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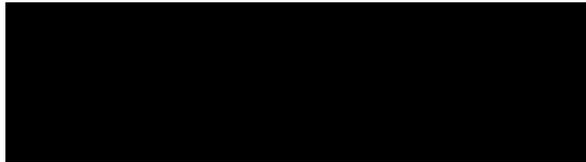


U.S. Citizenship  
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AUG 06 2007



FILE: WAC 03 017 54587 Office: CALIFORNIA 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.

*for Michael T. Kelly*  
for 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 appeal will be sustained. The petition will be approved.

The petitioner is a country club sales and resort operator and real estate developer. It seeks to employ the beneficiary as a marketing research analyst, and endeavors to classify her 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 expressly determined that the proffered position is a market research analyst position that qualifies as a specialty occupation. The director denied the petition based on his finding that the beneficiary lacked the educational credentials required for the pertinent specialty occupation. On appeal, the petitioner submits a brief stating that the beneficiary qualifies to perform the duties of a specialty occupation.

As discussed below, the AAO finds that the beneficiary's bachelor's degree in behavioral science is sufficient to qualify her to perform services in the position that is the subject of this petition and which the director has determined to be a specialty occupation. Accordingly, the appeal will be sustained, and the petition will be approved.

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)(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:

- (A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation,
- (B) completion of the degree described in paragraph (1)(B) for the occupation, or
- (C) (i) experience in the specialty equivalent to the completion of such degree, and  
(ii) 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, the 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.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(D), for purposes of paragraph (h)(4)(iii)(C)(4) of this section, equivalence to completion of a United States baccalaureate or higher degree shall mean achievement of a level of knowledge, competence, and practice in the specialty occupation that has been determined to be equal to that of an individual who has a baccalaureate or higher degree in the specialty and 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.

The director interpreted the 2002-2003 edition of the Department of Labor's *Occupational Outlook Handbook* as requiring that market research analysts possess at least a master's degree in a specific specialty. The 2006-2007 edition of the *Handbook* indicates that a person with a bachelor's degree may qualify for a specific marketing-research-analyst position. This edition, at page 175, describes the occupation of market or marketing research analysts as follows:

Market, or marketing, research analysts are concerned with the potential sales of a product or service. Gathering statistical data on competitors and examining prices, sales, and methods of marketing and distribution, they analyze data on past sales to predict future sales. Market research analysts devise methods and procedures for obtaining the data they need. Often, they design telephone, mail or Internet surveys to assess consumer preferences. They conduct some surveys as personal interviews, going door-to-door, leading focus group

discussions, or setting up booths in public places such as shopping malls. Trained interviewers usually conduct the surveys under the market research analyst's direction.

The *Handbook* notes that a bachelor's degree is the minimum educational requirement for many market and survey research jobs.<sup>1</sup> In addition to completing courses in business, marketing, and consumer behavior, prospective market and survey researchers should take other liberal arts and social science courses, including *economics, psychology, English, and sociology*. Because of the importance of quantitative skills to market and survey researchers, courses in mathematics, statistics, sampling theory and survey design, and computer science are extremely helpful. The 2006-2007 edition of the *Handbook* does not report that market research analyst positions normally require a degree be in a specific specialty. However, the *Handbook* also indicates that, depending upon its performance requirements, a particular marketing analyst position may require at least a bachelor's degree in a specific specialty.

The educational evaluation of the beneficiary's academic transcript and diploma is sufficient to establish that that the beneficiary's formal college-level education in the Philippines is equivalent to a bachelor's degree in behavioral sciences from an accredited college or university in the United States.

Based upon the totality of the evidence in the particular record before it, the AAO finds that, on the basis of her foreign degree, the beneficiary is qualified to perform the proffered position, which the AAO finds to consist of duties sufficiently specialized and complex as to be usually associated with a specialized baccalaureate degree such as the beneficiary's in behavioral science. Consequently, the appeal will be *sustained, and the petition will be approved*.

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 sustained that burden.

**ORDER:** The appeal is sustained. The petition is approved.

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<sup>1</sup> The 2006–2007 *Handbook* does not state that the degree must be in a particular specialty, as required for a specialty occupation.