



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

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

In Re: 29320291

Date: DEC. 19, 2023

Appeal of California Service Center Decision

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

The Petitioner, a Buddhist temple, seeks to classify the Beneficiary as a nonimmigrant religious worker to perform services as a Buddhist nun. 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 other religious occupations in the United States.

The Director of the California Service Center revoked the approval of the petition, concluding that the facts stated in the petition did not match those found in a post-adjudication administrative inspection. In addition, the Director concluded that the Petitioner violated the terms and conditions of the approved petition, and had not complied with the provisions at 8 C.F.R. § 214.2(r)(14) by failing to inform United States Citizenship and Immigration Services (USCIS) that the Beneficiary was not working at least 20 hours per week. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

Non-profit religious organizations may petition for noncitizens to work in the United States for up to five years solely to perform religious work for an average of at least 20 hours per week as ministers, in religious vocations, or in religious occupations. The petitioning organization must establish, among other requirements, that the noncitizen 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).

If an R-1 nonimmigrant religious worker is working less than the required number of hours or has ceased working prior to the expiration of a period of stay as an R-1 nonimmigrant, the approved

employer must notify the Department of Homeland Security through established procedures within 14 days. 8 C.F.R. § 214.2(r)(14).

The Director may revoke a petition for a religious worker at any time, but shall first send a notice of intent to revoke to the petitioner if they find that:

- The beneficiary is no longer employed by the petitioner as specified in the petition;
- The statements in the petition were not true and correct;
- The petitioner violated the terms and conditions of the petition;
- The petitioner violated requirements of the regulations pertaining to petitions for religious workers; or
- The approval of the petition violated the regulations or involved gross error.

8 C.F.R. § 214.2(r)(18).

II. ANALYSIS

The Director initially approved the petition with validity from May 1, 2023 until October 30, 2025. But they issued a notice of revocation after a USCIS officer conducted a site inspection and concluded that the Beneficiary was not working per the approved petition, and thus that the Petitioner had violated the terms and conditions of that petition and failed to provide notice per the requirement at 8 C.F.R. § 214.2(r)(14). Specifically, the inspecting officer found the Petitioner's building to be under renovation in his initial inspection of April 5, 2023, and that the Petitioner had stated that the renovations would be complete in September or October of 2023. In addition, on a second site inspection conducted on May 10, 2023, the inspecting officer found the gate to the building locked, and thus not open to the public per the operating hours stated in the petition. Further, during a telephone interview of the Beneficiary conducted on April 14, 2023, the inspecting officer noted that the Beneficiary was unable to answer questions regarding her ordination as a nun or the duties and responsibilities of her employment with the Petitioner. The Director revoked the petition based upon these conclusions and the Petitioner's failure to abide by the terms and conditions of the petition and report that the Beneficiary was not working the required hours.

On appeal, the Petitioner asserts that the Director made several errors in revoking the approval of its petition, and submits additional evidence. We agree with its first assertion, that the Director erred by not issuing a notice of intent to revoke (NOIR) the petition, as they were required to do under 8 C.F.R. § 214.2(r)(18). Accordingly, we will withdraw the revocation and remand this matter for the Director to consider the Petitioner's arguments and additional evidence submitted on appeal, and to issue a NOIR to address any issues not resolved.¹

We also agree with the Petitioner that its ability to respond to the derogatory information and conclusions of the inspecting officer was further compromised when the Director limited the timeframe to file an appeal of the revocation to 15 days (with an additional 3 days since the notice was sent by mail.) The pertinent regulation at 8 C.F.R. § 214.2(r)(19) states that appeals of revocations

¹ In reviewing this additional evidence, as well as any further evidence received in response to NOIR, the Director should keep the validity dates of the initially approved petition in mind.

are done pursuant to 8 C.F.R. § 103.3, which sets the timeframe for an appeal at 30 days (with an additional 3 days where the notice is mailed.) On remand, should the Director ultimately conclude, after issuance of a NOIR, that the approval of the petition should still be revoked, they should notify the Petitioner of its appeal rights and provide 30 days to submit an appeal.²

In addition to reviewing the Petitioner's arguments and new evidence submitted on appeal when considering whether it violated the terms and conditions of the petition and failed to notify USCIS of a change in the employment of the Beneficiary, on remand the Director should also consider whether the record sufficiently shows how the Petitioner will compensate the Beneficiary. In particular, we note that the Petitioner states that "room, food, clothing, transportation and all other living necessities will be provided," with a value of \$1500 per month, but does not elaborate on the form that compensation will take. Any additional issues regarding the Beneficiary's compensation should be addressed in an RFE or NOIR.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

² We note that the 15-day timeframe for the appeal of the revocation of approved petitions at 8 C.F.R. § 205.2(d) applies to petitions under section 204 of the Act, whereas here, a petition for R-1 nonimmigrant status is filed under section 214 of the Act.