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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



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DATE: **FEB 08 2012** Office: CALIFORNIA SERVICE CENTER File:

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:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the service center director, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the matter is now moot.

In the Petition for a Nonimmigrant Worker (Form I-129), the petitioner described itself as an “elementary and secondary school.” To employ the beneficiary in what it designates as a “computer systems administrator” position, the petitioner endeavors 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 on November 12, 2009, because she determined that the petition and supporting evidence is not credible and sufficient to establish that the petitioner will comply with the terms and conditions of employment. On appeal, counsel contended that the director “jumped to the erroneous conclusion” that the petitioner has “violated the terms of the H-1B agreement.” Counsel also asserts that the temporary transfer to a different location within the same organization is not germane to the adjudication of the H-1B and, absent any other change, does not by itself constitute a “material change” to the petition.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on September 1, 2011, a date subsequent to the denial of the instant petition, the petitioner filed a new Form I-129 on behalf of the beneficiary. USCIS records further indicate that this second petition was approved on September 14, 2011, which granted the beneficiary H-1B status from September 30, 2011 until September 26, 2014.

Because the beneficiary in the instant petition has been approved for H-1B employment with the petitioner based upon the filing of another petition, further pursuit of the matter at hand is moot.

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