



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

D2



FILE: LIN 03 234 51940 Office: NEBRASKA SERVICE CENTER Date: SEP 27 2006

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 service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn. The petition will be remanded to the director for entry of a new decision.

The petitioner is a regional athletic association engaged in the organization, development, and operation of youth athletic programs. It seeks to employ the beneficiary as a director of player and coach development and endeavors to classify him 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 stating that the proffered position does not qualify as a specialty occupation. On appeal, counsel submits a brief and additional information stating that the offered position qualifies as a specialty occupation.

The first issue to be discussed in this proceeding is whether the proffered position qualifies as a specialty occupation.

Section 101(a)(15)(H)(i)(b) of the Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b), provides, in part, for the classification of qualified nonimmigrant aliens who are coming temporarily to the United States to perform services in 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.

The term "specialty occupation" is further defined at 8 C.F.R. § 214.2(h)(4)(ii) as:

[A]n occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a 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 are 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) the 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) the Form I-290B with counsel’s brief. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary’s services as its director of player and coach development. Evidence of the beneficiary’s duties includes the Form I-129 petition with attachment and the petitioner’s response to the director’s request for evidence. According to this evidence the beneficiary would:

- Organize, administer, and teach coaching courses;
- Teach soccer theory and practice as a professional training course for players;
- Plan, develop, and direct year-round curriculum for youth soccer players, emphasizing appropriate skill and fitness training and conditioning of players to achieve maximum performance;
- Develop and train coaches to licensure level by conducting clinics, providing written material, and through the use of small sided games;
- Administer USSF license courses; and
- Provide coaches with detailed curriculum of training and lesson plans for all levels of youth soccer.

The petitioner requires a minimum of a bachelor’s degree or its equivalent in physical education or sport coaching for entry into the proffered position.

Upon review of the record, the petitioner has established that the proffered position qualifies as a specialty occupation. The AAO routinely consults the U.S. Department of Labor’s *Occupational Outlook Handbook (Handbook)* for information about the duties and educational requirements of particular occupations. The duties of the proffered position appear to be those noted for recreation workers at the director level. The *Handbook*

notes that directors of recreation and parks develop and manage comprehensive recreation programs in parks, playgrounds and other settings. The beneficiary will work as the director of a recreation association providing recreational activities for over 3,000 children and directing the activities of more than 400 volunteer coaches and workers. The *Handbook* states for recreation workers that full-time career professional positions usually require a college degree with a major in parks and recreation or leisure studies, but a bachelor's degree in any liberal arts field may be sufficient for some jobs in the private sector. The duties of this position are so specialized and complex that knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree. Under these circumstances, the proffered position qualifies as a specialty occupation as the petitioner has established the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4). The director's decision to the contrary shall be withdrawn.

The final issue to be considered is whether the beneficiary is qualified to perform the duties of the offered specialty. The director did not comment on this issue as the petition was denied on another ground. As such, this matter must be remanded to the director to determine, after considering all evidence submitted into the record, whether the beneficiary is qualified to perform the duties of the position. It should be noted that the beneficiary submitted an experiential evaluation for the record. The record does not indicate, however, that the evaluation was prepared by 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. 8 C.F.R. § 214.2(h)(4)(iii)(D)(1). The director may request such additional evidence as he deems necessary in rendering his decision.

As always, the burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The director's decision is withdrawn. The petition is remanded to the director to enter a new decision commensurate with the directives of this opinion which, if adverse to the petitioner, shall be certified to the AAO for further review.