



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

MATTER OF C-L-P-, INC.

DATE: JULY 20, 2016

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a non-profit Mennonite educational materials vendor, seeks to classify the Beneficiary as a nonimmigrant religious worker to develop its English as a second language (ESL) curriculum. *See* section 101(a)(15)(R) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R). The California Service Center Director denied the petition, and we dismissed a subsequent appeal.

The matter is now before us on a motion to reopen and a motion to reconsider. In its motions, the Petitioner submits additional evidence and argues that the position qualifies as a religious occupation, and that the Beneficiary meets the definition of a religious worker.

We will grant the motion to reopen and sustain the appeal.

I. LAW

A motion to reopen must state the new facts to be provided and to be supported by affidavits or other documentation. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must offer the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy. 8 C.F.R. § 103.5(a)(3).

Non-profit religious organizations may petition for foreign nationals to work in the United States for up to five years to perform religious work as ministers, in religious vocations, or in other religious occupations. The petitioning organization must establish that the foreign national-beneficiary has been a member of a religious denomination for at least the two-year period before the date the petition is filed. *See generally* section 101(a)(15)(R) of the Act, 8 U.S.C. § 1101(a)(15)(R).

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)(6)

Matter of C-L-P-, Inc.

- (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.

II. ANALYSIS

In our previous decision dismissing the appeal, we determined the Petitioner did not establish that the offered position met the regulatory definition of a religious occupation, and that the Beneficiary did not meet the definition of a religious worker. Although the Petitioner maintained that everything it publishes is "imbued" with a Christian world view, we found it did not demonstrate that the proposed ESL curriculum was sufficiently intertwined with its beliefs such that the Beneficiary's duties would be primarily religious.

On motion, the Petitioner offers additional documentation, including a letter from the Bishop of the [REDACTED] attesting to the religious nature of the Petitioner's ESL curriculum and its importance within the denomination. The Petitioner also provides a statement from [REDACTED] at [REDACTED] who studies the Amish and conservative Mennonites, has authored numerous publications in this area, and is currently an editor of the [REDACTED] discusses the traditional relationship of curriculum development to the religious function of indoctrination in conservative Mennonite education, and offers his analysis of the Beneficiary's qualifications as consistent with those required by the denomination. This new material, when considered with the previously submitted evidence, is sufficient to demonstrate that the proposed position satisfies the regulation defining a religious occupation as well as the Beneficiary satisfying the religious worker definition. See 8 C.F.R. § 214.2(r)(3). We note that the Petitioner did not alter the position's duties within the motion. Rather, it offered additional proof establishing how the position qualifies as a religious occupation as defined at 8 C.F.R. § 214.2(r)(3).

III. CONCLUSION

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, the filing party has met that burden. Accordingly, we will grant the motion to reopen. Accordingly, the Petitioner's motion to reconsider is moot and need not be addressed in this decision.

ORDER: The motion to reopen is granted and the appeal is sustained.

Cite as *Matter of C-L-P-, Inc.*, ID# 17214 (AAO July 20, 2016)