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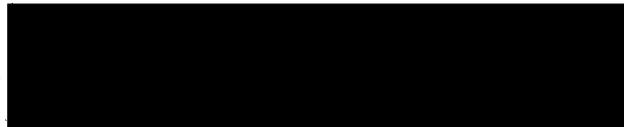
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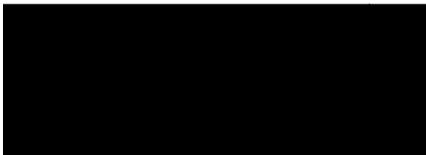
File: WAC 07 193 54166 Office: CALIFORNIA SERVICE CENTER Date: **DEC 21 2007**

IN RE: Petitioner:
Beneficiary:



Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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, California Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner filed this nonimmigrant petition seeking to employ the beneficiary as an L-1B nonimmigrant intracompany transferee with specialized knowledge pursuant to section 101(a)(15)(L) of the *Immigration and Nationality Act* (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a non-profit California corporation, operates a language institute. It claims to be subsidiary of Yonsei University, located in Korea. The petitioner seeks to employ the beneficiary as its academic dean for a period of three years.

The director denied the petition concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that the prospective position in the United States requires an individual with specialized knowledge.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion, and forwarded the appeal to the AAO for review. On appeal, counsel for the petitioner asserts that the director applied an overly-stringent standard in analyzing whether the beneficiary possesses knowledge, and failed to consider factors set forth in a 1994 legacy Immigration and Naturalization Services (INS) memorandum. Counsel asserts that "the beneficiary's knowledge is specialized because of her 'special' understanding of the procedures and processes" of the foreign entity, which is "uncommon in the educational industry." Counsel submits a brief in support of the appeal.

To establish L-1 eligibility, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the *Immigration and Nationality Act* (the Act), 8 U.S.C. § 1101(a)(15)(L). Specifically, within three years preceding the beneficiary's application for admission into the United States, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

The regulation at 8 C.F.R. § 214.2(1)(3) further states that an individual petition filed on Form I-129 shall be accompanied by:

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (1)(1)(ii)(G) of this section.
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.
- (iii) Evidence that the alien has at least one continuous year of full time employment abroad with a qualifying organization within the three years preceding the filing of the petition.

- (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.

This matter presents two related, but distinct, issues: (1) whether the beneficiary possesses specialized knowledge; and, (2) whether the proposed employment is in a capacity that requires specialized knowledge.

Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides the following:

For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

Furthermore, the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(D) defines "specialized knowledge" as:

[S]pecial knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

The nonimmigrant visa petition was filed on June 14, 2007. In a letter dated June 12, 2007, the petitioner described the beneficiary's proposed position as follows:

The duties and responsibilities of the Academic Dean is [sic] to maintain and upgrade academic integrity of [the petitioner] so that its stated mission, purpose and objectives are fulfilled. The specific duties and responsibilities of [the beneficiary] as Academic Dean include:

1. Supervise and oversee the operation of academic departments and certificate programs;
2. Recruit qualified faculty and recommend for employment to the Director;
3. Schedule courses to be offered each term;
4. Make faculty assignments;
5. Coordinate on-going curriculum improvement to achieve the institutional goals of academic excellence;
6. Continually improve instructional methodology;
7. Monitor and implement changes in applicable laws and regulations regarding scholastic regulations and graduation requirement;
8. Prepare annual budget for all the educational programs offered by [the petitioner];
9. Conduct annual evaluation of faculty and staff under her jurisdiction;

10. Coordinate conflict resolution among the faculty, between faculty and administrative staff, and between faculty and student prior to referring the Grievance Coordination Committee;
11. Make recommendation to the Director for promotion, demotion, suspension, or termination.

The petitioner provided evidence that the beneficiary received her bachelor's and master's degrees in Education from the foreign entity. The petitioner indicated that the beneficiary was originally employed as an instructor in the foreign entity's education department from 1988 until 1990, and since 1991, has served as a Korean language instructor at the foreign entity's Institute of Language Research and Education. The petitioner provided a letter from the foreign entity, dated February 26, 2007, verifying the beneficiary's employment since 1991, but did not provide a description of the duties she performs in her role as a language instructor.

