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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: **JUN 13 2012** Office: VERMONT 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.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the application to change the beneficiary's status. The matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The petitioner filed a Form I-129, Petition for Nonimmigrant Worker, seeking to change the beneficiary's status and to extend his stay in the United States based on a previously approved petition (EAC 09 178 51411), in accordance with the regulations at 8 C.F.R. §§ 214.1(c)(1) and 248.3(a). The director denied the underlying petition as well as the request for change of status and extension of stay. On appeal, counsel for the petitioner contends that the director's decision was erroneous, and states on Form I-290B that "[t]his appeal is solely for a change of status based on an H-1B petition (EAC-09-178-51411) approved on October 1, 2009."

The regulations do not provide for an appeal from a denial of a request to change status. *See* 8 C.F.R. § 248.3(g). Specifically, the regulation at 8 C.F.R. § 248.3(g) states, in pertinent part, "When the application is denied, the applicant shall be notified of the decision and the reasons for the denial. There is no appeal from the denial of the application under this chapter." Further, the regulations do not provide for an appeal from a denial of an extension of stay. *See* 8 C.F.R. §§ 214.1(c)(5) and 214.2(h)(10)(ii).

Yet further, the authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003), with one exception - petitions for approval of schools under § 214.3 are now the responsibility of Immigration and Customs Enforcement (ICE). Appeals from denials of requests to change status and appeals from denials of requests for extension of stay are not listed as matters over which the AAO has jurisdiction, and the appeal must be rejected for this additional reason.

The regulations do not provide for an appeal from a denial of a request for change of status and extension of stay filed on Form I-129.

Therefore, this appeal must be rejected.

ORDER: The appeal is rejected.