



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

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

In Re: 27165292

Date: JUL. 24, 2023

Appeal of California Service Center Decision

Form I-129F, Petition for Alien Fiancé(e)

The Petitioner seeks to classify the Beneficiary as her K-1 nonimmigrant fiancé. Immigration and Nationality Act (the Act) section 101(a)(15)(K)(i), 8 U.S.C. § 1101(a)(15)(K)(i). For this classification, the Petitioner must establish that the couple met in person in the two-year period preceding the petition's filing, have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within 90 days of admission. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1).

The Director of the California Service Center denied the petition, concluding that the record did not establish that the Petitioner, who was 16 years old at the time of filing, met the Michigan state legal requirements for entering into a marriage. 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 dismiss the appeal.

A K-1 visa petitioner must be legally able to enter into a marriage within 90 days of the beneficiary's arrival in the United States. Section 214(d)(1) of the Act. To determine whether a potential marriage will be valid, U.S. Citizenship and Immigration Services (USCIS) generally uses the "place-of-celebration" rule. Under this rule, a marriage is valid for immigration purposes if it is valid under the laws where the marriage is celebrated. *See, e.g., Matter of Hosseinian*, 19 I&N Dec. 453, 455 (BIA 1987); *see generally* 12 USCIS Policy Manual G.2(A)(1), <https://www.uscis.gov/policymanual>.

In the current case, the Petitioner was 16 years old at the time of filing and indicated that she and the Beneficiary would reside in Michigan, her current state of residence. Under Michigan law, a person who is at least 16 years old but under 18 years old may only enter into a marriage with the written consent of their parent or legal guardian. Mich. Comp. Laws Ann. § 551.103 (2007). This consent must be given personally in the presence of an officer authorized to administer oaths, such as a notary public. *Id.* Because the Petitioner did not provide evidence of such written consent in her initial petition or in response to the Director's request for evidence, the Director denied the petition.

On appeal, the Petitioner provides a written affidavit from her mother consenting to her marriage to the Beneficiary, which is witnessed by a notary public. However, we generally do not accept new evidence on appeal when a petitioner was previously put on notice of the evidentiary requirement and given a reasonable opportunity to provide that evidence. *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988). In this instance, the Director requested evidence of Michigan's marriage laws for people under 18 as well as evidence that the Petitioner met those requirements. The Petitioner responded with evidence showing Michigan's requirement of written consent from a parent or guardian, but did not provide evidence that she had such consent. Because the Petitioner was informed of the deficiency in her evidence and given an opportunity to correct it, we will not accept the new evidence submitted on appeal. *Id.*

Furthermore, we note that the affidavit is dated October 2021, which is well after the underlying petition was filed in October 2020. Eligibility must be established at the time of filing. 8 C.F.R. § 103.2(b)(1). In this instance, the Petitioner has not established that she was legally able to enter into a marriage as of the date she filed the fiancé visa petition. Therefore, she has not met the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant, and the petition will remain denied.

ORDER: The appeal is dismissed.