response to an adverse notice, the original claim that the beneficiary joined the church after entering the United States is considerably more plausible and credible than the subsequent claim that the beneficiary, for reasons unexplained, joined a church in California while residing in Korea.

██████████’s new assertion that the beneficiary joined the petitioning church in 1999 also contradicts previous submissions indicating that the church did not even exist until 2001. In his 2008 response to the director’s notice, ██████████ claimed that the petitioner “held worship services at various locations from 1999 to August 2001” but “was not incorporated until August 2001.” ██████████ did not identify or document any of these newly claimed “various locations” or otherwise provide any credible documentation of the church’s existence prior to its incorporation.

Doubt cast on any aspect of the petitioner’s proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Id.* at 582, 591-92.

The same submission discussed above includes a copy of the petitioner’s bylaws, dated November 6, 2001, consistent with the petitioner’s earlier indication that the church was founded in 2001.

The director revoked the approval of the petition on June 25, 2008. In the decision, the director questioned the petitioner’s revised claim, and stated: “It is unclear how the beneficiary[] was a member of the petitioning organization in the United States while residing in South Korea.” The director also noted the 2007 site visit in which ██████████ informed an IO that the beneficiary had belonged to the petitioning church for three years.

On appeal, the petitioner submitted an unsigned statement stating, in part:

[T]he beneficiary began attending the church after entering the United States in August 27, 1999 until she left around December 2002. The beneficiary’s G-325A stated that she resided in South Korea even during her period of stay in the United States because this information was provided with the understanding that “residence” refers to her permanent and principal address in Korea, not her current temporary address while a visitor in the United States.

The above explanation fails to take into account the beneficiary’s use of a California address on the Form G-325A from 2003 onward, even though she was a nonimmigrant “visitor” during that time. The

record confirms that the beneficiary entered the United States as a B-2 tourist on August 27, 1999, but there is no evidence that she remained in the United States (or had any lawful authorization to do so) until late 2002. The petitioner did not explain why the petitioner (specifically [REDACTED]) repeatedly indicated that the beneficiary joined the petitioning church *circa* 2003, and then drastically revised that assertion after the 2008 issuance of the notice of intent to revoke the approval of the petition.

The petitioner submitted copies of various certificates from the church, some purportedly dating back to 1999 and 2000, attesting to the beneficiary's membership. Given the petitioner's conflicting claims, these documents have negligible credibility. Because the petitioner never submitted or even mentioned these materials until the appeal, we have little reason to believe the documents existed in 1999 and 2000. They appear, instead, to have been created in response to the revocation. Considering the petitioner's conflicting and *ad hoc* responses to the director's findings, we cannot consider the petitioner to be a credible or consistent source of information concerning the beneficiary's activities prior to her entry into the United States in 2003.

While the petitioner's appeal was pending, USCIS issued new regulations on November 26, 2008, which included significant new documentary requirements. The AAO remanded the petition to the director on December 18, 2008, for a new decision based on the revised regulations. On February 4, 2009, the director advised the petitioner of the new regulatory requirements. Because the new regulations had little practical effect on the denominational membership requirement, the director's February 2009 notice did not directly address this requirement, and neither did the petitioner's response (apart from the petitioner's assertion, as part of a larger attestation, that the beneficiary had belonged to the petitioner's denomination for more than two years prior to the filing date).

In a new, certified decision dated June 5, 2009, the director found that the petitioner had not sufficiently shown that the beneficiary belonged to the petitioner's denomination for at least two years prior to the petition's filing date. The director noted the petitioner's revision of its claims in this regard, but found that those revisions were not credible.

In response to the certified decision, [REDACTED] repeated the prior argument that "[t]he beneficiary erroneously stated on her G-325A that she resided in South Korea from February 1998 to July 2003 because she misunderstood the word 'residence' to refer to her permanent and principal residence in South Korea." [REDACTED] also claimed that, in discussing the beneficiary with the IO in 2007, [REDACTED] "stated . . . that the beneficiary has been working for the church as a paid employee for three years, and has not merely been a member for those years." No evidence supports this new claim.

Upon consideration of the evidence presented, we agree with the director's finding that the petitioner's revisions of its claims are not credible. The petitioner had originally stated that the church came into existence in 2001, and that the beneficiary joined that church *circa* 2003. The petitioner repeated these assertions in various contexts. The subsequent claim that the beneficiary joined the petitioning church in 1999 is not supported by any specific or credible evidence, and appears to have been motivated by a desire to obtain immigration benefits for the beneficiary, rather than by a sincere attempt to reflect the truth or correct what would have been a surprisingly consistent series of "errors" on the petitioner's part.

We find that the director correctly held that the petitioner failed to establish credibly that the beneficiary meets the denominational membership requirement.

