



U.S. Citizenship  
and Immigration  
Services



FILE: EAC 02 198 51324 Office: VERMONT SERVICE CENTER

Date: APR 27 2004

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:

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SELF-REPRESENTED

INSTRUCTIONS:

*identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy*

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.

for Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The service center director 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 non-profit religious organization that seeks to employ the beneficiary as a bilingual administrative assistant. The petitioner 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 proffered position is not a specialty occupation. On appeal, the petitioner submits a brief and other documentation.

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.

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) Form I-290B and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as bilingual administrative assistant. Evidence of the beneficiary's duties includes: the I-129 petition; the petitioner's March 30, 2001 letter in support of the petition; and the petitioner's response to the director's request for evidence. According to this evidence, the

beneficiary would perform duties that entail: carrying out administrative and clerical tasks required to operate the church office and support congregation programs; providing administrative support to the pastors and board; assisting in the preparation of correspondence; translating materials in Chinese and English; and handling telephone calls and visitors. The petitioner indicated that a qualified candidate for the job would possess a bachelor's degree in one of the social sciences or a communications-related field.

The director found that the proffered position was not a specialty. Citing to the Department of Labor's *Occupational Outlook Handbook (Handbook)*, the director noted that the minimum requirement for entry into the positions of administrative assistant or translator was not a baccalaureate degree or its equivalent in a specific specialty. The director found further that the petitioner failed to establish any of the criteria found at 8 C.F.R. § 214.2(h)(4)(iii)(A).

On appeal, the petitioner states that the proffered position is so complex that it can be performed only by an individual with a bachelor's degree. The petitioner also asserts that a degree requirement is common in parallel positions among similar organizations. Upon review of the record, however, 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.

The AAO will examine the criterion at 8 C.F.R. § 214.2 (h)(4)(iii)(A)(2), which the petitioner brings up on appeal: a degree requirement is common to the industry in parallel positions among similar organizations and the position is so complex or unique that it can be performed only by an individual with a degree.

Factors often considered by CIS when determining this criterion include: whether the *Handbook* reports that the industry requires a degree; whether the industry's professional association has made a degree a minimum entry requirement; and whether letters or affidavits from firms or individuals in the industry attest that such firms "routinely employ and recruit only degreed individuals." See *Shanti, Inc. v. Reno*, 36 F. Supp. 2d 1151, 1165 (D.Min. 1999)(quoting *Hird/Blaker Corp. v. Slattery*, 764 F. Supp. 872, 1102 (S.D.N.Y. 1991)).

The AAO routinely consults the *Handbook* for its information about the duties and educational requirements of particular occupations. The AAO concurs with the director's assessment to the effect that no evidence in the *Handbook* indicates that a baccalaureate or higher degree, or its equivalent, is required for an administrative assistant position. The director also correctly found that, according to the *Handbook*, a bachelor's degree in a specialized area is not necessary to enter into the position of translator.

Regarding parallel positions in the petitioner's industry, the petitioner submitted two Internet job postings for administrative assistants. There is no evidence, however, to show that the employers issuing those postings are similar to the petitioner, or that the advertised positions are parallel to the instant position. Thus, the advertisements have little relevance. The record also does not include any evidence from professional associations regarding an industry standard.

The petitioner submits on appeal letters from the pastors of three different Chinese churches who state that they require their administrative assistants to hold bachelor's degrees. The pastors, however, did not specify that any particular field of study was necessary. A petitioner must demonstrate that the proffered position requires a precise and specific course of study that relates directly and closely to the position in question. Since there must be a close corollary between the required specialized studies and the position, the requirement of a degree with a generalized title, such as business administration or liberal arts, without further

specification, does not establish the position as a specialty occupation. *Matter of Michael Hertz Associates*, 19 I&N Dec. 558 (Comm. 1988).

To the extent that they are depicted in the record, the duties do not appear so complex or unique that only an individual with a bachelor's degree in a specific specialty could perform them. It appears that a bilingual incumbent with any liberal arts degree, or one without a degree but who possesses some experience could successfully carry out these duties. The petitioner has, thus, not established the criteria set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1) or (2).

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

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.