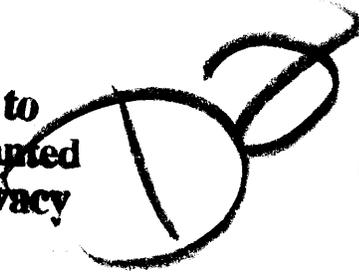


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U.S. Department of Homeland Security  
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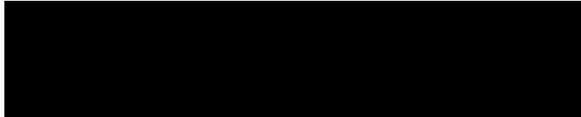
U.S. Citizenship  
and Immigration  
Services



FILE: EAC 01 279 52309 Office: VERMONT SERVICE CENTER

Date: **MAR 24 2004**

IN RE: Petitioner:  
Beneficiary:



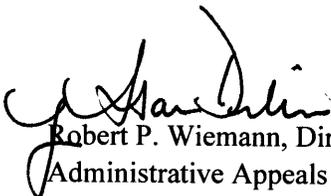
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the  
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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 private religious school that seeks to employ the beneficiary as a teacher of Islamic studies and Arabic. 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 an educational evaluation which states that the beneficiary holds the equivalent of a U.S. bachelor's degree in Arabic and Islamic studies.

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 teacher. The petitioner indicated its February 11, 2002 letter that it wished to hire the beneficiary because he possesses a bachelor's degree in Arabic and

Islamic studies and ten years of work experience as a teacher. The petitioner also stated that it requires a baccalaureate degree for all its teaching positions.

The director found that the beneficiary was not qualified for the proffered position because the documentation did not establish that beneficiary's Pakistani education was equivalent to a baccalaureate degree in a specialty required by the occupation. On appeal, counsel states that the beneficiary is qualified for the position because he completed two courses of two years each at a Pakistani religious institution. Counsel submits an evaluation from World Education Services (WES) which states that the combination of these two courses is equal to a U.S. bachelor's degree in Islamic studies and Arabic.

Upon review of the record, the petitioner has failed to establish that the beneficiary is qualified to perform an occupation that requires a baccalaureate degree. The beneficiary does not hold a baccalaureate degree from an accredited U.S. college or university in any field of study. The evaluation submitted on appeal states that the beneficiary's foreign education is the equivalent of a U.S. bachelor's degree, but the evaluation does not include an explanation of how WES arrived at this conclusion.

The AAO notes that the record contains two sets of examination results from 1991 and 1992, each of which lists seven courses studied. These examination results do not list the length of the courses, however. Of the fourteen courses studied, eleven are in religion, one is in Arabic literature and rhetoric, and two are in debate and logic and philosophy. In order to obtain a U.S. bachelor's degree, students must include numerous general education courses along with courses in their major field of study. The beneficiary's record does not indicate that the beneficiary's studies included many of the courses required for graduation from a U.S. university. Given that the exam results are the only source of information on the record about the beneficiary's studies, the education evaluation does not appear to be supported by the record. Citizenship and Immigration Services (CIS) uses an evaluation by a credentials evaluation organization of a person's foreign education as an advisory opinion only. Where an evaluation is not in accord with previous equivalencies or is in any way questionable, it may be discounted or given less weight. *Matter of Sea, Inc.*, 19 I&N Dec. 817 (Comm. 1988).

The petitioner has not shown, in the alternative, that the beneficiary's qualifications meet the criteria specified at 8 C.F.R. § 214.2(h)(4)(iii)(C)(4). Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(D), equating the beneficiary's credentials to a United States baccalaureate or higher degree 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.

Since the evaluation provided by WES cannot be given any weight in this analysis, the beneficiary's qualifications must be analyzed pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(D)(5). Under this provision, three years of specialized training and/or work experience must be demonstrated for each year of college-level training the alien lacks. It must be clearly demonstrated that the alien's training and/or work experience included the theoretical and practical application of specialized knowledge required by the specialty occupation; that the alien's experience was gained while working with peers, supervisors, or subordinates who have a degree or its equivalent in the specialty occupation; and that the alien has recognition of expertise in the specialty evidenced by at least one type of documentation such as:

- (i) Recognition of expertise in the specialty occupation by at least two recognized authorities in the same specialty occupation<sup>1</sup>;
- (ii) Membership in a recognized foreign or United States association or society in the specialty occupation;
- (iii) Published material by or about the alien in professional publications, trade journals, books, or major newspapers;
- (iv) Licensure or registration to practice the specialty occupation in a foreign country; or
- (v) Achievements which a recognized authority has determined to be significant contributions to the field of the specialty occupation.

There is no information on the record regarding the beneficiary's prior work experience, other than a certificate of appreciation from a school in the United Arab Emirates. Neither can this certificate be considered evidence that the beneficiary has recognition of expertise. The record contains no other evidence in support of any of the above-noted criteria.

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<sup>1</sup> *Recognized authority* means a person or organization with expertise in a particular field, special skills or knowledge in that field, and the expertise to render the type of opinion requested. A recognized authority's opinion must state: (1) the writer's qualifications as an expert; (2) the writer's experience giving such opinions, citing specific instances where past opinions have been accepted as authoritative and by whom; (3) how the conclusions were reached; and (4) the basis for the conclusions supported by copies or citations of any research material used. 8 C.F.R. § 214.2(h)(4)(ii).

As related in the discussion above, the petitioner has failed to establish that the beneficiary is qualified to perform the duties of the proffered position. 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.