



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

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

In Re: 19876432

Date: SEP. 15, 2022

Appeal of California Service Center Decision

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

The Petitioner, a religious organization, seeks to classify the Beneficiary as a nonimmigrant religious worker to perform services as an Assisting Minister at its subordinate church in Rhode Island. 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 qualified as a minister. The Petitioner then submitted a motion to reopen with evidence that the Beneficiary was recognized as a licensed minister by the Petitioner on February 25, 2021, more than nine months after the petition on his behalf was filed. As this new evidence did not establish the Beneficiary's qualification at the time of filing, the Director denied the motion. The Petitioner now appeals that decision.

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 dismiss 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 Petitioner must establish that the Beneficiary will be working at least 20 hours per week in a religious occupation. The regulation at 8 C.F.R. § 214.2(r)(1) provides that the Beneficiary must:

- (ii) Be coming to the United States to work at least in a part time position (average of at least 20 hours per week);

- (iii) Be coming solely as a minister or to perform a religious vocation or occupation as defined in paragraph (r)(3) of this section (in either a professional or nonprofessional capacity);

In addition, the regulation at 8 C.F.R. § 214.2(r)(3) states that any religious worker must be, “engaged in and, according to the denomination’s standards, qualified for a religious occupation or vocation, whether or not in a professional capacity, or as a minister.” The same regulation states that a minister is an individual who:

- (A) Is fully authorized by a religious denomination, and fully trained according to the denomination's standards, to conduct religious worship and perform other duties usually performed by authorized members of the clergy of that denomination;
- (B) Is not a lay preacher or a person not authorized to perform duties usually performed by clergy;
- (C) Performs activities with a rational relationship to the religious calling of the minister; and
- (D) Works solely as a minister in the United States which may include administrative duties incidental to the duties of a minister.

In addition, a religious occupation is one that meets all of the following requirements:

- (A) The duties must primarily relate to a traditional religious function and be recognized as a religious occupation within the denomination.
- (B) The duties must be primarily related to, and must clearly involve, inculcating or carrying out the religious creed and beliefs of the denomination.
- (C) The duties do not include positions that are primarily administrative or support such as janitors, maintenance workers, clerical employees, fund raisers, persons solely involved in the solicitation of donations, or similar positions, although limited administrative duties that are only incidental to religious functions are permissible.
- (D) Religious study or training for religious work does not constitute a religious occupation, but a religious worker may pursue study or training incident to status.

To show that a foreign national is qualified as a minister, the Petitioner must submit the following:

- (i) A copy of the alien's certificate of ordination or similar documents reflecting acceptance of the alien's qualifications as a minister in the religious denomination; and
- (ii) Documents reflecting acceptance of the alien's qualifications as a minister in the religious denomination, as well as evidence that the alien has completed any course of prescribed theological education at an accredited theological institution normally required or recognized by that religious denomination, including transcripts,

curriculum, and documentation that establishes that the theological education is accredited by the denomination, or

(iii) For denominations that do not require a prescribed theological education, evidence of:

- (A) The denomination's requirements for ordination to minister;
- (B) The duties allowed to be performed by virtue of ordination;
- (C) The denomination's levels of ordination, if any; and
- (D) The alien's completion of the denomination's requirements for ordination.

The regulation also requires the Petitioner to attest that the Beneficiary will be employed for at least 20 hours per week. 8 C.F.R. § 214.2(r)(8)(ix).

II. ANALYSIS

The Petitioner seeks to employ the Beneficiary as an Assisting Minister (Pastor of Families and Online Ministries) at its church in [REDACTED] Rhode Island. It has consistently described this as a ministerial or pastoral position, and provided the following description of the position's duties:

The Pastor for Families & Online Ministries is responsible for creating an environment where children & youth can learn about and fall in love with Jesus. This position participates collaboratively and professionally with other staff and volunteers to promote the general well-being of the department and [REDACTED] Church. This position is expected to contribute to the unity of the staff through fellowship, encouragement, cooperation, prayer support and other appropriate ways as he or she serves Jesus and this church family. Additional responsibilities include[e] fulfilling the duties of communications director and technical director for the online ministry.

