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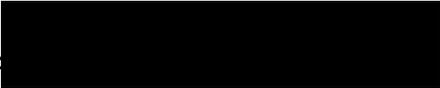
ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 Eye Street, NW
Washington, D.C. 20536



FILE: LIN 01 177 50685 Office: NEBRASKA SERVICE CENTER

Date: NOV 26 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:

SELF-REPRESENTED

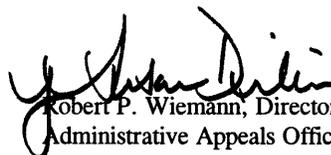
INSTRUCTIONS:

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, Nebraska Service Center, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a technology integration firm. It employs 130 people and has a gross annual income of \$16,436,837. It seeks to temporarily employ the beneficiary as a human resources generalist for a period of three years. The director determined that the petitioner had not established that the proffered position was a specialty occupation.

On appeal, counsel asserts that the director erred in determining that a baccalaureate degree is not required for the position and that the position is not a specialty occupation.

Section 214(i)(1) of the Immigration and Nationality Act (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.

The term "specialty occupation" is further defined at 8 C.F.R. § 214.2(h)(4)(ii) as:

an occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a 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.

The position description submitted by the petitioner states that the beneficiary:

- Assists department in carrying out various human resources programs and procedures for all company employees.
- Assists in organizational training and development efforts for employees.
- Assists in administration of compensation program; helps to monitor performance appraisal process.
- Participates in recruitment efforts for new employees.
- Conducts new employee orientations; administers background checks.
- Conducts exit interviews with former employees.
- Maintains Human Resource Information System records and complies reports from database.
- Participates in Human Resource staff meetings.
- Helps to maintain company organization charts and employee directory.

The Department of Labor's *Occupational Outlook Handbook (Handbook)* states that employers hiring human resources, training and labor relations managers and specialists usually seek college graduates for entry-level jobs and that "[m]any prefer applicants who have majored in human resources, personnel administration or industrial and labor relations. Others look for college graduates with a

technical or business background or a well-rounded liberal arts education."

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

The petitioner states:

[According to the *Handbook*,] in a small organization a human resources generalist may handle all aspects of human resources work, requiring a broad range of knowledge.

In filling entry-level jobs, employers usually seek college graduates. Many employers prefer applicants who have majored in human resources, personnel administration or industrial and labor relations. Others look for college graduates with a technical or business background or a well-rounded liberal arts education Because an interdisciplinary background is appropriate in this field, a combination of courses in the social sciences, business, and behavioral sciences is useful. . . . Other relevant courses include business administration, public administration, psychology, sociology, political science, economics and statistics.

The Department of Labor is essentially stating that the "specialty" degree suited for a Human Resources position requires that one be a "Generalist" in his/her educational approach. As such, the specialized degree preparing one for work in this profession is the interdisciplinary combination of courses that prepares one in a well-rounded fashion to be able to take on a wide variety of professional level tasks and do them well.

The AAO disagrees with this interpretation. According to the *Handbook*, there is no absolute requirement for a degree in this occupation; clearly, no requirement for a degree in a specific specialty exists. While some employers might require a particularly focused degree, others prefer a general liberal arts degree, and some may not require any degree.

The petitioner further asserts that a requirement for a degree is common in the industry. The petitioner submitted three job

listings for human resources positions from what appear to be newspapers and four listings from the Internet career search site, Monster.com. None of the listings was for similar businesses as the petitioner's. Four listings required a bachelor's degree with no field stated. One asked for a bachelor's degree in human resources or business and one required a bachelor's degree in human resources or a related field. The final listing required a bachelor's degree in human resources or business administration or "equivalent work experience or equivalent in education and experience." Rather than bolster the petitioner's assertion, these position announcements support the premise that there is no requirement for a degree *in a specific specialty*.

The petitioner submitted resumes for four employees to establish that this is a specialty occupation based on its past hiring practices. The director determined:

The position being offered to the beneficiary is that of Human Resources Generalist but the resumes submitted to show that the petitioner requires a degree for the position are resumes of a 'Director, Employee Development & Relations,' two 'Human Resources Managers', [sic] and a 'Vice President, Human Resources'. [sic] None of these individuals are or were employed as a 'Human Resources Generalist'. [sic] . . . Therefore, the petitioner has not demonstrated that the petitioner normally requires a degree or its equivalent for the position.

On appeal, the petitioner states that two of the individuals were hired as human resources generalists, and then gives the dates of their promotions to human resources managers. The resumes do not reflect this information, stating their job titles as human resources managers from the date of hire. Additionally, one of the individuals signed an offer letter to the beneficiary using the title, "Regional Corporate Recruiter." The other two individuals were never human resources generalists. This information does not substantiate the petitioner's assertion that it always hires individuals with degrees for this position, as it is not clear that any of these people were ever in the same position. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

The petitioner claims that the position is so complex and specialized that the knowledge required to perform the duties is

usually associated with the attainment of a baccalaureate degree. However, the petitioner has provided no information as to why the position is particularly complex, particularly in light of the need for a baccalaureate degree in any subject rather than one specifically related to the position. The petitioner states that the job description details highly specialized tasks, yet they seem to be the basic tasks of anyone who would work in the human resources field. There may be a variety of skills required for a human resources generalist, but they are not necessarily particularly specialized or complex in the manner contemplated under 8 C.F.R. § 214.2(h)(4)(iii)(A). The petitioner failed to establish that any of the four criteria enumerated in 8 C.F.R. § 214.2(h)(4)(iii)(A) 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. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.