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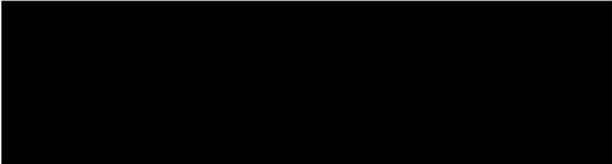


U.S. Citizenship
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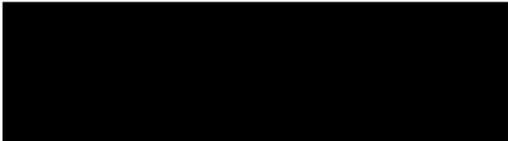
FILE: LIN 05 231 51057 Office: NEBRASKA SERVICE CENTER Date:

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The director of the service center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner is a public university that seeks to employ the beneficiary as an assistant director of athletic media relations. The petitioner, therefore, 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 finding that the proposed position is not a specialty occupation, and the beneficiary is unqualified to perform the duties of a specialty occupation. Counsel submitted a timely appeal.

The AAO will first address the director's finding that the proposed position fails to qualify as a specialty occupation.

Section 214(i)(1) of 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 the appeal brief. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as an assistant director of athletic media relations. Evidence of the beneficiary's duties includes: the Form I-129; the attachments accompanying the Form I-129; the petitioner's support letter; and the petitioner's response to the director's request for evidence. According to this evidence, the beneficiary would perform duties as follows: communicate information to the media and the public regarding the athletic program, which includes hockey, ice hockey, baseball, and softball; develop marketing plans and write and develop original material for distribution; act as a liaison between the university and media representatives; author and develop promotional pamphlets and news releases for distribution to the media and public; write press releases; oversee the content of and create written content for the athletic department's website; write detailed responses to public inquiries about game statistics for current and past games; collaborate with the marketing and promotions team to create marketing plans specific to each sport; oversee the coordination of media appearances and interviews for coaches and student athletes; advise student athletes about the content of upcoming interviews; manage the design and development of marketing, promotional, and other special events; and manage and instruct staff members at special events. For the proposed position the petitioner requires a bachelor's degree in business administration, mass communications, or a relevant discipline.

The director denied the petition. He stated that the proposed duties are a combination of those of a public relations specialist and a marketing manager as described in the Department of Labor's *Occupational Outlook Handbook* (the *Handbook*), and that the *Handbook* conveys that employers do not require a bachelor's degree in a specific academic discipline for these occupations. The director found that the petitioner did not show that in the past it required the services of a person with a bachelor's or higher degree in a specialized area for the proposed position. The director found the submitted job postings and letter from Mr. Joe Hernandez, Associate Athletics Director/External Affairs of Ball State University, unpersuasive in establishing the offered position as a specialty occupation. The director found the beneficiary unqualified to perform the duties of a specialty occupation.

On appeal, counsel states that the proposed job duties require the theoretical and practical application of specialized knowledge in communication, marketing, mass communications, management, organizational behavior, agenda setting, brand asset valuator theories and principles, and other areas. Counsel states that the submitted job postings establish the proposed position as a specialty occupation. According to counsel, the petitioner is an NCAA Division 1 school. Bowling Green State University, Marquette University, University of California-Berkeley, University of Virginia, and University of Texas, organizations that require bachelor's degrees and are included in the job postings, are also NCAA Division 1 schools. Counsel states that the director errs by finding that the majors of communication, mass communication, journalism, public relations, promotions, and sports management, as shown in the job postings, are a "wide variety" of fields of study. Counsel states that journalism and mass communications are related to communications; marketing, promotions, and public relations are related fields; and sports management is a subfield of management.

Counsel asserts that the core area of communications, marketing, and management can be classified under business administration, and that all of the fields are related to sports information management. Counsel maintains that the submitted evidence establishes that it normally requires a degree or its equivalent for the proposed position as it previously hired persons with bachelor's degrees in mass communications, business administration, or a relevant degree and at least one year of work experience in media relations for the proposed position. Counsel refers to the letter from [REDACTED] to establish the offered position as a specialty occupation. Counsel contends that the beneficiary is qualified to perform the duties of the proposed position.

Upon review of the record, the petitioner has established one of the four criteria outlined in 8 C.F.R. § 214.2(h)(4)(iii)(A). Therefore, the proffered position is a specialty occupation.

The AAO finds the submitted job postings persuasive in establishing the first alternative prong at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2), which requires that the petitioner show that a degree requirement is common to the industry in parallel positions among similar organizations. The duties of the positions in the job postings are parallel to those of the proposed position. The job postings are as follows: North Dakota State University - bachelor's degree in mass communications or a related field; University of California, Berkeley - bachelor's degree in a related field and 10 years of experience; Syracuse University - bachelor's degree in public relations, journalism, or a related field, or equivalent combination of education and experience and two years in a related field; The University of Texas at Arlington - bachelor's degree in public relations, communications, journalism, or a related field; Bradley University - bachelor's degree in marketing, communications, sports management, or a related field or an equivalent combination of education and experience (a master's degree is preferred); and Bowling Green State University - bachelor's degree in sport management or sports administration with a specialty in sports information, marketing, promotions, and/or journalism, marketing public relations as a minor. Marquette University does not require a bachelor's degree in a specific field. The University of Pennsylvania requires a bachelor's degree and an advanced degree in communications or journalism is desirable. The University of Virginia's posting is truncated; thus, its educational requirement is unclear. The AAO finds that the fields of public relations, journalism, marketing, communications, sports management, and sports administration are sufficiently related to each other, in the context of the current petition, and also relate to the proposed position. As such, the AAO finds that the submitted job postings establish that a degree requirement is common to the industry in parallel postings among similar organizations to the petitioner, a public university.

The AAO will now consider whether the beneficiary is qualified to perform the duties of the proposed position.

Section 214(i)(2) of 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 reflects that the beneficiary holds a bachelor's degree in business administration with a major in business management from the University of Findlay in Ohio, and a master's degree in business administration (MBA) with an emphasis in organizational leadership from Kent State University in Ohio. The submitted academic transcripts of record reflect that the beneficiary completed sufficient coursework in marketing, communications, writing, and sports to demonstrate that he is qualified to perform the duties of the proposed position. The petitioner therefore established the beneficiary's qualifications to perform the duties of the proposed position under 8 C.F.R. § 214.2(h)(4)(iii)(C)(1).

As related in the discussion above, the petitioner has established that the proposed position qualifies as a specialty occupation and that the beneficiary is qualified to perform the position.

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 sustained. The petition is approved.