



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

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

In Re: 30004346

Date: APR. 17, 2024

Appeal of California Service Center Decision

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

The Petitioner, a church, seeks to classify the Beneficiary as a nonimmigrant religious worker to perform services as a “youth and young families ministry leader.” *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. *See generally* section 101(a)(15)(R) of the Act; 8 C.F.R. § 214.2(r).

The Director of the California Service Center denied the petition, concluding that the Petitioner did not demonstrate that it qualified as a “[b]ona fide non-profit religious organization” as defined under 8 C.F.R. § 214.2(r)(3). The Director also concluded that the Petitioner did not demonstrate its intent to compensate the Beneficiary according to 8 C.F.R. 214.2(r)(11). The matter is now before us on appeal pursuant to 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 dismiss the appeal. Beyond the Director’s decision, we conclude that the Beneficiary does not have the required two-year membership in the religious denomination immediately preceding the filing of this petition pursuant to 8 C.F.R. § 214.2(r)(1)(i).¹

The regulation at 8 C.F.R. § 214.2(r)(1)(i) requires the petitioning organization to establish that the foreign national beneficiary has been a member of a religious denomination having a bona fide nonprofit religious organization in the United States for at least two years immediately preceding the filing of the petition. Denominational membership is defined at 8 C.F.R. § 214.2(r)(3) as “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.”

¹ As this issue is dispositive of the appeal, we reserve our opinion on the issues raised in the Director’s decision. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting that “courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n. 7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

On February 21, 2024, we sent a notice of intent to dismiss (NOID) to the Petitioner, with a copy to counsel, intending to dismiss the case on the issue of the Beneficiary's denominational membership. In the NOID, we requested that the Petitioner explain and submit evidence of the Beneficiary's denominational membership for the qualifying two years, from March 2021 to March 2023. We noted how the Petitioner acknowledged in its initial filing that the Beneficiary does not have the required two years of membership in the religious denomination because he did not become an official member of the [redacted] until January 19, 2023. We further requested evidence of the Beneficiary's denominational membership abroad and whether the [redacted] or the [redacted] is the same religious denomination as the [redacted] or the General Council of the Assemblies of God, as described at 8 C.F.R. § 214.2(r)(3) (defining a religious denomination to mean a religious group or community of believers that is governed or administered under a common type of ecclesiastical government and shares the common creed, worship, doctrine, religious services or ceremonies, etc.).

Although we afforded the Petitioner 33 days to respond to the NOID with additional evidence and advised that we may dismiss the case if the response was not received within the allotted time, we did not receive a timely response from the Petitioner. If a petitioner fails to respond to a request for evidence or a NOID by the required date, the petition may be summarily dismissed as abandoned, dismissed based on the record, or dismissed for both reasons. *See* 8 C.F.R. § 103.2(b)(13)(i). As provided in 8 C.F.R. § 103.2(b)(14), the failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. Therefore, we will dismiss the appeal as abandoned.

ORDER: The appeal is dismissed.