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U.S. Department of Homeland Security  
Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass, 3/F  
425 I Street, N.W.  
Washington, D.C. 20536



File: EAC-01-256-50680

Office: VERMONT SERVICE CENTER

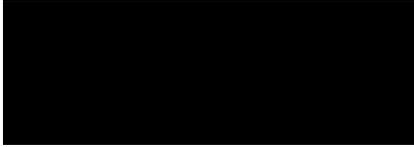
Date: **DEC 08 2003**

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:



**INSTRUCTIONS:**

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the director and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a law office with three employees and an undisclosed gross annual income. It seeks to employ the beneficiary as a paralegal assistant for a period of three years. The director determined the petitioner had not established that the proffered position is a specialty occupation.

On appeal, counsel submits a brief.

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), provides, in part, for nonimmigrant classification to qualified aliens who are coming temporarily to the United States to perform services in a specialty occupation. Section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), defines a "specialty occupation" as an occupation that requires theoretical and practical application of a body of highly specialized knowledge, and 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 section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), to qualify as an alien coming to perform services in a specialty occupation the beneficiary must hold full state licensure to practice in the occupation, if such licensure is required to practice in the occupation. In addition, the beneficiary must have completed the degree required for the occupation, or have 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.

The director denied the petition because the petitioner had not demonstrated that a baccalaureate degree is required for the proffered position. On appeal, counsel states, in part, that the petitioner's policy is to hire only graduates of four-year colleges. Counsel further states that the proposed duties, which include not only experience as a legal assistant, but also mastery of the English, German, and Chinese languages, are so complex that a bachelor's degree is required. Counsel submits the results of a survey demonstrating that 53 percent of all paralegals have a bachelor's degree, and job advertisements to demonstrate that legal employers in the Washington D.C. area normally require a bachelor's degree as a minimum qualification for paralegal positions.

Counsel's statement on appeal is not persuasive. The AAO does not use a title, by itself, when determining whether a particular job qualifies as a specialty occupation. The specific duties of the offered position combined with the nature of the petitioning entity's business operations are factors that the AAO considers. In the initial I-129 petition, the petitioner described the duties of the offered position as follows:

Interview clients for basic information, keep clients' records & type legal documents including pleading & immigration forms as directed by lawyers; legal research[.]

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.

The petitioner has not met any of the above requirements to classify the offered position as a specialty occupation.

First, the AAO does not agree with counsel's assertion that the proffered position would normally require a bachelor's degree in German or a related field. The proffered position is that of a paralegal/legal assistant. In its *Occupational Outlook Handbook*, 2002-2003 edition, at page 215, the Department of Labor finds no requirement of a baccalaureate or higher degree in a specific specialty for employment as a paralegal. There are many ways to become a paralegal. Employers usually require formal paralegal training obtained through associate or bachelor's degree programs

or through a certification program. Employers increasingly prefer graduates of 4-year paralegal programs or college graduates who have completed paralegal certificate programs. In addition, some employers prefer to train paralegals on the job, hiring college graduates with no legal experience or promoting experienced legal secretaries. Other entrants have experience in a technical field that is useful to law firms, such as a background in nursing or health administration for personal injury practice or tax preparation for tax and estate practice. It is also noted that the petitioner has not established that the beneficiary's interpreter/translator duties are of such complexity that a baccalaureate degree in a specific specialty, as distinguished from familiarity with the English, German, and Chinese languages or a less extensive education, is necessary for the successful completion of its duties. Thus, the petitioner has not shown that a bachelor's degree or its equivalent is required for the position being offered to the beneficiary.

Second, although counsel maintains that the petitioner's policy is to hire paralegals with degrees from four-year colleges, the petitioner has not demonstrated that it has, in the past, required the services of individuals with baccalaureate or higher degrees in a specific specialty, for the offered position. In this case, the beneficiary holds the equivalent of a bachelor's degree in German. Third, the petitioner did not present any documentary evidence that a baccalaureate degree in a specific specialty or its equivalent is common to the industry in parallel positions among organizations similar to the petitioner. The job advertisements from the Washington D.C. area are noted. Although these advertisements specify that college graduates are required, they do not specify that their degrees must be in any particular field of study. Finally, the petitioner did not demonstrate that the nature of the beneficiary's proposed 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.

The petitioner has failed to establish that any of the four factors enumerated above are present in this proceeding. Accordingly, it is concluded that the petitioner has not demonstrated that the offered position is a specialty occupation within the meaning of the regulations.

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.