



U.S. Citizenship
and Immigration
Services

Administrative Appeals Office
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, N.W.
Washington, D.C. 20529-2090

PUBLIC COPY



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Date: JUN 12 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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 service center director denied the instant nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the matter is now moot.

The petitioner is an educational institution that seeks to employ the beneficiary as a full-time mathematics teacher. Accordingly, the petitioner endeavors to classify the beneficiary 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).

On November 13, 2009, the director denied the petition finding that the petitioner failed to demonstrate that the beneficiary possesses the appropriate license or that he is otherwise exempt from the general teacher licensure requirements. The petitioner filed an untimely appeal of the director's decision on December 18, 2009. Consequently, the director treated the appeal as a motion to reopen/reconsider and granted the motion. On April 7, 2010, the director denied the petition again finding that the petitioner failed to demonstrate that the beneficiary possesses the appropriate license or that he is otherwise exempt from the general teacher licensure requirements. The director also concluded that the petitioner failed to provide documentary evidence that the beneficiary holds a full state certification or licensure, such as a Two-Year Provisional License or Five-Year Professional License, in the appropriate teaching area. The director also found that the petitioner failed to provide documentary evidence that the beneficiary received 100 points on the Ohio HQT Expanded Rubric and that the beneficiary is fully qualified and permitted to teach as a full-time mathematics teacher for the full three years requested.

On appeal, counsel contends that the director did not provide a sufficient basis for disregarding a letter from the Ohio Department of Education as evidence that a teacher can teach full-time at an Ohio community school with a long-term substitute teaching license. Counsel further contends that the HQT worksheet demonstrates that the beneficiary satisfies the federal definition of HQT standards through his answers to the first three sections and, therefore, he is not required to score 100 points on the Ohio Highly Qualified Teacher Rubric or the Ohio Highly Qualified Teacher Expanded Rubric, which is discussed in Section 4 of the worksheet, a section that does not need to be completed if Sections 1-3 are satisfied.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on June 14, 2011, a date subsequent to the denial of the instant petition, the AAO sustained an appeal of a USCIS denial of a petition filed by another employer seeking H-1B nonimmigrant classification on behalf of the beneficiary.

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

ORDER: The appeal is dismissed as moot.