TWO YEARS EXPERIENCE

The second issue under consideration in this decision concerns the beneficiary's past work experience. The USCIS regulation at 8 C.F.R. § 204.5(m)(4) requires the petitioner to show that the beneficiary has been working as a minister or in a qualifying religious occupation or vocation, either abroad or in lawful immigration status in the United States, continuously for at least the two-year period immediately preceding the filing of the petition. Therefore, the petitioner must establish that the beneficiary was continuously performing qualifying religious work throughout the two years immediately prior to the July 6, 2005 filing date.

The USCIS regulation at 8 C.F.R. § 204.5(m)(11) reads:

(11) *Evidence relating to the alien's prior employment.* Qualifying prior experience during the two years immediately preceding the petition or preceding any acceptable break in the continuity of the religious work, must have occurred after the age of 14, and if acquired in the United States, must have been authorized under United States immigration law. If the alien was employed in the United States during the two years immediately preceding the filing of the application and:

- (i) Received salaried compensation, the petitioner must submit IRS documentation that the alien received a salary, such as an IRS Form W-2 or certified copies of income tax returns.
- (ii) Received non-salaried compensation, the petitioner must submit IRS documentation of the non-salaried compensation if available.
- (iii) Received no salary but provided for his or her own support, and provided support for any dependents, the petitioner must show how support was maintained by submitting with the petition additional documents such as audited financial statements, financial institution records, brokerage account statements, trust documents signed by an attorney, or other verifiable evidence acceptable to USCIS.

If the alien was employed outside the United States during such two years, the petitioner must submit comparable evidence of the religious work.

In the letter accompanying the initial submission, [REDACTED] stated that the beneficiary "has been working as Religious Instructor and Religious Education Director for our church since November 2003 upon US INS Approval. She also has over 4 years working experience in MANMIN Church in Korea."

A June 20, 2005 "Certificate of Employment," signed by [REDACTED] indicates the beneficiary's "Employment Period" as being "From November 2003 to Present." An accompanying "Detail Descriptions [sic] Of The Job Offered" also indicated that the beneficiary had worked for the petitioner "From November 2003 to Present Time." Documentation in the record confirms that the beneficiary's R-1 nonimmigrant religious worker status took effect beginning November 7, 2003, four months after the qualifying period began. Therefore, the beneficiary cannot have accumulated more than 20 months of qualifying experience with the petitioner.

Certificates from [REDACTED] indicate that the beneficiary worked there from 1995 to 1999, well outside the two years immediately preceding the petition's 2005 filing date.

An IRS Form W-2 Wage and Tax Statement submitted with the initial filing indicates that the petitioner paid the beneficiary \$19,800.00 (equivalent to \$1,650 per month) in 2004. The petitioner claimed to have raised the beneficiary's salary to \$2,000 per month in 2005, but the petitioner documented only three payments to the beneficiary during the first six months of that year. The petitioner's initial submission included copies of processed checks showing that the petitioner paid the beneficiary \$1,820.00 on February 27, 2005; \$1,820.26 on March 31, 2005; and \$1,820.26 on May 1, 2005. The petitioner submitted copies of bank statements for February through May 2005. The statements show no other checks to the beneficiary apart from the three separately reproduced in the record.

In the May 2008 notice of intent to revoke the approval of the petition, the director stated that "the beneficiary has not been working for at least two years at the time this instant petition was filed on July 6, 2005." In response, the petitioner submitted a copy of the beneficiary's income tax returns for 2003 and 2004. The copies were not IRS-certified. The 2004 return, dated February 28, 2005, indicated that the beneficiary had earned \$21,600 in 2004. An accompanying IRS Form W-2 indicated that the petitioner paid the beneficiary \$21,600 that year.

The petitioner had, however, previously submitted an IRS Form W-2 showing that it paid only \$19,800 to the beneficiary that year, and a partial copy of a tax return showing the same amount. The petitioner did not explain the existence of two contradictory Forms W-2 and tax returns for 2004.

The beneficiary's 2003 tax return, reporting \$4,000 in business income as a "church teaching director," is dated May 28, 2008, more than four years after the return was due to be filed. Like a delayed birth certificate, the delayed (and uncertified) tax return raises serious questions regarding the truth of the facts asserted. *Cf. Matter of Bueno*, 21 I&N Dec. 1029, 1033 (BIA 1997); *Matter of Ma*, 20 I&N Dec. 394 (BIA 1991)(discussing the evidentiary weight accorded to delayed birth certificates in immigrant visa proceedings). The contradictory 2004 tax documents further compound these questions. Even if we disregard the credibility issues, the revisions to the petitioner's claims do not show that the beneficiary continuously engaged in qualifying employment from early July 2003 (before she arrived in the United States) through the filing date two years later.

