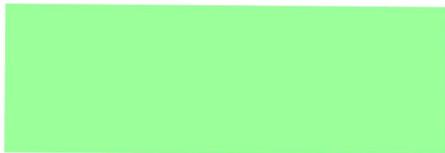


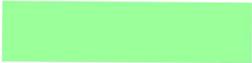
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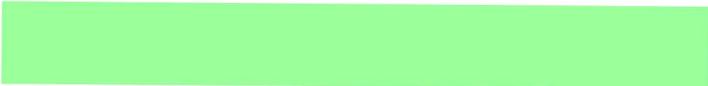
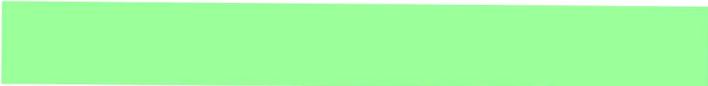
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



DATE: **FEB 23 2015** OFFICE: CALIFORNIA SERVICE CENTER FILE: 

IN RE: Petitioner: 
Beneficiary: 

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

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

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 nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. We will withdraw the director's decision. Because the record, as it now stands, does not support approval of the petition, we will remand the petition for further action and consideration.

The petitioner is an interdenominational Christian missionary organization. It seeks to classify the beneficiary as a nonimmigrant religious worker pursuant to section 101(a)(15)(R) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R), to perform services as a cross-cultural training intern. The director determined that the petitioner had not established that the beneficiary will be working in a qualifying position.

On appeal, the petitioner submits a statement and additional evidence.

Section 101(a)(15)(R) of the Act pertains to an alien who:

(i) for the 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; and

(ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii).

Section 101(a)(27)(C)(ii) of the Act, 8 U.S.C. § 1101(a)(27)(C)(ii), pertains to a nonimmigrant who seeks to enter the United States:

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

(II) . . . 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) . . . 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.

The regulation at 8 C.F.R. § 214.2(r)(1) states that, to be approved for temporary admission to the United States, or extension and maintenance of status, for the purpose of conducting the activities of a religious worker for a period not to exceed five years, an alien must:

(i) Be a member of a religious denomination having a bona fide non-profit religious organization in the United States for at least two years immediately preceding the time of application for admission;

- (ii) Be coming to the United States to work at least in a part time position (average of at least 20 hours per week);
- (iii) Be coming solely as a minister or to perform a religious vocation or occupation as defined in paragraph (r)(3) of this section (in either a professional or nonprofessional capacity);
- (iv) Be coming to or remaining in the United States at the request of the petitioner to work for the petitioner; and
- (v) Not work in the United States in any other capacity, except as provided in paragraph (r)(2) of this section.

I. QUALIFYING POSITION

The issue to be discussed is whether the petitioner has submitted sufficient evidence to establish that the beneficiary will be working in a qualifying position.

A. Law

The regulation at 8 C.F.R. § 214.2(r)(3) 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 which 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; and
- (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.

B. Facts and Analysis

The petitioner filed the Form I-129, Petition for Nonimmigrant Worker, on March 19, 2014, seeking to employ the beneficiary as a “Cross-Cultural Training Intern” for a period of nine months. On the petition, the petitioner described the beneficiary’s proposed daily duties as follows:

Mobilization: Work with existing recruiting and mobilization staff to communicate the vision of [REDACTED] with Hispanic congregations in Latin America and the US.

Administration: Perform tasks in support of other staff roles and ongoing projects.

Training: Participate in classes and workshops about various aspects of cross-cultural ministry in preparation for long-term mission work.

In a March 14, 2014, letter accompanying the petition, the petitioner stated that the beneficiary “will be participating in missions training internship program, in which she will be doing mission work as part of the office staff of [the petitioner], as well as completing the requirements to become a field member of the organization and do mission work overseas.” The petitioner submitted a position description, stating that the position involves “Training,” “Recruitment,” “Promotion,” and “Administration” responsibilities. The petitioner also stated:

Cross-Cultural Training Interns will be in the [petitioner’s] office from 9-5 Monday-Friday each week. They will rotate through working with the various teams of [REDACTED] in order to utilize their skills and gain experience in all of the work of operating a missions organization

The internship will last for 9 months, with opportunities available to join a team of missionaries on the field or join our office staff following completion of the program.

The petitioner also submitted a copy of a job offer packet providing details about the proffered internship, as well as a brochure from the petitioning organization entitled “Mission Internships in America.” The brochure stated that “[a]bout 20% of the training program consists of formal instruction” and “80% is spent in projects and practical work experience with our [REDACTED] Virginia headquarters team.” In addition, the petitioner submitted a copy of its articles of incorporation, which identified one of the organization’s purposes as: “To recruit, train, equip, commission and support . . . young people to engage in evangelistic outreach both in the U.S. and abroad.”

