

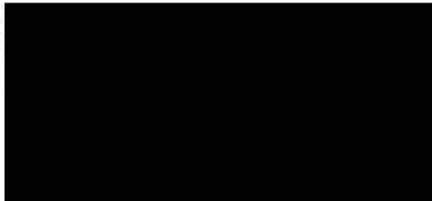
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass Ave., N.W., Rm. 3000
Washington, DC 20529



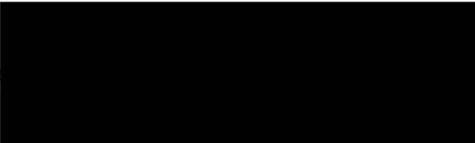
U.S. Citizenship
and Immigration
Services

PUBLIC COPY



FILE: SRC 04 192 51143 Office: TEXAS SERVICE CENTER Date: JUN 23 2006

IN RE: Petitioner:
Beneficiary:



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:

SELF-REPRESENTED

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 cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The director of the service center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will be denied.

The petitioner is a college/university that seeks to employ the beneficiary as an educational records specialist. The petitioner, therefore, 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 on the ground that the proposed position is not a specialty occupation. The petitioner submitted a timely appeal.

Section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), defines the term "specialty occupation" as an occupation that requires:

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must meet one of the following criteria:

- (1) A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
- (2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
- (3) The employer normally requires a degree or its equivalent for the position; or
- (4) The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

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) Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response to the director's request; (4) the

director's denial letter; and (5) the Form I-290B and the petitioner's letter. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as an educational records specialist. The job description submitted with the Form I-129 petition described the proposed position as within the Office of Admissions, and the beneficiary as:

[T]he primary entry point for all academic/educational records into [the college's] database as well as the primary person responsible for verifying that all academic information is collected, verified[,] and entered into the [college's] database.

The job duties are described as data entry, communication track evaluation and management, academic record compiling and recording, transcript evaluation and reception, and academic computer record management. For the proposed position, the petitioner asserts that its educational requirement is a bachelor's degree or equivalent experience in an academic records environment.

The director denied the petition, finding that the proposed duties reflect those of an office, file, and record clerk, as those occupations are described in the 2004-2005 edition of the Department of Labor's (DOL) *Occupational Outlook Handbook* (the *Handbook*). The director further stated that the *Handbook* conveys that those occupations do not require a baccalaureate degree in a specific specialty.

On appeal, the petitioner describes the proposed duties and differentiates them from those of a file clerk.

Upon review of the record, the petitioner has established none of the four criteria outlined in 8 C.F.R. § 214.2(h)(4)(iii)(A). Therefore, the proffered position is not a specialty occupation.

To qualify as a specialty occupation, the Act states that the offered position must require a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation. The term "degree" in the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) is interpreted by CIS to mean that the offered position must require a baccalaureate or higher degree *in a specific specialty* that is directly related to the proffered position. With the position offered here, the petitioner does not require a bachelor's degree in a specific specialty. Thus, the petitioner establishes none of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A): a baccalaureate or higher degree or its equivalent in a specific specialty is the normal minimum requirement for entry into the particular position; a specific degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, that the position is so complex or unique that it can be performed only by an individual with a degree in a specific specialty; the petitioner normally requires a degree or its equivalent in a specific specialty for the proffered position; or the nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty.

As related in the discussion above, the petitioner has failed to establish the proposed position as a specialty occupation. Accordingly, the AAO shall not disturb the director's denial of the petition.

SRC 04 192 51143

Page 4

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed. The petition is denied.