



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 22002780

Date: OCT. 19, 2022

Appeal of California Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (Religious Worker – R-1)

The Petitioner, a church, seeks to classify the Beneficiary as a nonimmigrant religious worker to perform services as its Director of Outreach/Religious Instructor. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(R), 8 U.S.C. § 1101(a)(15)(R). This nonimmigrant classification allows non-profit religious organizations, or their affiliates, to temporarily employ foreign nationals as ministers, in religious vocations, or in religious occupations in the United States.

The Director denied the petition, concluding that the record did not establish that the Beneficiary was a member in the same type of religious denomination as the Petitioner during the two-year period immediately preceding the filing of its petition on her behalf.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will sustain the appeal.

I. LAW

Non-profit religious organizations may petition for foreign nationals to work in the United States for up to five years to perform religious work as ministers, in religious vocations, or in religious occupations. The petitioning organization must establish, among other requirements, that the foreign national beneficiary has been a member of a religious denomination for at least the two-year period before the date the petition is filed. *See generally* section 101(a)(15)(R) of the Act; 8 C.F.R. § 214.2(r).

The regulation at 8 C.F.R. § 214.2(r)(3) includes the following definitions:

Denominational membership means membership during at least the two-year period immediately preceding the filing date of the petition, in the same type of religious denomination as the United States religious organization where the alien will work.

Religious denomination means a religious group or community of believers that is governed or administered under a common type of ecclesiastical government and includes one or more of the following:

- (A) A recognized common creed or statement of faith shared among the denomination's members;
- (B) A common form of worship;
- (C) A common formal code of doctrine and discipline;
- (D) Common religious services and ceremonies;
- (E) Common established places of religious worship or religious congregations;
or
- (F) Comparable indicia of a bona fide religious denomination.

II. ANALYSIS

The Petitioner is a church of the [redacted] denomination. The record indicates that the Beneficiary was a member of the [redacted] congregation in Israel beginning in 2015, and attended services there and acted as an associate teacher until her departure to the United States in 2018. It also establishes that [redacted] is a member of the same denomination as the Petitioner.

In her decision, the Director noted that a letter from [redacted] confirmed the Beneficiary's membership in [redacted] but did not address the two-year period immediately preceding the filing of the instant petition, November 12, 2018 through November 11, 2020. The Director concluded that although the evidence created an inference that the Beneficiary had been a long-term member of the denomination, it did not remove the possibility of her denominational disaffiliation, and therefore did not establish her membership during the two-year period immediately preceding its filing of the petition.

On appeal, the Petitioner submits a new letter from [redacted] in which he states that while the Beneficiary could not physically attend services at [redacted] after she left for the United States, she remained in contact with him and other officers of the church, including participating in meetings and prayer sections which she joined virtually. He also states that she assisted teachers at [redacted] by sharing lesson plans, and donated \$1000 on two occasions in 2019. The Beneficiary confirms these activities in her own statement submitted on appeal. In addition, the Petitioner submits receipts for the two \$1000 donations the Beneficiary made in 2019, as well as copies of her bank statements showing the transfer of money to [redacted] designated as donations.

After review of the totality of the record as well as the new evidence submitted on appeal, we conclude that it establishes the Beneficiary's denominational membership in the period from November 12, 2018 through November 11, 2020. As she therefore meets the requirement of 8 C.F.R. § 214.2(r)(1)(i) and there are no additional grounds of ineligibility, the appeal is sustained.¹

¹ The Petitioner successfully completed an administrative site visit on October 12, 2022 at its church in [redacted] IN which confirmed its operation as a religious organization and how it intended to compensate the Beneficiary. In addition, the inspecting officer met with the Beneficiary and confirmed her proposed duties and work schedule.

ORDER: The appeal is sustained.