



U.S. Citizenship
and Immigration
Services

MAR 22 2004

Michele Stelljes
Senior Immigration Advisor
Baylor College of Medicine
One Baylor Plaza, Room 103H
International Services Office
Houston, Texas 77030

Dear Ms. Stelljes:

Thank you for the opportunity to meet with the members of your delegation. At the meeting, you expressed concerns over adverse determinations on requests for O-1 extensions after the initial petition has been approved. Extension of visa petition validity for O-1 petitions is addressed under 8 CFR 214.2(o)(11), which states: "...The petitioner shall file a request to extend the validity of the original petition under section 101(a)(15)(O) of the Act on Form I-129, in order to continue or complete the same activities or events specified in the original petition. Supporting documents are not required unless requested by the Director. A petition extension may be filed only if the validity of the original petition has not expired."

At the meeting, your members acknowledged that there are instances where some core issues may not have been addressed at the time CIS adjudicated the initial O-1 petition, but have now surfaced at the time CIS is considering the request for extension of the O-1 visa. Your members further indicated that certain petitioners have received numerous requests for additional documentation at the extension phase and a number of the requests for extension were denied because the petitioner could not prove the bona fides of the original petition, even though allegedly the beneficiaries are continuing or completing the same activities as stated in the initial petition.

CIS strives to avoid duplicative, unnecessary or unwarranted requests for additional evidence. However, in certain instances, requests for additional documentation are necessary to address a number of issues/areas. For example, CIS may request additional information to assess the merits or bona fides of the grant of the original petition or of the present (extension) petition if there is evidence that: (1) there has been fraud or material misrepresentation on the part of the petitioner in obtaining the original benefit; (2) gross legal and/or procedural error occurred when CIS approved the initial petition; or (3) the approved activity has ceased or materially changed.

Michele Stelljes

Page 2

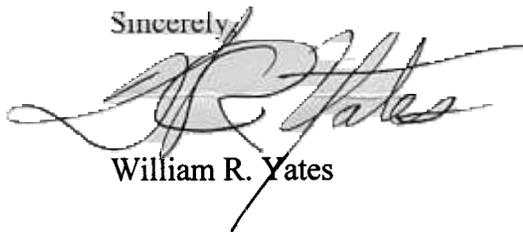
- CIS regulations provide the petitioner an opportunity to submit to CIS, when filing a request for extension initially, and post-filing in response to an RFE, the evidence that is necessary to reassure CIS that the beneficiary continues to be eligible for the requested immigration benefit. In addition, in its discretion, CIS may initiate its own motion to reopen a previously adjudicated case, to resolve potential errors in the adjudicative process. CIS will consider reopening decisions on a case-by-case basis. See 8 CFR §103.5. Your members indicated that there were a number of extension requests that they
- believe were wrongly denied. Please know that our goal is to provide fair and correct adjudications to all our customers. We are willing, consistent with our regulations and policies, to reopen cases on service motion where the circumstances warrant this use of our discretion.

To address your members' specific concerns, we ask that you send a list of receipt numbers for cases in which you received adverse decisions on requests for extension of O-1 visa petitions. Along with that list, please submit a written statement, along with a copy of the denial notice for each case, which clearly explains why you believe that the Service erred in denying a request for extension of the O-1 visa petition validity. Please send the above information to Joseph Holliday at 20 Mass Avenue N.W. Washington, D.C. 20536

Please exclude from any compilation of cases you wish for us to review, those that were appealed or are currently on appeal to the Administrative Appeals Office (AAO); those in which a timely motion for reconsideration has been or could be made pursuant to 103.5(a)(1); and any matter in litigation (filed with a court; in settlement discussions, etc.).

I hope that I have addressed the concerns raised by your group.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Yates", written over a light blue circular stamp.

William R. Yates