



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF C-S-C-

DATE: SEPT. 11, 2015

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-360, PETITION FOR AMERASIAN, WIDOW(ER), OR SPECIAL  
IMMIGRANT

The Petitioner, a church, seeks to employ the Beneficiary as a special immigrant religious worker to perform services as a Mennonite school teacher at one of its private schools. *See* Immigration and Nationality Act (the Act) § 203(b)(4), 8 U.S.C. § 1153(b)(4). The Director, California Service Center, denied the petition, finding that the Petitioner did not establish that the proffered position qualifies as a religious occupation. The matter is now before us on appeal. The appeal will be sustained.

**I. RELEVANT LAW AND REGULATIONS**

Section 203(b)(4) of the Act, 8 U.S.C. § 1153(b)(4), 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]) 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) states that in order to be eligible for classification as a special immigrant religious worker, the beneficiary must:

(1) For at least the two years immediately preceding the filing of the petition have been a member of a religious denomination that has a bona fide non-profit religious organization in the United States.

(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.

(3) Be coming to work for a bona fide non-profit religious organization in the United States, or a bona fide organization which is affiliated with the religious denomination in the United States.

(4) Have been working in one of the positions described in paragraph (m)(2) of this section, either abroad or in lawful immigration status in the United States, and after the age of 14 years continuously for at least the two-year period immediately preceding the filing of the petition. The prior religious work need not correspond precisely to the type of work to be performed. A break in the continuity of the work during the preceding two years will not affect eligibility so long as:

(i) The alien was still employed as a religious worker;

(ii) The break did not exceed two years; and

(iii) The nature of the break was for further religious training or for sabbatical that did not involve unauthorized work in the United States. However, the alien must have been a member of the petitioner's denomination throughout the two years of qualifying employment.

(5) 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.

## II. PERTINENT FACTS AND PROCEDURAL HISTORY

The Petitioner filed the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, seeking to classify the Beneficiary as a special immigrant religious worker on June 27, 2014. The Director issued a request for evidence (RFE) seeking, among other things, information about the proffered position's job duties. The Petitioner submitted a brief and additional evidence in response to the RFE, which the Director found insufficient to establish eligibility. The Director denied the petition, concluding that the proffered position of Mennonite teacher involves primarily child supervision during recess and teaching secular subjects such as math, English, science, and reading.

On appeal, the Petitioner submits a brief and asserts that the record demonstrates that teaching children in its school relates directly and critically to the traditional religious functions of the [REDACTED], [REDACTED]. According to the petitioning organization, the position is not a secular position, but rather, is a permanent, full-time, salaried, religious position that is traditionally recognized within the denomination. The Petitioner also indicates that USCIS has been inconsistent in adjudicating the church's petitions involving the identical position.

### III. ANALYSIS

We conduct appellate review on a *de novo* basis. See *Siddiqui v. Holder*, 670 F.3d 736, 741 (7th Cir. 2012); *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Dor v. INS*, 891 F.2d 997, 1002 n.9 (2d Cir. 1989). As explained below, given the specific facts of this case, we find that the Petitioner has established that the proffered position meets the regulatory definition of a religious occupation.

#### Religious Occupation

In this case, the record includes, but is not limited to: documentation from the [REDACTED] website; letters from church personnel; a copy of the Beneficiary's employment contract; a detailed daily schedule for the fifth grade; documentation of the Beneficiary's work experience and qualifications; a list of students; and a list of approved textbooks with sample lesson plans. A letter from the church's representative, [REDACTED] stated that the [REDACTED], [REDACTED] has over 24,000 members worldwide and 145 congregations in the United States. He asserted the church has 135 private elementary schools in the United States and 55 schools in Canada. He explained that the Conference School Committee's role is to maintain the religious and educational goals of the schools and to "safeguard the Church's values and beliefs in the operation of all Church schools."

According to [REDACTED] an integral part of the church's belief is that it is responsible for educating its own children "to avoid influences from environment or curriculum that are not consistent with the Church's deeply held convictions, which . . . are solidly based in the Bible." He stated that all subjects must be integrated with religious texts and teachings, only members of the church are qualified to be teachers, and every school is staffed entirely by church members. He continued: "Teaching in [their] religious schools is an activity considered by the church to constitute practice of [their] religion, a Church function that primarily relates to and directly embodies the tenets of [their] faith. . . . Educating [their] children has religious significance as a sacred religious duty within the Church." [REDACTED] specified that the Beneficiary has been working as a teacher for the school since 2007, first in H-1B status, and then in R-1 religious worker status. He affirmed that she will not engage in any secular employment, but rather, will conduct religious devotions, lead religious musical exercises, teach Bible memorization, and teach the full academic curriculum as prescribed by the church.