The petitioner described the beneficiary's qualifications as follows:

In addition to the knowledge and experience of Korean language education, [the beneficiary] is a person with "specialized knowledge" who has advanced level of expertise in processes and procedures of [the foreign entity]. Due to her involvement with [the foreign entity], and the familiar knowledge of our academic programs, [the beneficiary] is uniquely qualified for the position of Academic Dean of [the petitioner].

The director issued a request for additional evidence on June 27, 2007, requesting that the petitioner provide additional evidence to establish that the beneficiary possesses specialized knowledge. Specifically, the director instructed the petitioner to provide: (1) a copy of the foreign entity's organizational chart and the total number of employees working at the location where the beneficiary is employed; (2) the U.S. company's organizational chart; (3) an explanation regarding any special or advanced duties the beneficiary performed abroad and those she will perform in the United States, with an explanation as to how those duties differ from other workers employed by the petitioner or similar U.S. employers; (4) a detailed explanation regarding the exact equipment, system, product, technique or service of which the beneficiary has specialized knowledge, and an explanation as to whether it is used by other employers; (5) an explanation regarding how the beneficiary's training or experience is uncommon, noteworthy, or distinguished by some unusual quality and not generally known by practitioners in her field; and (7) information regarding the impact upon the petitioner's business if the petitioner is unable to obtain the beneficiary's services.

In a response dated June 28, 2007, counsel for the petitioner referenced a 1994 legacy Immigration and Naturalization Service memorandum from James A. Puleo which provides guidance in the interpretation of specialized knowledge. See Memorandum of [REDACTED] Acting Executive Associate Commissioner, USINS, *Interpretation of Special Knowledge*, CO 214L-P (March 9, 2004)(Puleo memorandum). Counsel asserted that the Puleo memorandum established a lesser standard for specialized knowledge and noted that the petitioner need only establish that the beneficiary has either special knowledge of the company product and its application in international markets, or an advanced level of knowledge of the processes and procedures of the company.

Counsel stated that "the beneficiary, due to her longstanding continuous relationship with [the foreign entity's] language program, fulfills the criteria of special knowledge regarding company services that is different, uncommon and not generally known throughout the industry." Counsel further explained as follows:

The service that [the foreign entity] and [the petitioner] provide is education and the Beneficiary's knowledge of the services provided by her university is at a tremendously high level. Beneficiary has worked as a University language instructor for 16 years. . . . Due to the extended period of time as an instructor at the [foreign entity], specifically, the Institute of Language Research and Education at [the foreign entity], Beneficiary has fine tuned knowledge of the department technicalities, its vision and philosophy, the research conducted within the department and the language techniques utilized within the school. Furthermore, during this period . . . the Beneficiary participated in development of curriculum and tests and also worked as an Assistant to the Head Academic Dean. Only an individual with significant knowledge similar to the Beneficiary could effectively carry the principles, vision and techniques of the [foreign entity] in Korea, and successfully implement them at [the petitioner].

Due to her prolonged exposure in this particular field, the Beneficiary's knowledge is considered unique and uncommon. [The foreign entity] has been a benchmark in the field of Korean language instruction both domestically, and internationally, as annually [the foreign entity] attracts hundreds of students worldwide to visit Korea to obtain a deeper grasp of Korean language and culture. A good number of students who attend these summer sessions are U.S. citizens. Therefore, any instructor with experience working at [the foreign entity's] Language Center is uniquely entitled to experience teaching to individuals from a vast array of cultures, and diverse demographics. Not only is Beneficiary experienced in teaching the Korean Language, she is also sublimely skilled at interacting with a diverse contingent of students. This specialized knowledge is a necessity if one is to serve as dean of an institute rooted in the melting pot of Los Angeles, California. Needless to say, Beneficiary is sufficiently qualified as having special knowledge of the service that her employer provides, and her experience of 16 years at [the foreign entity] is unique and uncommon in the field, and it is those skills that will allow her to excel at [the petitioning company].