The director issued a Request for Evidence (RFE) on March 22, 2014, in part requesting additional evidence to establish that the proffered position qualifies as a religious occupation. In response, the petitioner submitted an April 14, 2014, letter from its executive director, stating in part:

Mission is an essential and universally recognized function of the Christian Church. Our organization is working to achieve goals that have been a part of the work of the Church since it began, and all of our staff, interns, and field members are fulfilling

roles that are vital to those goals. As such, the role [the beneficiary] will fill as a Cross-Cultural Training Intern is a traditional religious function necessary to [the] work of our organization.

The director denied the petition on July 17, 2014, finding that the petitioner failed to establish that the beneficiary would be working in a qualifying religious occupation. The director stated that the petitioner “did not provide any organizational document establishing the position of Cross-Cultural Training Intern as a traditionally recognized occupation.” The director found that the proffered position is primarily a training program “designed to prepare the individual for the duties of a religious occupation,” and that the beneficiary’s missionary and administrative duties would be “incidental to” the beneficiary’s training.

In a July 10, 2014, statement submitted on appeal, the petitioner asserts that the beneficiary’s training “will be incidental to her role as missionary, and will make up only a small part of her time here.” The petitioner asserts that, although the title of the position is not a traditionally recognized religious occupation, her duties relate to ministry and missions, which relate to a traditional religious function and are recognized as a religious occupation. The petitioner also notes that the duties are consistent with the purposes of the organization as stated in its articles of incorporation. The petitioner submits a July 10, 2014, letter providing additional information about the specific missionary projects on which the beneficiary will work and asserting that “training will only amount to about 15% of her time here.”

The regulatory definition of “religious occupation” at 8 C.F.R. § 214.2(r)(3) focuses on the duties rather than the title of the proffered position. The definition also states that, while training itself does not constitute a religious occupation, an individual “may pursue training incident to status.” In this instance, the evidence indicates that the beneficiary will be serving as a missionary with the petitioning organization while also preparing for missionary work overseas. The record sufficiently establishes that the beneficiary will spend the majority of her time performing mission work as part of the petitioner’s office staff and, in addition, will receive separate formal “training,” including classes and workshops, in order to perform cross-cultural ministry. The petitioner has submitted sufficient evidence, including its articles of incorporation and various organizational materials, to establish that the duties of a missionary relate to a traditional religious function, are recognized as a religious occupation, and involve carrying out the religious creed and beliefs of the denomination. Accordingly, as the petitioner has established that the beneficiary will be performing the duties of a missionary for more than 20 hours per week, the proffered position meets the regulatory requirements of a religious occupation. The director’s finding will be withdrawn.

II. SELF-SUPPORT

The above discussion indicates that the petitioner has overcome the only stated basis for denial of the petition. That basis and, therefore, the denial decision, will be withdrawn. However, review of the record indicates that the petitioner has not satisfied the requirements of 8 C.F.R. § 214.2(r)(11)(ii), which sets forth the evidence required if the alien will be self-supporting. We conduct appellate

review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989).

A. Law

The regulation at 8 C.F.R. § 214.2(r)(11) provides:

Evidence relating to compensation. Initial evidence must state how the petitioner intends to compensate the alien, including specific monetary or in-kind compensation, or whether the alien intends to be self-supporting. In either case, the petitioner must submit verifiable evidence explaining how the petitioner will compensate the alien or how the alien will be self-supporting. Compensation may include:

(i) *Salaried or non-salaried compensation.* . . .

(ii) *Self support.*

(A) If the alien will be self-supporting, the petitioner must submit documentation establishing that the position the alien will hold is part of an established program for temporary, uncompensated missionary work, which is part of a broader international program of missionary work sponsored by the denomination.

(B) An established program for temporary, uncompensated work is defined to be a missionary program in which:

(1) Foreign workers, whether compensated or uncompensated, have previously participated in R-1 status;

(2) Missionary workers are traditionally uncompensated;

(3) The organization provides formal training for missionaries; and

(4) Participation in such missionary work is an established element of religious development in that denomination.

(C) The petitioner must submit evidence demonstrating:

(1) That the organization has an established program for temporary, uncompensated missionary work;

(2) That the denomination maintains missionary programs both in the United States and abroad;

- (3) The religious worker's acceptance into the missionary program;
- (4) The religious duties and responsibilities associated with the traditionally uncompensated missionary work; and
- (5) Copies of the alien's bank records, budgets documenting the sources of self-support (including personal or family savings, room and board with host families in the United States, donations from the denomination's churches), or other verifiable evidence acceptable to USCIS [U.S. Citizenship and Immigration Services].

