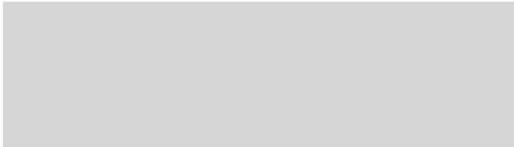




U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: AUG 24 2015

PETITION RECEIPT #: [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 is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

for Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the petition will be approved.

The petitioner is a Catholic school. 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 Worker/Faculty (Teacher and Director)." The director determined that the petitioner did not establish that the beneficiary would be employed in a qualifying position.

On appeal, the petitioner submits a brief.

#### RELEVANT LAW AND REGULATIONS

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, 2015, 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, 2015, 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 regulation at 8 C.F.R. § 204.5(m)(2) provides that in order to be eligible for classification as a special immigrant religious worker, an alien must:

(2) Be coming to the United States to work in a full time (average of at least 35 hours per week) compensated position in one of the following occupations as they are defined in paragraph (m)(5) of this section:

- (i) Solely in the vocation of a minister of that religious denomination;
- (ii) A religious vocation either in a professional or nonprofessional capacity;  
or
- (iii) A religious occupation either in a professional or nonprofessional capacity.

The regulation at 8 C.F.R. § 204.5(m)(5) includes the following definitions:

*Religious occupation* means 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.

*Religious worker* means an individual engaged in and, according to the denomination's standards, qualified for a religious occupation or vocation, whether or not in a professional capacity, or as a minister.

#### ISSUE

The issue is whether the beneficiary would be employed in a qualifying position.

#### PERTINENT FACTS AND PROCEDURAL HISTORY

The Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360) states that the beneficiary would be employed as a "Religious Worker/Faculty (Teacher and Director)." The duties are set forth in the petition as follows:

Integrate Catholic faith based principles while teaching elementary students, 4<sup>th</sup> through 8<sup>th</sup> grade, the Spanish language, and providing Director [chief administrator] leadership and management of the BAC [Before and After Care] program. Develop lesson plans, attend continuing education courses, prepare reports and prepare schedules and conferences. Teach, lead, instruct and provide faith formation in accordance to Catholic education philosophy to extend Catholic religious doctrine and philosophy.

The beneficiary's duties were further explained in a November 19, 2013 letter from the petitioner's principal, [REDACTED] Mr. [REDACTED] stated:

[The beneficiary] performs duties that are traditional religious functions, including teaching and directing the before and after care program in the elementary school with the Gospel and our Faith at heart. The mission of our Catholic elementary academy is to preach the Gospel to children and to offer education in a Catholic manner so as to place God as a central feature of our teachings. Thus, as a religious worker, [the beneficiary's] first duty is to respect the Catholic spiritual values, exemplifying and conducting herself through Catholic principles and the Catholic doctrine, and to comply with the applicable Canon Law of the Roman Catholic Church, and to help students in Catholic formation while teaching in her focus skill area, which is the Spanish language, and while performing duties of the Faculty Staff/Director program. [The beneficiary] has established systematic and effective teaching and supervisory duties of the students in service to our spiritual values of the Catholic Church. She participates in and attends parent-teacher interviews, institutes, and in-service training as required.

Mr. [REDACTED] noted that faculty and staff members of Catholic schools must "abide by the Catholic faith, and integrate the faith into principle, teachings, and lessons, and live according to the faith." The holder of the proffered position is required to be a Catholic, or agree to abide by the Catholic philosophy and faith. As such, the position requires an employee who has "taken Catholic formation (catechism), been baptized and confirmed within the Catholic faith, and hold Basic certification in religion."

The petitioner submitted excerpts from the [REDACTED] Office of Catholic Education, *Handbook for Catholic Schools, (Handbook)*, which notes that every Catholic school community "will view its purpose as an extension of the teaching mission of the Church," and that Catholic schools provide a means for the local church to evangelize, educate, and contribute to the formation of a healthy and morally sound lifestyle among its members. The *Handbook* notes that all aspects of the Catholic school are "rooted in Catholic education philosophy," and sets forth the requirements for Catholic schools in the State of Ohio. These requirements include a credentialed and support staff that understands, supports, and lives the basic teachings of the church. The school community must actively promote the discipleship of Jesus Christ as integral to its Catholic culture and missions through regularly scheduled catechesis in Catholic teachings and Gospel values, teach from a

curriculum infused with Catholic beliefs and Gospel values, lead an active sacramental life, nurture the spiritual life of its members, and promote the ongoing religious formation of its faculty. A faculty member must also “receive[] the Holy Spirit in Baptism and Confirmation.”

The petitioner’s employee handbook notes that “in order to maintain a direction of mission of the Academy consistent with the teachings and traditions of the Roman Catholic Church, active membership in the Roman Catholic Church is a condition of employment for certain positions.” An excerpt from the Guidelines for Ohio’s Catholic Schools, Ohio Catholic School Accrediting Association, states that the leadership system of a Catholic school includes a strong Catholic identity and a Catholic educational environment that supports student’s developmental needs. “Leaders in Catholic schools insure that the mission and educational goals of the school reflect the teaching mission of the Catholic Church” and the educational needs of students.

