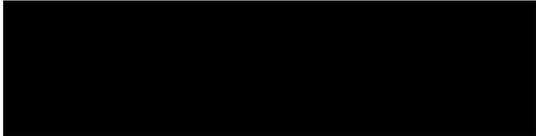


U.S. Citizenship
and Immigration
Services



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invasion of personal privacy



FILE: SRC 02 270 54262 Office: TEXAS SERVICE CENTER Date: **MAR 08 2004**

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

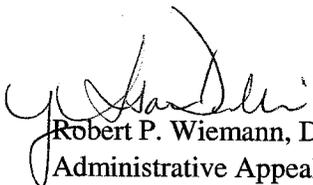
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



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 an event management, services, and public relations business that seeks to employ the beneficiary as an event planner. 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, counsel submits a brief.

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 an event planner. Evidence of the beneficiary's duties includes: the I-129 petition; counsel's September 17, 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: managing and coordinating events, vendors, and staff; securing and contracting appropriate venues; negotiating rates; planning food, beverage, and audiovisual requirements; setting up and overseeing registration and on-site logistics; and liaising with clients concerning budget and event implementation. Although not explicitly stated, it appears that the petitioner requires a baccalaureate degree or its equivalent in business administration with a major in management for the proffered position.

The director found that the proffered position was not a specialty occupation because the job is primarily that of a manager. Citing to the Department of Labor's (DOL) *Occupational Outlook Handbook (Handbook)*, 2002-2003 edition, the director noted that the minimum requirement for entry into the position 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, counsel states, in part, that the proffered position is complex and highly specialized and therefore requires a baccalaureate degree. Counsel further states that the record includes job postings to demonstrate that such requirement is common in the industry. Counsel additionally states that the California Economic Development Department's Occupational Guide supports his claim.

Upon review of the record, 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 turns first to the criteria at 8 C.F.R. § 214.2 (h)(4)(iii)(A)(1) and (2): a baccalaureate or higher degree or its equivalent is the normal minimum requirement for entry into the particular position; a degree requirement is common to the industry in parallel positions among similar organizations; or a particular 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 these criteria 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 does not concur with counsel that the proffered position is a specialty occupation. On the I-129 petition, the nature of the petitioner's business is described as "event management, services and public relations." The proffered position is similar to that of a public relations manager. A review of the Advertising, Marketing, Promotions, Public Relations, and Sales Managers job description confirms this finding. No evidence in the *Handbook* indicates that a baccalaureate or higher degree, or its equivalent, is required for a public relations manager job.

Regarding parallel positions in the petitioner's industry, the petitioner submitted Internet job postings for the following positions: a meeting coordinator for Blue Cross and Blue Shield of North Carolina; a special events planner for the Philadelphia Corporation for Aging; a meeting planner/manager for Doherty Technical Services; a corporate events planner for Scantron; a senior event planner for Cadence Design Systems, Inc.; and a corporate events manager for Eclipsys Corporation. There is no evidence, however, to show that the proposed duties of the proffered position are as complex as those listed for the advertised positions. For

example, the duties of the advertised positions include the following: collaborating and working closely with individuals from across the organization (Blue Cross) in the planning, logistics, and execution of meeting and events in house; providing oversight and supervision to all components of the event such as budgeting, program development, and supervision of staff (Philadelphia Corporation for the Aging); supervising two meeting coordinators (Doherty Technical Services); working with Corporate Communications Director to set objectives for all corporate events, trade shows, and national conferences (Scantron); coordinating regional, national, and international conferences, seminars, sales meetings, incentive and recognition programs, executive forums, analyst programs, user groups, and standards organizations (Cadence Design Systems, Inc.); and managing all aspects of marketing events programs annual conference, executive forum, sales incentive program, quarterly seminars and 30-40 tradeshows annually (Eclipsys Corporation). Thus, the advertisements have little relevance.

Counsel submits an excerpt regarding meeting and convention planners from the California Economic Development Department's Occupational Guide that states, in part, as follows:

Many of today's Meeting and Convention Planners began their careers as administrative assistants or secretaries who assisted in meeting planning and gradually assumed additional responsibilities. . . . Today most planners have at least a college degree, and some have masters or post-graduate degrees, often in fields such as business, communications, and travel-tourism management. . . .

The information from the California Economic Development Department's Occupational Guide does not indicate that a degree in a specific specialty is required for a meeting and convention planner. As such, the record does not include any evidence from professional associations regarding an industry standard, or documentation to support the complexity or uniqueness of the proffered position. The petitioner has, thus, not established the criteria set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1) or (2).

The AAO now turns to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3) – the employer normally requires a degree or its equivalent for the position. The information on the petition indicates that the petitioner is a new business with an estimated staff of two. As such, this issue will not be discussed further.

Finally, the AAO turns to the criterion at 8 C.F.R. § 214.2(h)(iii)(A)(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.

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 appeal is dismissed. The petition is denied.