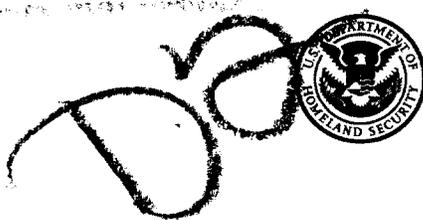


Administrative Appeals Office  
Decision

U.S. Department of Homeland Security  
20 Mass. Rm. A3042, 425 I Street, N.W.  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services



FILE: EAC 02 092 52707 Office: VERMONT SERVICE CENTER

Date: JUN 14 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:



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.

*Mari Johnson*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director of the Vermont Service Center denied the nonimmigrant visa petition and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is again before the AAO on a motion to reopen or reconsider. The motion will be granted. The previous decision shall be affirmed. The petition will be denied.

The petitioner is a non-profit organization that promotes and facilitates U.S. and Venezuelan relations and trade. It seeks to employ the beneficiary as a public relations coordinator. 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).

On appeal, counsel had provided additional information in support of the appeal.

The AAO dismissed the appeal reasoning that the petitioner had not submitted sufficient evidence to demonstrate that the proffered position is a specialty occupation.

On motion, counsel submits three documents from the petitioner that include, in part, the names of petitioner's officers and members of the Board of Directors, which according to counsel, reflect a level of corporate status that requires the sophistication, expertise, and specialization provided by the beneficiary.

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; (5) Form I-290B and supporting documentation; (6) the AAO's decision dismissing the appeal; and (7) the petitioner's motion to reconsider. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as a public relations coordinator. Evidence of the beneficiary's duties includes: the I-129 petition; the petitioner's January 16, 2002 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: coordinating seminars and programs; and establishing informal sessions for officials of Colombia and Venezuela to meet and discuss relevant issues and utilize a variety of sources to generate facts and material that will stimulate investments in these countries. Although not explicitly stated, it appears that the petitioner requires a baccalaureate degree or its equivalent in public relations, marketing, or communications for the proffered position.

On motion, counsel submits the following three documents:

1. A list of petitioner's supporting members, officers, directors, staff, and corporate members;
2. A list of the supporting members, officers, directors, corporate members, and staff for the petitioner's Colombian American Association; and
3. A list of the sustaining members, officers, directors, staff, corporate members, and individual members of the petitioner's Ecuadorean American Association.

Counsel asserts, in part, as follows: "The submission of the enclosed list of participating corporate, financial and legal entities which are associated with the petition reflects a level of corporate status which requires the sophistication, expertise and specialization provided by the beneficiary." Accordingly, the AAO will address the criterion at 8 C.F.R. § 214.2(h)(iii)(A)(4) only – 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 documentation does not establish that the proffered position is a specialty occupation. Neither counsel nor the petitioner submits any independent evidence to illustrate how these documents relate to their assertion that the proffered position is a specialty occupation. *See Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). Furthermore, counsel's personal observations do not constitute evidence in these proceedings. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). To the extent that they are depicted in the record, the duties do not appear so specialized and complex as to require the highly specialized knowledge associated with a baccalaureate or higher degree, or its equivalent, in a specific specialty. Therefore, the evidence does not establish that the proffered position is a specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

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.

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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 decision of the AAO, dated January 31, 2003, is affirmed. The petition is denied.