



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE:

OFFICE: VERMONT SERVICE CENTER FILE:

IN RE:

SEP 19 2014

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 IN THE FORM I-129 PROCEEDING:

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 Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as a child development center that was established in 1990. In order to employ the beneficiary in what it designates as a preschool teacher position, the petitioner seeks to classify her 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 (1) that it operates as a child development center that offers a preschool program; and (2) that the proffered position qualifies as a specialty occupation in accordance with the applicable statutory and regulatory provisions. Counsel for the petitioner submitted a Notice of Appeal or Motion (Form I-290B) and checked Box B in Part 3 of the form to indicate that he was filing an appeal and would send a brief and/or additional evidence within 30 days.

We fully and in-detail reviewed the submission. Although counsel stated that the director erred, he failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal. Moreover, although counsel stated that he would send a brief and/or additional evidence, we have 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 and counsel have 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.