Counsel further stated that the beneficiary possesses an advanced level of knowledge of the petitioner's processes and procedures. Counsel explained that the foreign entity is a prestigious university which imparts "much more than just head knowledge." Counsel stated that serving as dean of the U.S. entity "requires knowledge of more than just consonants, grammar, or administration," and that "specialized knowledge in this context demands for the employee not only to know intricacies of the service being offered, but also advanced detailed knowledge of the systematic processes and procedures of petitioning company." With respect to the beneficiary's qualifications, counsel stated:

Beneficiary has detailed knowledge of the procedural aspects of the [petitioning organization's] language programs due to her command over the program's exclusive educational materials. The courses that are taught at [the foreign entity], and influence the

classes taught at [the petitioning company] only utilize textbooks published by [the foreign university] and the Beneficiary has an abundance of experience in employing those texts. [The petitioner's organization] institutes special procedures and processes in teaching language to its students, and it would therefore necessitate placing a dean with substantial experience with the curriculums to serve in a leadership role such as the Beneficiary. Lesser seasoned instructors, or instructors with experience outside of [the foreign entity's] program would be characterized as having general experience and could not fill the position that Beneficiary was appointed to.

Counsel also emphasized that the beneficiary was formerly a student at the foreign entity, having earned both her bachelor's and master's degree there. Counsel stated that "the duality of her relationship with [the foreign university], as both instructor and student gives her special insight into the procedures and processes of the school that other less experienced instructors would lack." Counsel asserted that the beneficiary is "unrivaled by her peers in this respect."

Finally, again citing to the Puleo memorandum, counsel argued that the knowledge that the beneficiary possesses would be difficult to impart to a third party and would "ultimately cause economic inconvenience" to the petitioner and the foreign entity in the event that the beneficiary could not be hired for the position of dean. Counsel stated that the beneficiary is "ideally qualified" and that it would be inefficient and costly to train another individual to fill the position. Counsel noted that it would take "countless hours of training" to impart the knowledge held by the beneficiary, at great cost to both companies, as the beneficiary herself "is one of few individuals who can impart a specific type of unique knowledge to a potential trainee."

The petitioner submitted a copy of the beneficiary's resume, prepared on June 12, 2007, which shows that in addition to her position as instructor, she concurrently served as "Assistant to the Head of Academic Affairs" at the foreign entity's language institute from March 2004 through February 2007. The petitioner also provided a second employment letter from the foreign entity, dated June 13, 2007, indicating that the beneficiary held the position of assistant to the head of academic affairs from March 1, 2004 to February 28, 2007.

The director denied the petition on July 13, 2007, concluding that the petitioner had failed to establish that the beneficiary possesses specialized knowledge or that she would be employed in the United States in a position requiring specialized knowledge. The director acknowledged the beneficiary's extensive period of employment with the foreign entity, but observed that the record lacks evidence to substantiate the petitioner's claims that the beneficiary's current or proposed position involves specialized knowledge or that the beneficiary possesses specialized knowledge. The director noted that the duties of the proffered position are substantially similar to duties performed by individuals employed as academic deans of similar institutions, and found that "the education and skills required to perform those duties are not so unusual as to warrant a conclusion that others in the field of education do not possess them."

The director further found that the petitioner failed to provide a detailed list of the duties performed by the beneficiary for the foreign entity, and therefore did not substantiate its claim that she has been employed in a position involving specialized knowledge. The director determined that "mere experience with the petitioner

even in varied capacities for an extended period does not automatically constitute specialized knowledge." In addition, the director disagreed that the beneficiary's ability to interact with "a diverse contingent of students" constitutes specialized knowledge.

On appeal, counsel for the petitioner asserts that the director's standard of review was not consistent with the standards established in the Puleo memorandum. Counsel contends that the beneficiary's knowledge is specialized because she possesses a "special" understanding of the foreign entity's processes and procedures, which is uncommon in the educational industry. Counsel emphasizes that the U.S. entity's "framework, processes and procedural operations" mimic those of the foreign entity as much as possible. Counsel asserts that "the foreign entity's service product, education, is unique and different than others within the educational industry" and that the beneficiary's understanding of the distribution of the product qualifies her for the position of academic dean.

Counsel further contends that the director applied a prior, more stringent standard of requiring that the beneficiary possess an advanced level of expertise and proprietary knowledge not available in the United States labor market. Counsel notes that such a test of the U.S. labor market is clearly disallowed by the Puleo memorandum, and therefore objects to the director's statements that the duties of the position are similar to duties performed by other academic deans and require skills possessed by others in the field. Counsel asserts that the director relied heavily on these factors, and therefore, the denial was plainly in error.

With respect to the director's determination that the job description for the beneficiary's proposed position was insufficient to establish specialized knowledge, counsel states that "it seems the job description sufficiently depicted a specialized knowledge employee." Counsel asserts that "a coordinating and supervisory role" demands refined knowledge of the petitioner's processes and procedures and "advanced managerial and executive acumen," and thus the skills required would be considered "advanced" as that term is defined in the Puleo memorandum.