The director issued a request for evidence (RFE) on February 5, 2014 asking, in part, the petitioner to provide a detailed description of the work to be done by the beneficiary as a religious worker and documentary evidence to establish that the proffered position is directly related to the religious creed of the Catholic denomination. In response, the petitioner provided a detailed job description for the head of its before and after care program and listed the performance expectations of a foreign language teacher.

The petitioner stated that the before and after care program serves as an extension of [REDACTED] elementary school, and its director is expected to provide and nurture an environment that reflects the mission and philosophy students experience during school hours which furthers and enhances the Church’s mission to promote Catholic faith, principles, and practices.

The duties of the position include: implementing the petitioner’s mission, philosophy, and goals; designing and administering all programs and field trips; maintaining contact with the principal regarding budgeting, marketing and operations; meeting with the business manager regarding parent billing for programs; budget preparation; overseeing all personnel matters; ordering and inventorying program supplies; communicating with parents about program concerns; and performing additional tasks as assigned.

The performance expectations for a foreign language teacher include: maintaining a character and lifestyle consistent with the teaching of the Catholic Church; supporting the petitioner’s philosophy, mission and goals; creating a classroom environment that reflects the Catholic identity of the school; and adhering to the petitioner’s professional practices and policies.

In further response to the RFE, the petitioner submitted an April 29, 2014, letter from [REDACTED] Secretary for Catechetical Formation and Education/Superintendent, which states that the before and after care program director’s position “is a continuum of the teaching requirements of the faculty in that the position is one rooted in the Catholic faith, exemplifying the Catholic principles and promoting the discipleship of Jesus Christ as central to the

Catholic mission through leadership and teaching.” The beneficiary’s teaching and before and after school care schedule were submitted showing the positions represent full-time employment.<sup>1</sup>

On appeal, the petitioner submits a brief.

### ANALYSIS

The petitioner has established that the duties of the proffered position primarily relate to a traditional religious function of the denomination and are recognized as a religious occupation within the denomination. The duties primarily relate to, and clearly involve, inculcating or carrying out the religious creed and beliefs of the denomination.

The petitioner’s principal stated “the mission of our Catholic elementary academy is to preach the Gospel to children and to offer education in a Catholic manner so as to place God as a central feature of our teachings.” This assertion is affirmed in the *Handbook* which notes that Catholic schools provide a means for the local church to evangelize, educate, and contribute to the formation of a healthy and morally sound lifestyle among its members. All aspects of the Catholic school are “rooted in Catholic education philosophy,” and faculty and staff members of Catholic schools must abide by the Catholic faith and integrate that faith into principles, teachings and lessons taught in the schools. Catholic schools in the State of Ohio, where the petitioner is located, require “a school curriculum infused with Catholic beliefs/teachings and Gospel values” and that “[e]very Catholic school community will view its purpose as an extension of the teaching mission of the Church, evangelizing, education and contributing to the formation of a healthy and morally sound lifestyle among its members.” Teachers’ performance expectations require them to “[create] an environment in the classroom that reflects the Catholic identity of the school.”

The proffered position may only be filled by an individual who has “taken Catholic formation (catechism), been baptized and confirmed within the Catholic faith, and hold basic certification in religion.” The [REDACTED] views the position of the director of the before and after care program as “a continuum of the teaching requirements. The job description for the proffered position confirms that the before and after care program “serves as an extension of Lakewood Catholic Academy’s elementary school,” and that its head “is expected to provide and nurture an environment that reflects the mission and philosophy that its students experience during their school day hours.”

The petitioner’s website ([http://www \[REDACTED\]](http://www.[REDACTED])) states “as part of our Catholic heritage and school curriculum our students have a unique opportunity to learn and

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<sup>1</sup> The petitioner also provided approval notices showing that the beneficiary was approved to work for the petitioner as a “Religious Worker/Elementary foreign language teacher” in R-1 nonimmigrant status from June 17, 2011, through January 21, 2013, and as a “Religious Worker-Spanish Teacher and director of BAC Program” from April 1, 2013, until June 13, 2014. USCIS approval of a nonimmigrant visa is not binding or necessarily relevant to the approval of the immigrant petition as different regulations govern the two visa types.

develop a deep appreciation for the sacraments of the Church.” Catholic school education is deemed a part of the Catholic formation process and teachers aid church parishes in that process. An excerpt from the Guidelines for Ohio’s Catholic Schools, Ohio Catholic School Accrediting Association, states that the leadership system of a Catholic school includes a strong Catholic identity and a Catholic educational environment that supports student’s developmental needs. “Leaders in Catholic schools insure that the mission and educational goals of the school reflect the teaching mission of the Catholic Church” and the educational needs of students.

The proffered position is religious in nature and the duties of the position necessarily and clearly involve, inculcating or carrying out the religious creed and beliefs of the denomination. The director’s decision to the contrary shall be withdrawn.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). The petitioner has met that burden. Accordingly, we will withdraw the director’s denial decision and approve the petition.

**ORDER:** The appeal is sustained and the petition is approved.