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U.S. Citizenship
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Services

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FILE: LIN 05 270 52501 Office: NEBRASKA SERVICE CENTER Date: **MAY 09 2006**

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All materials have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition. The petitioner filed a motion to reconsider. The director granted the motion, but affirmed the previous decision and denied the petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be summarily dismissed. The petition will be denied.

The petitioner describes itself as an organization that provides diverse educational opportunities to Korean and Korean-American students. It seeks to employ the beneficiary as director of educational programs and 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, 8 U.S.C. § 1101(a)(15)(H)(i)(b).

By decision dated December 28, 2005, the director denied the petition on the ground that the record failed to establish that the proffered position qualifies as a specialty occupation. On January 30, 2006, the petitioner filed a Form I-290B, accompanied by a brief from counsel, dated January 27, 2006, requesting the service center to treat the filing as a motion to reconsider its decision “since the denial letter itself clearly evidences a mistake.” Additional documentation was submitted in support of the motion. The service center granted the petitioner’s motion, reviewed the additional documentation, and denied the petition again, in a decision dated February 15, 2006, on the ground that the record did not establish that the proffered position qualifies as a specialty occupation. The petitioner appealed on March 17, 2006.

On the appeal, Form I-290B, the petitioner asserts that “the adverse decision . . . is arbitrary, capricious . . . not in accordance with the governing laws and regulat[i]ons . . . [and] ignore[s] precedent decisions of the BIA, AAO, and the federal courts.” In an accompanying letter, which requests premium processing of the appeal, counsel incorporates by reference his previously submitted brief of January 27, 2006. “Said memorandum of law,” counsel asserts, “together with all supporting documentation and the instant letter, is responsive to Item 3 on Form I-290B.” The item referenced by counsel – box 3 on Form I-290B – directs petitioners to: “Briefly, state the reason(s) for this appeal.”

The legal arguments and supporting documentation relied upon by counsel in the instant appeal are the same as those that were before the service center in the earlier motion for reconsideration. Those materials were considered and discussed by the director in his decision of February 15, 2006. No new legal arguments or evidence have been submitted on appeal which address the substantive bases for the director’s denial of the petition.

As specified in 8 C.F.R. § 103.3(a)(1)(v), “[a]n 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.” The petitioner has not specifically identified any erroneous conclusion of law or statement of fact in the director’s decision of February 15, 2006. Accordingly, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed. The petition is denied.