



U.S. Citizenship  
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FILE: EAC 06 134 50449 Office: VERMONT SERVICE CENTER Date: **AUG 24 2007**

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 appeal will be dismissed. The petition will be denied.

The petitioner is a public relations firm and seeks to employ the beneficiary as an assistant account executive. 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 does not qualify as a specialty occupation. On appeal counsel submits a brief stating that the offered position qualifies as a specialty occupation.

The 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 an assistant account executive. Evidence of the beneficiary's duties was set forth in the petitioner's letter filed in support of the Form I-129 petition. According to this evidence the beneficiary would:

- Interface with a San Jose, CA client to assist it in soliciting French directory publishers for the client's print to Internet technology;
- Identify prospective clients and translate all company materials and correspondence into French;
- Work with the petitioner's president to expand new business with European publishers that are members of the Yellow Page Association; and
- Conduct oral and written communication with European companies.

The petitioner requires a minimum of a bachelor's degree in modern languages for entry into the proffered position.

The AAO routinely consults the 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 generally fall within those noted for public relations specialists and translators. Public relations specialists draft press releases and contact people in the media who might print or broadcast their material. They also arrange and conduct programs to keep up contact between organization representatives and the public, and write, research, prepare materials, maintain contacts, and respond to inquiries. The *Handbook* notes that there is no defined standard for entry into a public relations career. A college degree combined with public relations experience, usually gained through an internship, is considered excellent preparation for public relations work; in fact, internships are becoming vital to obtain employment. The ability to communicate effectively is essential. Acceptable degrees for many entry-level positions include: public relations; journalism; advertising; or communications. Some employers seek graduates with electronic or print journalism experience. Others seek applicants with demonstrated communication skills and training

or experience in a field related to the firm's business – information, technology, health, science, engineering, sales, or finance for example. A degree in a specific academic specialty is not required and a degree in a wide range of disciplines will suffice.

The beneficiary will also perform translation services for the petitioner. Interpreters and translators enable cross-cultural communication by converting one language into another. They relay concepts and ideas between languages and must thoroughly understand the subject matter in which they work so that they are able to convert information from one language into another. The *Handbook* notes that while the educational backgrounds of interpreters and translators vary, a bachelor's degree is almost always required. A degree in a specific specialty, however, is not required. Knowledge of a language in addition to a native language is a given, but beyond that, there are many educational options. Interpreters and translators note that it is acceptable to major in something other than a language in order to successfully perform the duties of the position. Specialized training in how to do the work is also generally required. A degree in a specific specialty is not a minimum requirement for entry into the proffered position as interpreters and translators may come from a variety of educational disciplines. The petitioner has failed to establish the first criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A).

The petitioner asserts that a degree requirement is common to the industry in parallel positions among similar organizations, and in support of that assertion submits copies of public relations articles authored by [REDACTED]. Both articles note the difficulty of translating public relations/marketing materials into foreign languages and the importance of insuring that the translated material takes into consideration cross cultural nuances. Neither article, however, states that a degree in a specific specialty is required for translating materials. The petitioner also submits an opinion letter from A. [REDACTED] and Chief Executive of [REDACTED] Associates, Inc., a public affairs/management consultant firm in Washington, D.C. [REDACTED] states that a relevant bachelor's degree from a reputable university is considered a minimal necessity for those entering the field of public relations. The opinion writer does not state, however, that a degree in a specific specialty is required to enter into the field, and notes that members of his firm possess advanced degrees in such subjects as economics, political science and environmental health. The submitted materials do not establish that a degree in a specific specialty is common to the industry in parallel positions among similar organizations and the petitioner has not established the first prong of the referenced criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

The petitioner asserts that it normally requires a degree in a specific specialty for entry into the proffered position stating that all members of its firm hold at least a bachelor's degree, with the degrees being in a variety of fields. This indicates that the petitioner does not require a degree in a specific educational discipline to work as an account representative with its firm. The petitioner did not submit copies of those individual's degrees, or other documentation to establish that its employees hold at least a baccalaureate level education. Simply going on the record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N 190 (Reg. Comm. 1972)). Further, CIS must examine the ultimate employment of the alien, and determine whether the position qualifies as a specialty occupation. *Cf. Defensor v. Meissner*, 201 F. 3d 384 (5<sup>th</sup> Cir. 2000). The critical element is not the title of the position or an employer's self-imposed standards, but whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a

baccalaureate or higher degree in the specific specialty as the minimum for entry into the occupation as required by the Act. To interpret the regulations any other way would lead to absurd results: if CIS were limited to reviewing a petitioner's self-imposed employment requirements, then any alien with a bachelor's degree could be brought into the United States to perform menial, non-professional, or an otherwise non-specialty occupation, so long as the employer required all such employees to have baccalaureate or higher degrees. *See id* at 388. The petitioner has not established the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

Finally, the duties of the proffered position appear to be routine for public relations specialists and translators. They are not so complex or unique that they can be performed only by an individual with a degree in a specific specialty. Nor are they so specialized or complex that knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty. There is nothing in the record to establish that the duties to be performed by the beneficiary are any more specialized, complex, or unique than those typically performed in the industry by public relations specialists and translators who do not hold a degree in a specific educational discipline. For example, the beneficiary will translate company materials and correspondence into French. The petitioner did not submit samples of any such documents which would indicate that their translation would require a degree in a specific educational discipline in order to make an accurate translation. Nor does the record establish that the public relations duties to be performed by the beneficiary require a course of study in a specific educational discipline. The petitioner itself noted that the other members of its firm have degrees in varying disciplines. The petitioner has failed to establish the first prong of the criterion at 8 C.F.R. §§ 214.2(h)(4)(iii)(A)(2), or the criterion at 8 C.F.R. §§ 214.2(h)(4)(iii)(A)(4).

The petitioner has failed to establish that the offered position meets any of the criteria listed at 8 C.F.R. § 214.2(h)(4)(iii)(A). 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 and the appeal shall accordingly be dismissed.

**ORDER:** The appeal is dismissed. The petition is denied.