



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

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

MATTER OF M-O-F-A-M-M-O-M-

DATE: SEPT. 8, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a Christian church, seeks to classify the Beneficiary as a nonimmigrant religious worker to perform services as an associate pastor. *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 initially approved the petition, but subsequently revoked the approval. The matter is now before us on appeal. In its appeal, the Petitioner argues that the Director erred by not providing notice prior to revocation.

Upon *de novo* review, we will remand 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).

Section 205 of the Act, 8 U.S.C. § 1155, states that the Secretary of the Department of Homeland Security “may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204.” The regulation at 8 C.F.R. § 205.1 sets forth limited scenarios in which U.S. Citizenship and Immigration Services (USCIS) may automatically revoke approval of a petition. When a petition’s approval is revoked for any other reason, the regulation at 8 C.F.R. § 205.2(b) requires USCIS to provide a petitioner with a written notification allowing the submission of arguments and evidence in opposition of the reasons for revocation. This same regulation at paragraph (c) requires the Director to “provide the petitioner or the self-petitioner with a written notification of the decision that explains the specific reasons for the revocation.”

## II. ANALYSIS

The issue within this appeal is whether the Director properly notified the Petitioner that she intended to revoke the nonimmigrant petition's approval. In revoking the approval, the Director indicated that she issued a notice informing the Petitioner of her intention to revoke the petition on October 27, 2015. For the reasons discussed below, we find the Director did not follow the required procedure to revoke the petition's approval.

As stated above, when a petition is revoked for any reason other than the grounds for automatic revocation listed at 8 C.F.R. § 205.1(a), USCIS must first issue a notice of intent to revoke that gives a petitioner the opportunity to offer evidence in support of the petition and in opposition to the adverse grounds alleged in the notice. 8 C.F.R. § 205.2(b). Without such a notice, and without a decision identifying specific reasons for the revocation as required under 8 C.F.R. § 205.2(c), USCIS has not sufficiently complied with the revocation on notice regulation.

The record includes the petition, which was approved on June 4, 2015, and the decision revoking approval of the petition, dated February 12, 2016. The revocation decision does not specify the reasons the Director moved to revoke the petition's approval, but instead indicates that the reasons were contained in an October 27, 2015, notice of intent to revoke the petition. The Petitioner states, however, that neither it nor counsel was served with a notice of intent to revoke the petition's approval, and the record lacks a copy of such notice. Accordingly, we withdraw the Director's decision and find that the matter must be remanded.

## III. CONCLUSION

The matter will be remanded for the Director to comply with the relevant notice requirements for revocation of a petition's approval. 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 decision of the Director, California Service Center, is withdrawn. The matter is remanded to the Director, California Service Center, for further proceedings consistent with the foregoing opinion and for the entry of a new decision if appropriate, which, if adverse, shall be certified to us for review.

Cite as *Matter of M-O-F-A-M-M-O-M-*, ID# 18009 (AAO Sept. 8, 2016)