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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services



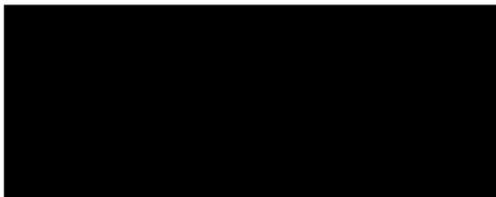
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DATE: OCT 21 2011 OFFICE: CALIFORNIA SERVICE CENTER FILE # [REDACTED]

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the employment-based immigrant visa petition. The director reopened the petition on the petitioner's motion, and denied it a second time. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner is a church of the Southern Baptist denomination. 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 Bible teacher. The director determined that the petitioner had not established that the position qualifies as a full-time religious occupation.

On appeal, the petitioner submits a brief from counsel, witness letters, and background materials.

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).

The issue in this proceeding is whether the petitioner seeks to employ the beneficiary in a qualifying occupation. The U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 204.5(m)(2) requires that the beneficiary must be coming to the United States to work in a full time (average of at least 35 hours per week) compensated position. The regulation at 8 C.F.R.

§ 204.5(m)(5) defines "religious occupation" as an occupation that meets all of the following requirements:

- (A) The duties must primarily relate to a traditional religious function and be recognized as a religious occupation within the denomination.
- (B) The duties must be primarily related to, and must clearly involve, inculcating or carrying out the religious creed and beliefs of the denomination.
- (C) The duties do not include positions that are primarily administrative or support such as janitors, maintenance workers, clerical employees, fund raisers, persons solely involved in the solicitation of donations, or similar positions, although limited administrative duties that are only incidental to religious functions are permissible.
- (D) Religious study or training for religious work does not constitute a religious occupation, but a religious worker may pursue study or training incident to status.

The petitioner filed the Form I-360 petition on September 2, 2008. In an accompanying letter dated August 26, 2008, [REDACTED], senior pastor of the petitioning church, stated that the petitioner sought to employ the beneficiary as "a full-time Bible Teacher." [REDACTED] stated:

Bible Teachers are important disciples of the church. They help evangelize by teaching God's word and spreading the Gospel. As a full time Bible Teacher for our church, some of [the beneficiary's] duties included teaching Bible study, preparing standard curriculums, determining materials, and organizing special events for the group.

On January 16, 2009, the director issued a request for evidence (RFE), instructing the petitioner to submit various documents newly required under revised regulations. Among other things, the director requested "a **detailed description** of the work to be done, including specific job duties, level of responsibility/supervision, and number of hours per week to be spent performing each duty. Include a daily and weekly schedule for the proffered position" (emphasis in original).

The petitioner's response included a March 27, 2009 letter from [REDACTED] who stated:

[The beneficiary] has experience as a full time bible teacher for more than 2 years. . . . She has actively participated and performed the duty as a bible teacher, working at least 40 hours. . . .

She conducts various bible teaching courses, leading bible class and developing curriculums and schedules. She reports to the senior pastor and associate pastor. She also takes care of newcomer bible courses, education schedule and group bible courses and leading. She will be solely carrying on the bible teaching related duties.

An accompanying schedule of the beneficiary's work hours showed 11 hours on Sundays, eight hours a day from Tuesday through Thursday, five hours on Friday and six hours on Saturday, for a total of 44 hours per week. The schedule listed the beneficiary's duties as "Bible teaching," "make a sch[e]dule of the class" and "prepare a teaching plan," but the schedule did not break down the hours devoted to each task.

The director denied the petition on August 11, 2009, in part because the petitioner did not provide sufficient details about the beneficiary's duties. The petitioner filed a motion to reopen the petition on August 31, 2001. The motion included a weekly schedule grid as follows:

	sun	mon	tue	wed	thur	fri	sat
6:00			G(s) B-2a	G(d) B-2a	G(g) B-2a	hymn(b) B-2a	
7:00							
8:00	hymn(a)						
9:00	A-1						
10:00	youth(a)						
11:00	A-1		G(b)	G(e)	G(h)		
12:00							
1:00	youth(b)		B-2b	B-2b	B-2b	office	office
2:00							
3:00	A-1						
4:00			G(c)	G(f)	G(i)		
5:00	EM						
6:00	(EM)		B-2b	B-2b	B-2b		

The letters in the schedule are codes for various groups, classes and rooms. The petitioner explained some, but not all, of these codes.