In addition, the Petitioner provided a list of "essential functions" for the position, which consisted primarily of management and administrative duties such as overseeing all staff and volunteers, training and mentoring volunteers, selection of class curriculum, control of the departmental budget, and recommending initiatives and improvements within the department to the Senior Pastor. The record does not specify the nature of the classes for which the curriculum will be selected, but the job description indicates that the Beneficiary will "help parents become competent and confident spiritual leaders in their homes," and a monthly report for [REDACTED] Church for December 2019 shows an adult class and Bible study but no classes for children.

While the Director included the above regulatory definition of "minister" when issuing a request for evidence (RFE), she focused on the Beneficiary's qualifications to serve as a minister in that request and in her subsequent decisions. However, before examining the Beneficiary's qualifications, we must first determine whether the offered position qualifies as that of a minister. Upon review of the job

description, which was confirmed in the Petitioner's motion to reopen, we conclude that it does not show that the offered position is that of a minister, despite the title of the position. Specifically, there is no indication that the Beneficiary will be engaged in conducting, or assisting in, religious services or ceremonies or any other form of worship. In addition, while the duties of a minister under 8 C.F.R. § 214.2(r)(3) may include incidental administrative duties, here the description indicates that administrative duties will occupy a large portion of the Beneficiary's work.

As the Petitioner has not demonstrated that it will employ the Beneficiary in a position that meets the definition of a minister, the next issue we will determine is whether the Petitioner has established that the position meets the regulatory definition of a religious occupation. We first note that although the job description states that the position of Pastor for Families and Online Ministries includes fulfilling the duties of communications director and technical director for the online ministry, it does not list any duties for those positions or indicate the portion of the Beneficiary's time that would be devoted to any such duties. As such, there is no indication that those responsibilities would involve or primarily relate to inculcating or carrying out the religious creed and beliefs of the denomination.

In addition, as we stated above, the duties for the position that are listed are primarily administrative in nature. Those which are not administrative either relate to the Beneficiary's adherence to church standards and policies or are broadly stated goals, such as "Creates a culture in which volunteers are appreciated, honored, and encouraged." While the overall responsibility of "creating an environment where children & youth can learn about and fall in love with Jesus" certainly involves inculcating the denomination's religious beliefs, the Petitioner has not established that the duties are not primarily administrative. Accordingly, we conclude that the offered position does not qualify as a religious occupation.

Because we have determined that the offered position does not meet the requirements of either a minister or a religious occupation, and the Petitioner did not assert or provide evidence that it is a religious vocation, we will discuss only briefly the issue of the Beneficiary's qualification for the position. We agree with the Director that if the position of Assisting Minister had qualified as a minister under 8 C.F.R. § 214.2(r)(3), the record does not establish that the Beneficiary was qualified at the time the petition on his behalf was filed. See 8 C.F.R. § 103.2(b)(1). The job description previously referenced also included a listing of qualifications for the position of Pastor for Families and Online Ministries, which includes either ordination or eligibility for licensure with . As shown by article 12 of the Petitioner's bylaws, eligibility for licensure occurs only after completion of the candidate program, which the Beneficiary had not completed at the time of filing. While the Petitioner references the letter from the pastor of the Beneficiary's former church which states that he was an ordained minister of that church, the record does not include an ordination certificate or documents reflecting acceptance of the Beneficiary's qualifications by the Petitioner's denomination.

The Petitioner asserts on appeal that being a minister is not limited to those who hold an official license or ordination certificate, and that there are many individuals in its churches that perform ministerial roles without those qualifications. However, as noted above, the Petitioner's job requirements for the offered position are clearly stated in the record, and the evidence does not show that the Beneficiary met those requirements through either ordination or eligibility for licensure under the Petitioner's bylaws and guidelines. For the same reason, the Beneficiary would not qualify for the offered position even if it had met the requirements for a religious occupation per the denomination's standards.

III. CONCLUSION

The Petitioner has not established that the offered position of Assisting Minister (Pastor of Families and Online Ministries) is a qualifying position for a religious worker as required at 8 C.F.R. § 214.2(r)(1)(iii). In addition, it has not shown that if that position did qualify as a minister or religious occupation, the Beneficiary would qualify for it based upon the denomination's requirements. We will therefore dismiss the appeal.

ORDER: The appeal is dismissed.