

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



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

PUBLIC COPY

D 1

[REDACTED]

FILE: SRC 04 045 51116 Office: TEXAS SERVICE CENTER Date: JUN 15 2005

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn. The petition will be remanded to the director for entry of a new decision.

The petitioner is a flight training center that seeks to employ the beneficiary as an international operations manager. The petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition because the beneficiary was not qualified to perform the duties of a specialty occupation. On appeal, the petitioner submits a brief and additional information stating that the beneficiary is qualified to perform the duties of a specialty occupation.

The director found that the beneficiary was not qualified for the position of international development manager because his degree is in electro-mechanical engineering and is thus unrelated to the specialty. For reasons set forth below, the AAO finds that the position described is most similar to that of an advertising, marketing, promotions, public relations and sales manager. The Department of Labor's *Occupational Outlook Handbook (Handbook)* indicates that a broad range of educational backgrounds will satisfy the minimum educational requirements for the position. The petitioner has, thus, overcome the concerns of the director.

The petition may not be approved, however, as the position is not a specialty occupation. Implicit in the director's decision is that the proffered position qualifies as a specialty occupation. Citizenship and Immigration Services (CIS) interprets the term "degree" in the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

The record of proceeding before the AAO contains: (1) the Form I-129 and supporting documentation; (2) the director's denial letter; and (3) the Form I-290B with supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as an international operations manager as titled on the Form I-129 petition. In the petitioner's letter of November 10, 2003, the petitioner referred to the position as that of an international development manager, and set forth the duties of the position as follows: develop and implement cost-effective marketing strategies and tactics designed to achieve targets for enrollment of Latin American students; create and implement marketing plans for Central and South America; assist in the development of brochures and promotional materials to promote the petitioner's products primarily to Latin American students; represent the petitioner at seminars and business meetings; maintain relations and liaise with students; be responsible for the administration and student liaison of the Latin American sector; determine marketing/recruitment strategy in target markets, including initial allocation and subsequent adjustments of annual marketing expenditures in each market; authorize expenditures on generic sales/promotional products; approve marketing communication products; be responsible for marketing the full range of the petitioner's courses to prospective Latin American students; provide advice and manage the establishment of student exchange agreements with overseas university students; and respond to requests for

information, materials, training and technical assistance. The petitioner requires a minimum of a bachelor's degree for entry into the proffered position, but does not require a degree in any specific specialty.

The AAO routinely consults the *Handbook* for information about the duties and educational requirements of particular occupations. The duties of the proffered position appear to fall within those noted for advertising, marketing, promotions, public relations, and sales managers. The *Handbook* notes that a wide range of educational backgrounds is suitable for entry into the aforementioned positions, but that many employers prefer related experience plus a broad liberal arts background. Bachelor's degrees in sociology, psychology, literature, journalism, philosophy, or other subjects are suitable. Requirements will vary, however, depending on the duties of a particular position. For example, some employers prefer a bachelor's or master's degree in business administration with an emphasis in marketing, for marketing, sales, and promotion management positions. In highly technical industries such as computer and electronics manufacturing a degree in engineering or science combined with a business degree may be preferred. In public relations management positions some employers prefer a bachelor's or master's degree in public relations or journalism. The *Handbook* further notes that most advertising, marketing, promotions, public relations, and sales management positions are filled by promoting experienced staff or related professional or technical personnel. Many managers are former sales representatives, purchasing agents, or promotions specialists. A baccalaureate or higher degree in a specific specialty or its equivalent does not, therefore, appear to be the minimum requirement for entry into the position. A degree in a wide range of disciplines will suffice. Indeed, counsel specifically stated on appeal that the petitioner requires a bachelor's degree only for the proffered position, with no requirement of a degree in any specific field of study. This matter must, therefore, be remanded to the director to determine whether the offered position meets any of the requirements of 8 C.F.R. § 214.2(h)(4)(iii)(A). If the director determines that the proffered position qualifies as a specialty occupation, she shall then determine whether the beneficiary is qualified to perform the duties of a specialty occupation. The director may request any additional information deemed necessary in reaching her decision.

As always, the burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The director's decision is withdrawn. The petition is remanded to the director to enter a new decision commensurate with the directives of this opinion, which, if adverse to the petitioner, shall be certified to the AAO for review.