The director granted the petitioner's motion to reopen the petition and, on September 15, 2009, issued a second RFE, stating that the petitioner still had not provided a complete description of the beneficiary's duties and work schedule. In response, the petitioner submitted a five-page schedule. As a representative excerpt, the schedule for Wednesday reads as follows:

- 06:00-06:30 prepare the class G(d), check the materials.
- 06:30-08:00 teaching the class G(d).
- 08:00-11:00 break
- 11:00-11:30 prepare the class G(e), check the materials.
- 11:30-13:30 teaching the class G(e).
- 13:30-14:00 group G(c), G(d) prepare updated reports to report to senior pastor.  
Updating personal check lists and class check lists.
- 14:00-16:00 lunch
- 16:00-17:00 meeting with volunteer teachers

- 17:00-18:30 educating the volunteer teacher for G class  
18:30-19:00 G(f) Receiving reports from class volunteer teacher in respect to G(f) group G(e), G(f); prepare reports to report to senior pastor for updates.

The director denied the petition for the second time on November 19, 2009, stating that the beneficiary's schedule shows only 21.5 hours of actual teaching per week, with the balance devoted to "administrative duties." The director appears to have concluded that the position is, therefore, not full-time. The regulations, however, do not require at least 35 hours per week of religious duties for a job to qualify as full-time. Rather, the position must involve 35 hours per week total, and the duties must be "primarily" religious in nature (although incidental administrative duties are permissible). See 8 C.F.R. §§ 204.5(m)(2) and (5).

The director stated that the petitioner had not submitted documentary evidence to show that the petitioner's religious denomination recognizes Bible teaching as an occupation, rather than an unpaid volunteer function that "require[s] only a modest time commitment." The director also stated that the petitioner had not shown "that the beneficiary has formal training or recognition beyond informal bible study classes at his [sic] church. The record therefore fails to establish that he [sic] is qualified to perform a religious occupation." The director concluded that the petitioner had failed to show that the beneficiary would work in a full-time religious occupation.

The director's reference to "formal training or recognition beyond informal bible study classes" is misplaced. The regulation at 8 C.F.R. § 204.5(m)(7)(ix) requires the petitioner to attest that the beneficiary is qualified for the position offered, but the regulations specify no minimum level of education or training in order for a given position to qualify as a religious occupation.

On appeal, counsel contends that the beneficiary's total work hours qualify as full-time, and that her "position is primarily related to [a] religious function and other administrative duties are only incidental to her Bible teacher position." Counsel asserts "[t]he Southern Baptist Convention of Texas has traditionally recognized that lay persons as well as ordained persons are gifted and called by God to lead the Church." The issue of concern is not whether lay occupations exist at all within the Southern Baptist Convention, but whether churches in that denomination traditionally employ paid, full-time Bible teachers rather than relying on the services of volunteers.

Pastor Han, in a new, undated letter, claims that there are special circumstances within the petitioning church because the congregation consists predominantly of Korean immigrants with limited English language skills. [REDACTED] asserts that, for this and other reasons, "volunteers . . . are not able to carry out the duties effectively. According[ly], our church needs a full-time bible teacher to carry out bible classes systematically with good plans." The regulatory definition of a religious occupation at 8 C.F.R. § 204.5(m)(5) requires that the beneficiary's "duties must . . . be recognized as a religious occupation within the denomination." If Southern Baptist churches typically or traditionally rely on volunteers from the congregation to teach Bible study classes, then the position lacks recognition as an occupation at the denominational level.

The petitioner submits printouts from <http://www.sbtexas.com>, the web site of the Southern Baptists of Texas Convention, and from <http://www.sbc.net>, the web site of the Southern Baptist Convention. A page from the latter site includes the following passage: “[T]he cause of education . . . should receive . . . the liberal support of the churches. An adequate system of Christian education is necessary to a complete spiritual program for Christ’s people.” This general reference to “education” does not clearly refer to paid Bible instructors within individual congregations. The next paragraph in the printout lends context to the passage quoted above:

In Christian education there should be a proper balance between academic freedom and academic responsibility. . . . The freedom of a teacher in a Christian school, college, or seminary is limited by the pre-eminence of Jesus Christ, by the authoritative nature of the Scriptures, and by the distinct purpose for which the school exists.

The passage quoted above suggests that, when the web site discusses “education,” it does so in the context of a “school, college, or seminary,” rather than the context of a church Bible class.

The Southern Baptist Convention’s web site, which the petitioner has introduced into the record by submitting printouts, includes job listings at <http://www.sbc.net/jobs/>. The site lists the following categories under “Job Type”:

Administration	Music & Worship	Singles & College
Adult Ministry	North American Missions	Sports Ministry
Building Services	Office Personnel	Technology
Children	Others	Volunteers
Christian Schools	Pastors	Women’s Ministry
Foreign Missions	Pre-School Ministry	Youth
Men’s Ministry	Recreation	

(Printout added to record October 12, 2011.) The only education-related job type is “Christian Schools.” This is consistent with the submitted reference to “a teacher in a Christian school, college, or seminary.” There is no category for Bible studies or Sunday school teachers, and therefore no affirmative evidence that the Southern Baptist Convention considers the work of such teachers to be a full-time, paid occupation.

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 met that burden. Accordingly, the AAO will dismiss the appeal.

**ORDER:** The appeal is dismissed.