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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: **MAY 31 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:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. Please note that all documents have been returned to the office that originally decided your case. Please also note that any further inquiry must be made to that office.

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 rejected as improperly filed.

In the Petition for a Nonimmigrant Worker (Form I-129), the petitioner described itself as a [REDACTED] school. To employ the beneficiary in what it designates as a teacher/site director position, the petitioner endeavors 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).

The director denied the petition on April 1, 2010, concluding that the petitioner failed to establish that the beneficiary was eligible for an extension of H-1B specialty occupation status in accordance with the applicable statutory and regulatory provisions.

Alleged counsel for the petitioner subsequently filed an appeal on April 27, 2010. The Form I-290B is signed by alleged counsel.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2) states, in part, the following:

If an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed.

Effective March 4, 2010, the regulation at 8 C.F.R. § 292.4(a) requires that a "new [Form G-28] must be filed with an appeal filed with the [AAO]." Title 8 C.F.R. § 292.4(a) further requires that the Form G-28 "must be properly completed and signed by the petitioner, applicant, or respondent to authorize representation in order for the appearance to be recognized by DHS [Department of Homeland Security]." Furthermore, the regulation states that when an appearance is made by a person acting in a representative capacity, his or her signature will constitute confirmation that he or she is authorized and qualified to appear as a representative. *Id.*

Documents submitted to DHS must be executed and filed in accordance with the form instructions and such instructions are incorporated into the regulations. *See* 8 C.F.R. § 103.2(a)(1). According to the Form G-28 instructions, the attorney or accredited representative is to "[f]ill in all information and sign the form" and that "[t]he applicant, petitioner or respondent must sign the form." By signing the Form G-28, the attorney or representative confirms that he or she understands the regulations and conditions governing the appearances and representation before DHS and that all of the information provided in the form is true and correct.

The record does not contain a new, properly executed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, personally signed by both counsel and by an authorized official of the petitioning entity.

In accordance with 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(iii), the AAO sent counsel a facsimile on March 28, 2012. The AAO notified counsel that a properly executed Form G-28, signed by counsel and the consenting affected party, must be submitted to the AAO by fax within five business days, with the original to follow by mail and be received by the AAO within ten business days.

A facsimile Form G-28 was received by the AAO on April 2, 2012. However, the Form G-28 was improperly executed. Specifically, the Form G-28 was not properly executed in that (1) counsel has neither signed nor dated the Form G-28, and (2) counsel has not provided the required information regarding the state bar(s) of admission. Moreover, the AAO has not received the original Form G-28. Thus, the submitted G-28 did not meet the requirements of the regulations at 8 C.F.R. §§ 103.2(b)(4) and 292.4(a) and, as such, it failed to establish that the petitioner is represented by an attorney or accredited representative. Therefore, the AAO concludes that the appeal was improperly filed and must be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1), which calls for rejection of an improperly filed appeal, where the person filing it is not entitled to do so.

ORDER: The appeal is rejected.