

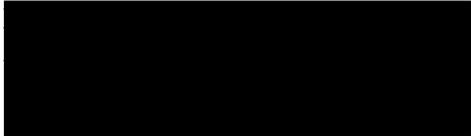
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



D2

Date: **MAY 30 2012**

Office: VERMONT SERVICE CENTER

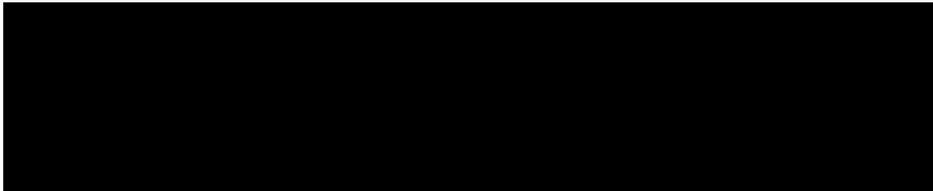
FILE: 

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 nonimmigrant visa petition, and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is again before the AAO on a combined motion to reopen and motion to reconsider. The motion to reconsider is granted. The prior decision of the director will be withdrawn, and the petition will be approved.

The petitioner is an accredited [REDACTED] school seeking to employ the beneficiary as a teacher and to classify her as a nonimmigrant worker in a specialty occupation (H-1B status) 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 [REDACTED] the director denied the petition finding that the petitioner failed to establish that the proffered position qualifies as a specialty occupation position. On appeal to the AAO, counsel claimed that, contrary to the director's finding, the petitioner submitted sufficient documentation demonstrating that the proffered position qualifies as a specialty occupation, and contended that the director's decision was erroneous. The AAO, however, found that the director was correct in determining that the record before the director failed to establish that the proffered position qualifies as a specialty occupation, and that the evidence and argument submitted on appeal did not remedy that failure. Consequently, on [REDACTED] the AAO dismissed the appeal.

The matter is once again before the AAO on a motion to reopen and/or reconsider. The motion has been granted.

Upon review of the entire record, we find that the petitioner has overcome the director's sole ground for denying this petition. The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The evidence presented in this particular record of proceeding establishes that AMI-accredited Montessori schools require the equivalent of a U.S. bachelor's degree in education as the minimum entry requirement for teaching positions at AMI-accredited Montessori schools. *See* 8 C.F.R. § 214.2(h)(4)(iii)(A)(3). The petitioner has also established that the position proffered here otherwise meets the requirements of a specialty occupation as that term is defined by section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), and 8 C.F.R. § 214.2(h)(4)(ii). In addition, we have reviewed the qualifications of the beneficiary and find her qualified to perform the duties of the proffered position.

The burden of proof in visa petition proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden.

ORDER: The motion to reconsider is granted. The appeal of the director's decision is sustained. The [REDACTED] decision is withdrawn, and the petition is approved.