



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

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

MATTER OF I-A-O-C-C-

DATE: OCT. 4, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a Muslim organization, seeks to classify the Beneficiary as a nonimmigrant religious worker to perform services as a religious Quran teacher. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(R), 8 U.S.C. § 1101(a)(15)(R). This nonimmigrant classification allows non-profit religious organizations, or their affiliates, to temporarily employ foreign nationals as ministers, in religious vocations, or in other religious occupations in the United States.

The Director of the California Service Center denied the petition, finding that the Petitioner had not established the Beneficiary's two-year denominational membership or his qualifications for the offered position. The matter is now before us on appeal. In its appeal, the Petitioner submits additional evidence and argues that the Director erred in determining the Beneficiary does not meet the relevant eligibility requirements.

Upon *de novo* review, we will sustain the appeal.

I. LAW

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 implementing regulation at 8 C.F.R. § 214.2(r)(1) requires that to be approved for temporary admission to the United States, or extension of status, a foreign national 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.

The regulation at 8 C.F.R. § 214.2(r)(3) includes the following definitions:

Denominational membership means membership during at least the two-year period immediately preceding the filing date of the petition, in the same type of religious denomination as the United States religious organization where the alien will work.

.....

Religious denomination means a religious group or community of believers that is governed or administered under a common type of ecclesiastical government and includes one or more of the following:

- (A) A recognized common creed or statement of faith shared among the denomination's members;
- (B) A common form of worship;
- (C) A common formal code of doctrine and discipline;
- (D) Common religious services and ceremonies;
- (E) Common established places of religious worship or religious congregations;
or
- (F) Comparable indicia of a bona fide religious denomination.

.....

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 denying the petition, the Director determined the Petitioner did not submit evidence demonstrating the Beneficiary's denominational membership for the full two-year period immediately before it filed the petition. The Director also questioned whether the Beneficiary satisfied the definition of a religious worker who is qualified for a religious occupation. For the reasons discussed below, we conclude that the evidence now on record establishes the Beneficiary's eligibility.

A. Denominational Membership

Based on the filing date of the petition, the Petitioner must show the Beneficiary's denominational membership from November 10, 2013, to November 9, 2015. The Petitioner identifies its denomination as Sunni Islam. The evidence pertaining to the Beneficiary's membership as a Sunni Muslim before the Director primarily consisted of letters from the [REDACTED] in [REDACTED] Egypt, establishing the Beneficiary's membership in the [REDACTED] and his employment as a Quran teacher for the Sunni organization [REDACTED] from 2010 to 2014.

Accompanying the appeal, the Petitioner offers a new letter dated March 12, 2016, from the [REDACTED] in [REDACTED] and a new letter from the Petitioner. The March 12, 2016, letter adds that even though the Beneficiary stopped teaching the Quran in 2014, he continues to be a member of [REDACTED] and a member of the [REDACTED]. This new evidence establishes the Beneficiary's requisite membership in the same type of religious denomination as the Petitioner during the two-year period immediately before the petition's filing date. We therefore withdraw the Director's adverse determination on this issue.

B. Qualifications as a Religious Worker

As stated above, the Petitioner seeks to employ the Beneficiary as a religious Quran teacher. It indicated on the petition that the Beneficiary is qualified for this position by virtue of his memorization of the Quran, his education, and his religious teaching experience. As evidence of his qualifications, the Petitioner initially offered the Beneficiary's resume, letters from previous employers, achievement certificates, and secondary school transcripts. The Director requested additional evidence of the Beneficiary's qualifications and the Petitioner responded by identifying two letters from the [REDACTED] in [REDACTED]. The Director determined that documentation pertaining to the Beneficiary's ownership and operation of a restaurant in Egypt contradicted evidence of his religious work as a Quran teacher between 2010 and 2014. The document cited by the Director, titled "Administration Agreement," identified a business agreement between the Beneficiary and another individual. The Director indicated this agreement called into

¹ The translation of the new letter uses the spelling [REDACTED]

(b)(6)

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question whether the Beneficiary attained the necessary experience for the denomination to view him as qualified for a religious occupation.

Responding in the appeal, the Petitioner states that the Beneficiary fulfilled his responsibilities at the restaurant in the evenings between 8:00 pm and 11:00 pm in addition to his religious employment during the day. The Petitioner submits the previously mentioned March 12, 2016, letter from the [REDACTED] in [REDACTED] reflecting the Beneficiary worked for [REDACTED] teaching the Quran from Saturday through Thursday from 8:00 am until 5:00 pm. We find that the Petitioner has resolved the information the Director determined was contradictory relating to the Beneficiary's religious work experience, and we withdraw the finding on this issue.

III. CONCLUSION

For the reasons discussed above, the Petitioner has established the Beneficiary's two-year denominational membership and his qualifications for the position according to the denomination's standards. 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 Petitioner has met that burden. Accordingly, we will sustain the appeal.

ORDER: The appeal is sustained.

Cite as *Matter of I-A-O-C-C-*, ID# 126550 (AAO Oct. 4, 2016)