A letter from the school's Chairman, [REDACTED] reiterated that the proffered position of a Mennonite school teacher is not secular in nature because every subject in their religious private school must be infused with Biblical references and religious teachings. He asserted that teachers incorporate teachings from the Bible into all course curriculums and students do scripture research for all of their lessons. In addition, [REDACTED] explained that there is always a shortage of teachers because the church only hires dedicated church members to be teachers, and the Beneficiary has spent seven years teaching at their school. He specified that the Beneficiary will teach in all subjects, will be in class with students Monday through Friday from 8:30 a.m. until 3:30 p.m., and will also prepare lesson plans, grade schoolwork, and communicate with parents. According to [REDACTED] educating children from a "core religious foundation" is a fundamental religious function of the church.

Documentation from the church's website that is in the record supports the assertions from [REDACTED] and [REDACTED] regarding the importance of a private religious education for the children of all Mennonites. "Most congregations operate a Christian school for the purpose of protecting [the] children from worldly influences and to maintain a proper vision of education."

Similarly, a copy of the church's publication, [REDACTED] acknowledges the importance of education to Mennonites.

[REDACTED] This document lists education as number 18 of a list of 32 of the Mennonites' beliefs and describes proper speaking, reading, and writing for "Christian simplicity and humility."

Also, the teaching contract between the Petitioner and the Beneficiary specifies that the Beneficiary will teach fifth grade, and emphasizes that she must uphold the teachings of the Bible at school and conduct herself with the dignity and responsibility that pertains to a Christian school teacher. A copy of her daily schedule shows she will conduct devotions every morning as well as teach math, English, science, and reading every day. Sample textbooks and curriculums in the record confirm that each subject is infused with the church's religious tenets, as discussed more thoroughly below.

In this particular case, the record supports the Petitioner's position that every subject taught by a Mennonite teacher primarily relate to, and clearly involve, inculcating or carrying out the beliefs of the Mennonite religion. For instance, for English, the curriculum stated that "Bible stories and concepts, Christian living, family life, and historical and scientific facts are featured in the exercises." A lesson on the proper use of quotation marks and capital letters within quotations listed four practice sentences, all religious in nature.<sup>1</sup> Similarly, a lesson on poetry featured the religious poem, [REDACTED]

[REDACTED] A lesson on direct objects gave sample sentences that were almost all religious in nature, such as "Abel offered a sacrifice," "Jesus loves children," and "God gave commandments." For math, the Petitioner submitted an article, [REDACTED]

[REDACTED] This article stated that "[t]raditional arithmetic gives glory to God," "promotes absolute truth . . . as created by an orderly, rational God," and "builds Christian character." Furthermore, for science, the Petitioner submitted a copy of the school's science book, [REDACTED]

These textbooks and teaching lessons support the Petitioner's contention that the Beneficiary will not merely be teaching secular subjects. Rather, the proffered position is furthering the church's express goal of "protecting [its] children from worldly influences and . . . maintain[ing] a proper vision of education."

[REDACTED] We find that the record in this case, as a whole, supports [REDACTED] contention that teaching in their religious school is an activity considered by the church to constitute the practice of religion and that educating their children

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<sup>1</sup> The sentences listed for review and practice are:

1. Jesus asked Peter, "Lovest thou me?"
2. Pharaoh exclaimed, "Rise up, and get you forth from among my people!"
3. Jesus said, "Go ye therefore, and teach all nations."
4. "Make thee an ark of gopher wood," God said to Noah.

is considered a sacred religious duty within the church. Considering the curriculum and lesson plans submitted, in conjunction with the church's prioritization of a private school for all of its children to the extent that most of its congregations operate their own religious school that are entirely staffed by church members, we conclude that the proffered position involves duties primarily related to a traditional religious function and involves carrying out the religious beliefs of the Mennonite religion. Further, the record shows that being a Mennonite school teacher is recognized as a religious occupation within the denomination. The duties of the position primarily relate to, and clearly involve, inculcating or carrying out the beliefs of the Mennonite religion. Accordingly, the Petitioner has established that the proffered position is a religious occupation as defined in 8 C.F.R. § 204.5(m)(5).

In sum, the Petitioner has demonstrated that the proffered position of Mennonite school teacher qualifies as a religious occupation as defined in 8 C.F.R. § 204.5(m)(5). With respect to the Petitioner's assertion that USCIS has been inconsistent in granting and denying petitions with the identical proffered position, we note that each petition is considered on a case-by-case basis and this decision should not be interpreted to be a blanket holding that being a Mennonite school teacher is a religious occupation. In addition, USCIS is not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. See, e.g. *Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm'r 1988).

#### IV. CONCLUSION

The Petitioner has established by a preponderance of the evidence that the proffered position is a religious occupation. We withdraw the Director's finding to the contrary.

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). Here, that burden has been met.

**ORDER:** The appeal is sustained.

Cite as *Matter of C-S-C-*, ID# 13817 (AAO Sept. 11, 2015)