

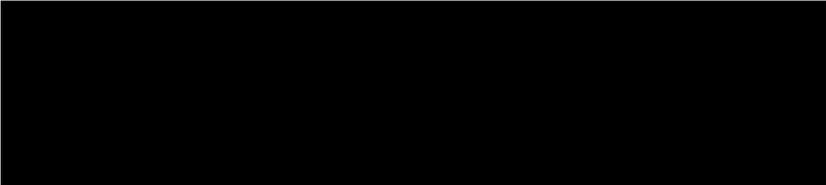
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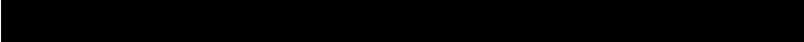
U.S. Citizenship  
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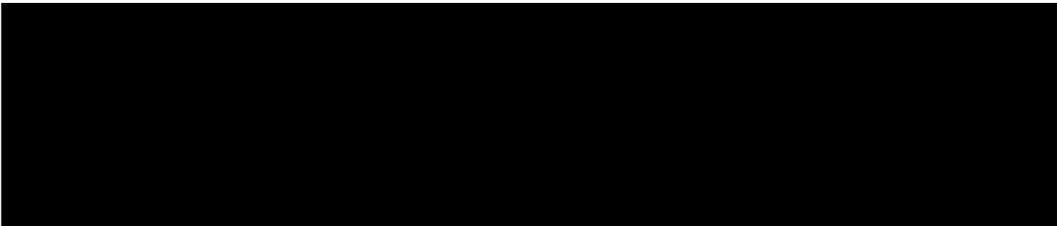
*D2*

FILE: EAC 05 131 53292 Office: VERMONT SERVICE CENTER Date: **JAN 08 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 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 nonprofit educational and counseling center. It seeks to employ the beneficiary as an educational coordinator. 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 proffered position is not a specialty occupation. He also found the beneficiary unqualified to perform the duties of the proposed position had it been found to be a specialty occupation. Counsel submits a timely appeal.

The record of proceeding before the AAO contains: (1) the Form I-129 and supporting documentation; (2) the director's request for evidence (RFE); (3) the petitioner's response to the director's request; (4) the director's denial letter; and (5) the Form I-290B and the appeal brief and supporting evidence. The AAO reviewed the record in its entirety before issuing its decision.

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 petitioner is seeking the beneficiary’s services as an educational coordinator. 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 RFE. According to this evidence, the beneficiary would perform duties that entail preparing and providing programs for teenagers such as smoking cessation and learning the Korean language; preparing and providing an English language program for new Korean American immigrants; conducting research on educational issues within the Korean American community in order to plan and develop educational programs; reviewing and consulting educational content; managing the development and implementation of educational outcomes metrics and leading programs related to educational content or writing; providing on-going support for the current healthcare program which is hypertension self-management, which will help Korean Americans to enroll in Pharmaceutical Company Patient Assistance Programs (enrolling in MedBank); ensuring sound data collection and data entry as compiling and tracking all questionnaires given to clients; participating in analysis and report development; reacting to change productively and handling other essential tasks as assigned. For the proposed position the petitioner requires a bachelor’s degree in any related discipline and bilingual skills.

The director denied the petition. He stated that the evidence does not demonstrate that the petitioner normally requires a specific baccalaureate degree for its educational coordinators. Of the four educational coordinators employed by the petitioner the director found that only two hold at least a baccalaureate degree; he noted that the petitioner does not require the four-year degree to be in a specific academic discipline. The submitted job postings did not establish the proposed position as a specialty occupation. According to the director, the Department of Labor’s *Occupational Outlook Handbook* (the *Handbook*) conveys that an instructional coordinator generally must have at least a bachelor’s degree, usually in education; nevertheless, the director concluded that the evidence of record, in the context of the petitioner’s organization, failed to demonstrate that the beneficiary’s duties would be so complex as to require at least a baccalaureate degree in a specific academic field. The director stated that the submitted evidence, such as the documents relating to the high blood pressure study, did not establish the correlation between the beneficiary’s degree in religious education and the petitioner’s activities, which are health-care related programs. The director determined that the evidence of record established none of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A).

On appeal, counsel states that the petitioner has employed two persons as an educational coordinator. One employee holds a bachelor’s degree in food science and a bachelor’s degree in computer science; the other employee holds a bachelor’s degree in bilingual education. Counsel submits job postings to establish companies similarly situated to the petitioner require a bachelor’s degree in a specific field for positions comparable to the one offered here. Counsel submits evidence of the beneficiary’s certificate of graduation in English education to establish her qualifications for the proposed position. Counsel notes that the petitioner has social and healthcare educational programs. Counsel states that the beneficiary will translate programs into the Korean and English languages and will develop healthcare and social service programs with an understanding of their cultural and emotional aspects.

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 criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4) requires the petitioner to establish that the nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty. Based on the evidence of record, and in the context of the petitioner's organization, the AAO finds that the nature of the proposed duties is so specialized and complex that to perform the duties requires knowledge associated with the attainment of a baccalaureate or higher degree in a specific specialty. Thus, the petitioner establishes the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

The AAO will now consider the beneficiary's qualifications to perform the duties of the proposed position.

The director concluded that the beneficiary is not qualified to perform the duties of the educational coordinator. The evidence of record reflects that the beneficiary holds a certificate from Kyung Hee University which indicates that she was awarded a Bachelor of Arts in English Education. The International Credentials Evaluation and Translation Services evaluation contained in the record reflects that the beneficiary's education is equivalent to a U.S. bachelor of arts degree in English. The record also contains the document "Certification of Graduation," which reflects that the beneficiary needed to complete five three-credit courses to obtain a master of religious education degree from Washington Baptist College and Seminary in Annandale, Virginia. Based on this evidence, the AAO finds that the beneficiary qualifies to perform the duties of the proposed position as her baccalaureate degree in English will enable her to develop various healthcare, social services, and English programs and provide translation and interpretation for responsibilities such as collecting data for questionnaires.

As related in the discussion above, the petitioner has established that the proffered position is a specialty occupation.

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.