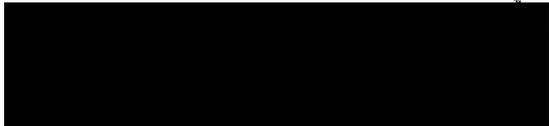


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**U.S. Citizenship
and Immigration
Services**



FILE: WAC 02 271 51480 Office: CALIFORNIA SERVICE CENTER Date: **MAR 08 2004**

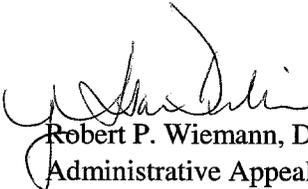
IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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:
[Redacted]

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.


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 newspaper that seeks to employ the beneficiary as a journalist. 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 beneficiary is not qualified to perform the duties of a specialty occupation. On appeal, the petitioner submits a brief.

Section 214(i)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1184(i)(2), states that an alien applying for classification as an H-1B nonimmigrant worker must possess full state licensure to practice in the occupation, if such licensure is required to practice in the occupation, and completion of the degree in the specialty that the occupation requires. If the alien does not possess the required degree, the petitioner must demonstrate that the alien has 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.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(C), to qualify to perform services in a specialty occupation, an 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.

The record of proceeding before the AAO contains, in part: (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 a journalist. The petitioner indicated that a qualified candidate for the job would possess a bachelor's degree in political science or an equivalent thereof.

The director found that the beneficiary was not qualified for the proffered position because the beneficiary does not hold a baccalaureate degree in journalism. Citing the Department of Labor's (DOL) *Occupational*

Outlook Handbook (Handbook), 2002-2003 edition, the director noted that most employers prefer to hire individuals with a baccalaureate degree in journalism, but large city newspapers and stations also may prefer individuals with a baccalaureate degree in another specialty such as economics, political science, or business. The director notes that the petitioner is not a large city newspaper and, therefore, has not demonstrated that it requires a journalist with a baccalaureate degree in political science. On appeal, the petitioner states that the beneficiary is qualified for the position because, as the proposed duties require in-depth knowledge of political analysis, the beneficiary's baccalaureate degree in political science qualifies him for the proffered position.

Upon review of the record, the petitioner has failed to establish that the beneficiary is qualified to perform the duties of the proffered position. Although the petitioner compares itself to a large city publication, as referenced in the *Handbook*, the petitioner has not provided sufficient evidence of the nature of its newspaper to demonstrate that a political science degree qualifies the beneficiary for the proffered position. It cannot be determined that the beneficiary is qualified for the proffered position when the nature of that position remains unclear. For this reason the petition may not be approved.

Beyond the decision of the director, the AAO does not find that the proffered position is a specialty occupation because the petitioner has not provided sufficient evidence to demonstrate that the proposed duties are realistic in light of the nature of the petitioner's newspaper. Although the record contains various issues of the petitioner's newspaper, the petitioner has not provided full English language translations as required by 8 C.F.R. § 103.2(b)(3). It is incumbent on the petitioner to provide sufficient information to demonstrate that the beneficiary would be performing duties normally associated with a specialty occupation. However, as the AAO is dismissing the appeal on another ground, it will not examine this issue further.

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.