In revoking the approval of the petition, the director found that the petitioner had not documented any qualifying employment during the first four months of the 2003-2005 qualifying period. On

appeal, ██████████ conceded that “the beneficiary has not conclusively shown that she has been working since July 6, 2003 in the traditional sense of employment.” Nevertheless, ██████████ contended that the two-year experience requirement exists “to prevent abuse,” and that, therefore, USCIS should waive or relax that requirement “when substantial evidence exists to negate the likelihood of abuse even though the beneficiary has not received compensation for the entire two years of employment.” ██████████ further asserted: “To deny the petition because of the absence of approximately six months of traditional paid employment and to disregard the one year and six months of traditional employment would not be in keeping with the intent of the two year work requirement which is to dissuade abuse of the system.”

A similar argument appears in the petitioner’s response to the certified decision, and we will address the argument in that context.

Following the December 2008 remand of the petition for a new decision, the director’s February 2009 notice instructed the petitioner to submit IRS documentation of two years’ employment as required by 8 C.F.R. § 204.5(m)(11). In response, ██████████ attested that the beneficiary “has worked as a religious worker for the two years immediately preceding the filing of the” petition. The petitioner also submitted copies of payroll documents that post-date the 2003-2005 qualifying period, as well as copies of previously submitted documents.

In the certified June 2009 decision, the director found that the petitioner had not established that the beneficiary engaged in two years of continuous, compensated, lawfully authorized employment immediately prior to the petition’s filing date. In response, ██████████ repeats ██████████ argument that the two year experience clause is simply an expression of Congress’s desire to reduce fraud, rather than an inflexible requirement to be taken literally.

Statutory interpretation begins with the language of the statute itself. *Pennsylvania Department of Public Welfare v. Davenport*, 495 U.S. 552 (1990). In the present matter, the AAO will not consider the legislative history of the applicable law or the related floor statements. Where the language of a statute is clear on its face, there is no need to inquire into Congressional intent. *INS v. Phinpathya*, 464 U.S. 183 (1984).

The USCIS regulations at 8 C.F.R. § 204.5(m)(4) and (11) echo the statutory requirement of two years of experience, with no indication that this requirement is optional and can be disregarded if USCIS is confident of the beneficiary’s honest intent. Congress is presumed to be aware of an administrative or judicial interpretation of a statute and to adopt that interpretation when it reenacts a statute without change. *Lorillard v. Pons*, 434 U.S. 575, 580 (1978).

In this instance, the wording of the legislation itself demonstrates Congress’ interest in USCIS regulations. Section 2(b) of the Special Immigrant Nonminister Religious Worker Program Act, Pub. L. No. 110-391 (Oct. 10, 2008), reads, in pertinent part:

Regulations – Not later than 30 days after the date of the enactment of this Act, the Secretary of Homeland Security shall –

(1) issue final regulations to eliminate or reduce fraud related to the granting of special immigrant status for special immigrants described in subclause (II) or (III) of section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(C)(ii))

When USCIS published the new rule in November 2008, it did so in accordance with explicit instructions from Congress. Furthermore, the October 2008 legislation extended the special immigrant nonminister religious program only until March 5, 2009. From the wording of the statute, it is clear that this extension was so short precisely because Congress sought to learn the effect of the new regulations before granting a longer extension. Congress has since extended the life of the program three times.² On any of those occasions, Congress could have made substantive changes to the statute in response to the mandatory new regulations, but Congress did not do so. We may therefore presume, under *Lorillard*, that Congress has no objection to the new regulations as published, or to USCIS' interpretation and application of those regulations.

█ cited a district court decision, *St. John the Baptist Ukrainian Catholic Church v. Novak*, No. 00-CV-745 (N.D.N.Y. 2000), in which the court held that unpaid volunteer work can constitute qualifying experience as a religious worker. District court decisions are not binding on the AAO outside of the individual proceeding that gave rise to the decision. See *Matter of K-S-*, 20 I&N Dec. 715 (BIA 1993). More significantly, the new regulations published in 2008 (under congressional mandate) supersede the earlier court decision from 2000. The new USCIS regulation at 8 C.F.R. § 204.5(m)(11) requires the beneficiary's past experience to have been compensated except under certain limited circumstances that the petitioner has not shown to apply in this instance.

The objective evidence of record shows, on its face, that the beneficiary does not meet the two-year experience requirement. The petitioner has not contested this fact, but has instead asked USCIS and the AAO to disregard the plain wording of the statute and regulations in favor of the petitioner's self-serving interpretation of congressional intent. We have shown this argument to be without merit, and we affirm the director's uncontested finding that the beneficiary does not meet the two-year experience requirement.

