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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

[Redacted]

Date: **SEP 07 2012** Office: VERMONT SERVICE CENTER FILE: [Redacted]

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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:

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 in accordance with the instructions on 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 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.

The petitioner provides therapy and special instruction for children with disabilities, and it seeks to employ the beneficiary as a Clinical Fellow – Speech Language Pathology. The petitioner, therefore, 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).

The director denied the petition, determining that the petitioner had not provided the beneficiary's required certification as a speech language pathologist in accordance with section 212(a)(5)(C) of the Act and thus was not qualified to perform the services of a specialty occupation. On appeal, the petitioner contends that the director's findings were erroneous, and submits a brief in support of this contention.

On [REDACTED] 2012, the AAO issued a request for evidence pertinent to the qualifications of the beneficiary. Specifically, the AAO requested that the petitioner submit a copy of the letter from the Division of Professional Licensing Services of the State Education Department of New York confirming that the beneficiary has satisfied the educational requirements for licensure in New York State and that she is eligible to commence the supervised clinical experience required by law.

In the RFE, the AAO specifically alerted the petitioner that failure to respond to the RFE would result in dismissal since the AAO could not substantively adjudicate the appeal without the information requested. The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. *See* 8 C.F.R. § 103.2(b)(14).

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. The appeal will be dismissed and the petition denied.

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