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U.S. Citizenship
and Immigration
Services

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FILE: SRC 05 130 52406 Office: TEXAS SERVICE CENTER Date: SEP 04 2008

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.

Robert P. Wiemann
Robert P. Wiemann, Chief
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 sustained. The petition will be approved.

The petitioner is a nonprofit, private immersion school that seeks to employ the beneficiary as an elementary teacher. 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 because the beneficiary is not qualified to perform the duties of a specialty occupation.

The record of proceeding before the AAO contains: (1) the Form I-129 and supporting documentation; (2) the director's notice of intent to deny (NOID); (3) the director's denial letter; and (4) the Form I-290B, with counsel's brief and documentation in support of the appeal. The AAO reviewed the record in its entirety before reaching its decision.

Section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), states that an alien applying for classification as an H-1B nonimmigrant worker must possess full state licensure to practice in the occupation, if such licensure is required to practice in the occupation, and completion of the degree in the specialty that the occupation requires. If the alien does not possess the required degree, the petitioner must demonstrate that the alien has experience in the specialty equivalent to the completion of such degree, and recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(C), to qualify to perform services in a specialty occupation, an alien must meet one of the following criteria:

- (1) Hold a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (2) Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (3) Hold an unrestricted state license, registration or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or
- (4) Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree in the specialty occupation, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

The petitioner is seeking the beneficiary's services as an elementary teacher. The petitioner indicated that the beneficiary is a qualified candidate for the job because she possesses a bachelor's degree, is proficient in written and oral French, and is "able to acquire [a] Louisiana teacher certification within the delays set forth under Louisiana law."

The director found that the beneficiary was not qualified for the proffered position because the petitioner had not submitted sufficient evidence that the beneficiary's teacher's diploma from Francisco Ferrer College in Belgium is the equivalent of a bachelor's degree in education from an accredited college or university in the United States. The director also found that the petitioner had not established that the beneficiary holds the equivalent of the degree required by the specialty occupation through a combination of education, specialized training, and/or work experience in areas related to the specialty, or that the beneficiary has achieved recognition of expertise in the specialty occupation as a result of such training and experience. The director concluded that the petitioner had not established that the beneficiary is qualified to perform the duties of a specialty occupation under any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(C).

On appeal, counsel states, in part, that the beneficiary holds the foreign equivalent of a U.S. bachelor's degree. Counsel also states that the beneficiary's Louisiana teaching certification allows her to teach French at both the elementary and middle school levels and immersion at the elementary level with French as the language of communication. As supporting documentation, counsel submits: a letter, dated March 21, 2005, from the principal of Cecilia Primary School in Cecilia, Louisiana, stating, in part, that the beneficiary taught the first grade for three years at Cecilia Primary School, and an Internet certificate verification from the Teach Louisiana website <https://www.teachlouisiana.net/Certification/> of the same principal's teaching certificate and related degrees; a letter of recommendation for the beneficiary, dated March 17, 2005, from the educational consultant for the Belgian French teachers in Louisiana; and a letter, dated May 14, 2007, from the Foreign Language Programs Consultant of the State of Louisiana Department of Education (LDOE), stating that the beneficiary worked as a J-1 French teacher for the LDOE and the Council for Development of French in Louisiana (CODOFIL) for three years from 2002-2005, and that the LDOE recognizes the beneficiary's Belgian teacher's diploma as the equivalent of a Bachelor of Education degree awarded by an accredited college or university in the United States.

The record also contains the following documentation pertaining to the beneficiary's qualifications:

- An Internet certificate verification from the Teach Louisiana website at <https://www.teachlouisiana.net/search/CertificationDetailPublic.asp> of the beneficiary's Louisiana teacher's certificate, valid from 12/2004 through 12/2007, reflecting the areas of certification as: Elementary: PK-5 Immersion (French); Middle School: 6-8 (French); and Elementary: PK-5 (French);

A Foreign Language Elementary Certificate, valid from December 3, 2004 to December 3, 2007, issued to the beneficiary by the LDOE, based upon "B.S., Foreign College or University, 2000," reflecting the following areas of eligibility: Elementary: PK-5 Immersion (French); Middle School: 6-8 (French); and Elementary: PK-5 (French);