FULL TIME JOB OFFER

The third and final issue under discussion regards the beneficiary's proposed work schedule. The USCIS regulations at 8 C.F.R. §§ 204.5(m)(2) and (7)(vii) require the petitioner to show that the beneficiary will work a full time, at least 35 hours per week on average.

² P.L. No. 111-9 § 1 (March 20, 2009) extended the program to September 29, 2009. Pub. L. No. 111-68 § 133 (October 1, 2009) extended the program to October 30, 2009. Pub. L. No. 111-83 § 568(a)(1) (October 28, 2009) extended the program to September 29, 2012.

A “Day-To-Day Job Description” submitted with the petition included a detailed “Hourly Schedule” showing 47½ hours per week. The schedule included six work days per week, with Mondays off. The schedule showed “Wednesday Evening Worship” from 7:00 to 8:30 p.m. On Fridays, the beneficiary’s schedule was left open between 4:00 p.m. and 5:30 p.m., and between 7:00 p.m. and 8:30 p.m.. The schedule listed “Bible Study” on Thursday evenings from 7:00 p.m. to 8:30 p.m. and Saturday mornings from 10:30 a.m. to 12:00 p.m. The schedule showed no regularly planned activities between 6:30 a.m. and 10:00 a.m. on weekdays, except that the beneficiary was to “Prepare Sunday Worship Services” between 9:00 a.m. and 10:30 a.m. on Thursdays.

A “Work Schedule Certification” from [REDACTED] indicated that, while employed there, the beneficiary worked “40 hours per week.”

During the June 2007 visit to the petitioning church, the IO learned that the petitioner’s congregation consists of 80 members and that the beneficiary was one of three employees said to work full time for the petitioner.

In the May 2008 notice of intent to revoke the approval of the petition, the director stated that it was unlikely that the “relatively small size of congregation” justified the beneficiary’s full time employment.

In response to the notice, [REDACTED] stated: “the beneficiary is the only staff member overseeing the Education Department . . . [which] would not be able to function without the beneficiary’s supervision.” [REDACTED] listed the petitioner’s claimed weekly schedule of meetings and Bible study sessions, including “Bible Study Sessions” on Monday morning from 11:00 a.m. to 12:30 p.m., Wednesday evenings beginning at 7:00 p.m., and Friday evenings beginning at 7:30 p.m. The scheduled “Meetings” were Mondays through Thursdays starting at 9:30 a.m., and Fridays at 4:00 p.m. These details conflict significantly with those on the schedule submitted previously.

In the revocation notice, the director noted the conflict between the two schedules. For instance, the petitioner’s new reference to two meetings every Monday contradicts the previous claim that the beneficiary has Mondays off.

On appeal, the petitioner contended that the beneficiary’s schedule “was updated to reflect the changes in the church’s services and meetings.”

In response to the post-remand February 2009 request for evidence, the petitioner attested that the beneficiary is to work at least 35 hours per week. The petitioner also attested that the petitioning church has 78 members.

In the June 2009 certified decision, the director again noted the petitioner’s submission of contradictory schedules, and found that the petitioner had not provided sufficient evidence to show that its congregation realistically requires the services of a full-time religious instructor and religious education director.

In response to the decision, [REDACTED] stated: "A 1 to 80 ratio is a reasonable ratio for a single member overseeing religious education of all of its members." He does not support this claim with any documentary evidence or establish his own expertise regarding staffing needs in the petitioner's religious denomination.

[REDACTED] does not discuss the petitioner's prior submission of two contradictory schedules. The petitioner has previously asserted that the petitioner merely revised its schedule to keep up with the church's changing needs. As we have already explained above, the petitioner has seriously impaired its credibility by repeatedly modifying its claims and submitting highly questionable documentation such as two different IRS Forms W-2 for the beneficiary for 2004. Given these credibility issues, we cannot accept at face value the petitioner's unsupported assertions regarding its changes of the beneficiary's schedule.

The petitioner has consistently claimed that the beneficiary will work full time, but those claims are not, themselves, consistent with one another. The petitioner's submissions throughout this proceeding appear to have been crafted with the goal of securing immigration benefits for the beneficiary, rather than the goal of securing the services of a legitimate, full-time religious worker. We therefore affirm the director's finding that the petitioner has not credibly shown that it has offered the beneficiary full-time employment.

For the reasons discussed above, the AAO agrees with the director that the director approved the petition in error, and that revocation is warranted. The AAO will affirm the revocation of the approval of the petition for the above stated reasons, with each considered as an independent and alternative basis for revocation. In visa petition proceedings, 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 director's decision of June 5, 2009 is affirmed. The petition is denied.