



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **APR 16 2014**

OFFICE: CALIFORNIA SERVICE CENTER

IN RE: Petitioner:
Beneficiary:



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

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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

On the Form I-129 visa petition, the petitioner describes itself as a K-12 education, public institution established in 2002. In order to employ the beneficiary in what it designates as a middle school teacher position, the petitioner seeks to classify him as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition, finding that the petitioner failed to establish that it is exempt from the H-1B numerical limitation based upon its affiliation with an institute of higher education. On September 29, 2013, the petitioner submitted a Notice of Appeal or Motion (Form I-290B) and checked Box B in Part 2 of the form to indicate that it was filing an appeal and would send a brief and/or additional evidence within 30 days.

The only comment that the petitioner submits about the appeal is the following statement at Part 3 of the Form I-290B:

Dear Sir or Madam:

We are filing herein Notice of Appeal with request for permission to submit Appeal's Brief to the Administrative Appeals Office within 30 days.

[The petitioner] is submitting this Appeal pursuant to the regulations at 8 C.F.R. § 103.3 on the ground that the Decision is based on erroneous conclusion of law and erroneous conclusion and/or statement of fact.

Enclosed kindly find our our [sic] check in the amount of \$630.00 representing the Filing Fee, completed I-290B and Denial Notices.

Thank you so much for your understanding and re-consideration on this matter.

Yours truly,

The AAO fully and in-detail reviewed the submission, including the Form I-290B and the petitioner's written statement. However, the petitioner failed to identify any specific assignment of error. Moreover, although the petitioner stated that it would send a brief and/or additional evidence, the AAO has not received the submission within the allotted timeframe or thereafter. Accordingly, the record of proceeding is deemed complete as currently constituted.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part: "An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal." In the instant case, the petitioner has

failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal and, therefore, the appeal must be summarily dismissed.

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 not been met.

ORDER: The appeal is summarily dismissed.