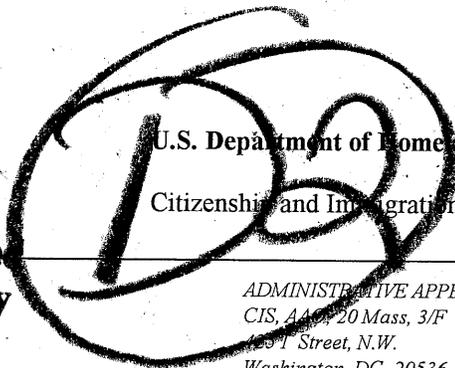


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U.S. Department of Home and Security  
Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE  
CIS, AAAP 20 Mass, 3/F  
1291 Street, N.W.  
Washington, DC 20536



OCT 10 2003

FILE: WAC-01-187-55713 OFFICE: CALIFORNIA SERVICE CENTER DATE:

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)

IN 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, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner is in the media industry. It employs 163 persons and has a gross annual income of \$65,198,000. It seeks to employ the beneficiary as an associate online news editor. The director denied the petition because the petitioner failed to show that the beneficiary qualified for the specialty occupation.

On appeal, counsel submits a brief and additional evidence. Counsel states that the beneficiary qualifies for the specialty occupation of associate online news editor.

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 for the classification of qualified nonimmigrant aliens who are coming temporarily to the United States to perform services in a specialty occupation.

The issue to be discussed in this proceeding is whether the beneficiary is qualified to perform the duties of a specialty occupation.

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:

- (A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation,
- (B) completion of the degree described in paragraph (1)(B) for the occupation, or
- (C) (i) experience in the specialty equivalent to the completion of such degree, and  
(ii) 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, the 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.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(D), for purposes of paragraph (h)(4)(iii)(C)(4) of this section, equivalence to completion of a United States baccalaureate or higher degree shall mean achievement of a level of knowledge, competence, and practice in the specialty occupation that has been determined to be equal to that of an individual who has a baccalaureate or higher degree in the specialty and shall be determined by one or more of the following:

- (1) An evaluation from an official who has authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience;
- (2) The results of recognized college-level equivalency examinations or special credit programs, such as the College Level Examination Program (CLEP), or Program on Noncollegiate Sponsored Instruction (PONSI);
- (3) An evaluation of education by a reliable credentials evaluation service which specializes in evaluating foreign educational credentials;
- (4) Evidence of certification or registration from a nationally-recognized professional association or society for the specialty that is known to grant certification or registration to persons in the occupational specialty who have achieved a certain level of competence in the specialty;
- (5) A determination by the Service that the equivalent

of the degree required by the specialty occupation has been acquired through a combination of education, specialized training, and/or work experience in areas related to the specialty and that the alien has achieved recognition of expertise in the specialty occupation as a result of such training and experience.

The petitioner's offered position, associate online news editor, is described as follows:

[D]evelops Network World's fast-growing line of e-mail newsletters, which contain news, analysis and opinion on a wide range of computing and networking topics. Responsibilities include editing copy, working with writers to improve content and suggest coverage, and working with copy editing and production to ensure smooth delivery of newsletters every week. The editor also backs up the online news editor, choosing and editing stories for posting on the Network World Fusion Web site.

Along with the petition, the petitioner submitted the beneficiary's resume and certificates of education, and an education evaluation dated April 3, 2001 that stated the beneficiary had the equivalent of a bachelor's degree in journalism from an accredited college or university in the United States.

On July 18, 2001, the director requested employment letters from the beneficiary's previous employers and a certified Labor Condition Application (LCA) for the position.

In response, the petitioner submitted employment letters, two letters attesting to the equivalency of the beneficiary's professional experience to a bachelor's degree in journalism, an education evaluation dated October 2, 2001, and a certified LCA.

On January 23, 2002, the director denied the petition, finding that that the petitioner failed to show that the beneficiary met one of the four criteria of 8 C.F.R. § 214.2(h)(4)(iii)(C)(4).

On appeal, counsel states that the beneficiary qualifies for the specialty occupation of associate online news editor because 1) she has been found to have training and/or experience equivalent to a bachelor of arts in journalism; 2) Foundation for International Services (FIS) is a reliable credentials evaluation service and it found that the beneficiary has the equivalent in training and experience to a bachelor of arts in journalism in the United States; and 3) the petitioner has submitted such conclusive evidence that the beneficiary has the equivalent of a bachelor of arts in journalism acquired through a combination of education, specialized training, and/or work experience in areas

related to the field of journalism.

Counsel submits the following evidence on appeal: a letter dated December 18, 1985 from the Immigration and Naturalization Deputy Assistant Commissioner, Adjudications; a letter dated February 6, 2002 from the president of the Foundation for International Services, Inc. (FIS); a document from the National Association of Credential Evaluation Services; a document about FIS's foreign credential evaluation services; FIS evaluator [REDACTED] vita; page 364 of Interpreter Releases dated March 25, 1996; an employment letter dated September 7, 2001 from the editor of PC Advisor and one from the human resources manager of VNU Business Publications and dated April 2, 2001; a letter (dated September 7, 2001) from [REDACTED] Associate Provost and Professor of English at Seattle Pacific University, and his curriculum vitae; a letter (dated September 21, 2001) from [REDACTED] Associate Professor of Communications and Journalism at Seattle Pacific University and his curriculum vitae; an education evaluation report dated October 2, 2001 from FIS; beneficiary's certificates of education; Seattle Pacific University's 2001-2002 Undergraduate Catalog pages 9, 10, 103, 106, and 205 and its 2001-2002 Faculty Staff Directory; a letter dated January 2, 2001, from Seattle Pacific University's Associate Provost [REDACTED] a document published by the American Association of Collegiate Registrars and Admissions Officers and one published by the Accredited Institutions of Postsecondary Education Programs Candidates; an employment letter from PC Advisor dated February 20, 2002; resumes from the beneficiary's prior supervisors, managers, and peers; and an employment letter from the editorial director, VNU Business Media Europe.

The regulation at 8 C.F.R. § 214.2(h)(4)(iii)(D) describes the methods that a petitioner can use to establish that the beneficiary has the equivalent of a bachelor's degree. Under 8 C.F.R. § 214.2(h)(4)(iii)(D)(1), a petitioner may provide an evaluation from an official who has authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university which has a program granting such credit based on an individual's training and/or work experience. In this proceeding, the petitioner has submitted evaluations from two of Seattle Pacific University's faculty and a letter from its Associate Provost Thomas Trzyna confirming that its faculty have the authority to grant college level credit for training and experience, both in their areas of training and more generally in those foundational areas of university education commonly considered "general education," "distribution requirements," or "related instruction in communication, computation and human relations." Thus, the record shows that the beneficiary has the equivalent of a bachelor's degree in journalism, a degree that is related to the specialty occupation.

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.

**ORDER:** The appeal is sustained. The petition is approved.