B. Facts and Analysis

The petitioner indicated on the petition that the beneficiary "will be supported by her church and a few other donors." The petitioner further stated, "She will be part of the 15th year of an established missions internship." The petitioner submitted brochures regarding both its domestic and international missions programs. Both brochures indicated that the petitioner's employees are unpaid and raise their own support. The petitioner also submitted a copy of its "Finance Policy and Practice for Members and Trainees," which described the process by which an individual's supporters can provide donations for his or her support.

In the March 22, 2014, RFE, the director requested additional information regarding the beneficiary's self-support, including evidence that the petitioner has an established program for temporary uncompensated missionary work, and evidence of the beneficiary's acceptance into the program. The director also requested "Copies of the alien's bank records, budgets documenting the sources of self-support . . . or other verifiable evidence acceptable to USCIS." In response, the petitioner submitted a newsletter describing some of the petitioner's international missionary work and an acceptance letter from the petitioner to the beneficiary. The petitioner also submitted an April 14, 2014, letter stating that the current cost of the program is \$400 per month, which covers the beneficiary's room and board. The petitioner stated that the beneficiary's church "has committed to providing at least half of that support, and the rest will be provided by her friends and family." In addition, the petitioner submitted a letter from [REDACTED] pastor of [REDACTED] in [REDACTED] Mexico, stating:

The intent of this letter is to inform the reader that [the beneficiary], member of [REDACTED], will be receiving 50% of her monthly expenses consistently throughout her ministry from this church organization, and the remaining 50% will come from private donations from family and friends.

I extend the present record for the purposes of those interested and remain at your disposal for any further clarifications.

The petitioner did not submit documentary evidence to support the assertion that the beneficiary's family members or friends intend to provide financial support, nor to establish the ability of those individuals or [REDACTED] to provide such support. Going on record without supporting

documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)). As the petitioner has not submitted verifiable evidence to establish how the beneficiary's support will be maintained, the petitioner has not met the requirements of 8 C.F.R. § 214.2(r)(11)(ii)(C)(5).

The petitioner has submitted evidence that it maintains a missionary program for uncompensated missionaries in the U.S. and abroad, and that it provides formal training for its missionaries. The petitioner also submitted evidence of the beneficiary's acceptance into the program. However, the petitioner has not submitted evidence that foreign workers have previously participated in the program R-1 nonimmigrant status, as required under 8 C.F.R. § 214.2(r)(11)(ii)(B)(1).

III. COMPLIANCE REVIEW

A. Law

The regulation at 8 C.F.R. § 214.2(r)(16) reads:

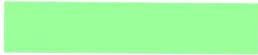
Inspections, evaluations, verifications, and compliance reviews. The supporting evidence submitted may be verified by USCIS through any means determined appropriate by USCIS, up to and including an on-site inspection of the petitioning organization. The inspection may include a tour of the organization's facilities, an interview with the organization's officials, a review of selected organization records relating to compliance with immigration laws and regulations, and an interview with any other individuals or review of any other records that the USCIS considers pertinent to the integrity of the organization. An inspection may include the organization headquarters, or satellite locations, or the work locations planned for the applicable employee. If USCIS decides to conduct a pre-approval inspection, satisfactory completion of such inspection will be a condition for approval of any petition.

B. Facts and Analysis

The record does not indicate that USCIS has conducted a compliance review inspection with regard to the instant petition. On remand, the director shall determine whether the petitioner has satisfied the regulation at 8 C.F.R. § 214.2(r)(16) and whether a compliance review, onsite inspection or other verification of the petitioner's claims is appropriate in the instant petition.

IV. CONCLUSION

As discussed above, the petitioner has overcome the stated basis for the denial decision, but the petition is being remanded for the director to consider whether the petitioner has met the evidentiary



requirements with regard to the beneficiary's self-support under 8 C.F.R. § 214.2(r)(11)(ii) and whether the petitioner has satisfied the regulatory requirements at 8 C.F.R. § 214.2(r)(16).

The matter will be remanded for a new decision. The director may request any additional evidence deemed warranted and should allow the petitioner to submit additional evidence in support of its position within a reasonable period of time. 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).

ORDER: The director's decision is withdrawn. The petition is remanded to the director for further action in accordance with the foregoing and entry of a new decision which, if adverse to the petitioner, is to be certified to the Administrative Appeals Office for review.