- An Advisory Evaluation of Credentials/Experience, dated February 1, 2005, from [REDACTED], concluding that, based on the beneficiary's foreign "Diploma of Primary Teacher" and three years of professional teaching experience, the beneficiary has the educational/professional experience equivalent to a U.S. bachelor's degree with a major in elementary education;
- A translation of the beneficiary's Kindergarten Teacher diploma reflecting that the beneficiary completed a three-year curriculum; and
- Excerpts from Title 28 Education, Part CXXXI. Bulletin 746 - Louisiana Standards for State Certification of School Personnel.

Pursuant to Title 28 Education, Part CXXXI. Bulletin 746 - Louisiana Standards for State Certification of School Personnel, Chapter 2. Louisiana Teacher Preparation Programs § 201. Overview D:

There are two types of teacher preparation programs:

1. A *traditional teacher preparation program* is a Bachelor of Arts or Bachelor of Science degree program that includes general education courses, a certification focus area, professional education courses, field experiences, and student teaching in a school setting.
2. An *alternate teacher preparation program* is a pathway designed for candidates with a minimum of a baccalaureate degree earned at a regionally accredited institution. Applicants must demonstrate content mastery for admission to an alternate program, which combines professional knowledge with field experiences, including a student teaching experience or a one year supervised internship in a school setting.

Pursuant to Title 28 Education, Part CXXXI. Bulletin 746 - Louisiana Standards for State Certification of School Personnel, Chapter 3. Teaching Authorizations and Certifications, Subchapter A. § 311. Foreign Language Special Certificate PK-8:

- A. Valid for three years and renewable once for an additional three years, with evidence of an offer of employment in a Louisiana school district.
- B. This certificate may be issued to a foreign associate teacher who participates in the Louisiana Department of Education (LDE) Foreign Associate Teacher Program, and who teaches Foreign Language in the Elementary School (FLES) in grades PK-8 and/or foreign language immersion in grades PK-8.
- C. This certificate allows the holder to receive the same benefits as any other regularly certified teacher.

D. Eligibility guidelines:

1. a bachelor's degree in education or equivalent preparation in education from a foreign country. The status of this degree will be determined by the Louisiana Department of Education (LDE), Division of Student Standards and Assessments. If LDE staff cannot make a degree equivalent determination, the candidate's credentials must be evaluated by the American Association of Collegiate Registrars and Admissions Officers (AACRAO). In the case of an AACRAO evaluation, the determination must be on "safe script" paper and must include a course-by-course evaluation;
2. a teaching certificate in the foreign country for the certification area and/or grade level that the candidate will teach in Louisiana;
3. evidence of two years of successful teaching experience in the country of origin; and
4. a native speaker of the language to be taught.

The AAO finds that the record establishes that the proffered position is an elementary school teacher. The petitioner has established that the beneficiary holds an unrestricted state license, registration or certification which authorizes her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment. In this case, the beneficiary holds a Foreign Language Elementary Certificate, valid from December 3, 2004 to December 3, 2007, issued by the LDOE, reflecting the following areas of eligibility: Elementary: PK-5 Immersion (French); Middle School: 6-8 (French); and Elementary: PK-5 (French). Therefore, the evidence establishes that the beneficiary is qualified to perform the proffered position under 8 C.F.R. § 214.2(h)(4)(iii)(C)(3).

A review of the Department of Labor's *Occupational Outlook Handbook (Handbook)*, 2008-09 edition, under the category of Teachers – Preschool, Kindergarten, Elementary, Middle, and Secondary, finds that the traditional route to becoming a public school teacher involves completing a bachelor's degree from a teacher education program and then obtaining a license. Private school teachers do not have to be licensed but still need a bachelor's degree. As such, the proffered position qualifies as a specialty occupation pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

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 sustained that burden. Accordingly, the appeal will be sustained and the petition will be approved.

ORDER: The appeal is sustained, and the petition is approved.