Counsel also emphasizes that the knowledge the beneficiary possesses would be "tremendously difficult to impart to a third party," and that locating and training another individual to fill the proffered position would cause economic inconvenience to both the foreign and U.S. entities. Counsel essentially reiterates the arguments made in response to the request for evidence in this regard.

Finally, counsel argues that if the director's high standard applied in this case were applied to all petitions requesting L-1B status, "it would follow that no foreign intra company worker with any degree of knowledge could ever be granted a visa due to specialized knowledge status." Counsel asserts that the petitioner provided a comprehensive list of duties "which require the highest levels of knowledge of company policies, procedures and practices," and are "very similar to those of high-level executives and or managers." Counsel concludes that the denial of the petition will have a "significant negative impact" on the continued operation of the petitioning company.

On review, the petitioner has not demonstrated that the beneficiary possesses specialized knowledge or that the prospective position in the United States requires "specialized knowledge" as defined in section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), and the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(D).

Preliminarily, regarding the petitioner's claim of specialized knowledge, it must be noted that in making a determination as to whether the knowledge possessed by a beneficiary is special or advanced, the AAO relies on the statute and regulations, legislative history and prior precedent. Although counsel suggests that United States Citizenship and Immigration Services (USCIS) is bound to base its decision on the above-referenced Puleo memorandum, the memorandum was issued as guidance to assist USCIS employees in interpreting a term that is not clearly defined in the statute, not as a replacement for the statute or the original intentions of Congress in creating the specialized knowledge classification, or to overturn prior precedent decisions that continue to prove instructive in adjudicating L-1B visa petitions. The AAO will weigh guidance outlined in the policy memorandum accordingly, but not to the exclusion of the statutory and regulatory definitions, legislative history or prior precedents.

In examining the specialized knowledge capacity of the beneficiary, the AAO will look to the petitioner's description of the job duties. *See* 8 C.F.R. § 214.2(l)(3)(ii). The petitioner must submit a detailed description of the services to be performed sufficient to establish specialized knowledge. *Id.* It is also appropriate for the AAO to look beyond the stated job duties and consider the importance of the beneficiary's knowledge of the business's product or service, management operations, or decision-making process. *See Matter of Colley*, 18 I&N Dec. 117, 120 (Comm. 1981) (citing *Matter of Raulin*, 13 I&N Dec. 618 (R.C. 1970) and *Matter of LeBlanc*, 13 I&N Dec. 816 (R.C. 1971)).¹

As stated by the Commissioner in *Matter of Penner*, 18 I&N Dec. 49, 52 (Comm. 1982), when considering whether the beneficiaries possessed specialized knowledge, "the *LeBlanc* and *Raulin* decisions did not find that the occupations inherently qualified the beneficiaries for the classifications sought." Rather, the beneficiaries were considered to have unusual duties, skills, or knowledge beyond that of a skilled worker. *Id.* The Commissioner also provided the following clarification:

A distinction can be made between a person whose skills and knowledge enable him or her to produce a product through physical or skilled labor and the person who is employed primarily for his ability to carry out a key process or function which is important or essential to the business' operation.

¹ Although the cited precedents pre-date the current statutory definition of "specialized knowledge," the AAO finds them instructive. Other than deleting the former requirement that specialized knowledge had to be "proprietary," the 1990 Act did not significantly alter the definition of "specialized knowledge" from the prior INS interpretation of the term. The 1990 Committee Report does not reject, criticize, or even refer to any specific INS regulation or precedent decision interpreting the term. The Committee Report simply states that the Committee was recommending a statutory definition because of "[v]arying [*i.e.*, not specifically incorrect] interpretations by INS," H.R. Rep. No. 101-723(I), at 69, 1990 U.S.C.C.A.N. at 6749. Beyond that, the Committee Report simply restates the tautology that became section 214(c)(2)(B) of the Act. *Id.* The AAO concludes, therefore, the cited cases, as well as *Matter of Penner*, remain useful guidance concerning the intended scope of the "specialized knowledge" L-1B classification.

Id. at 53. The evidence of record demonstrates that the beneficiary is more akin to an employee whose skills and experience enable her to provide a service, rather than an employee who has unusual duties, skills, or knowledge beyond that of a skilled worker.

In *Matter of Penner*, the Commissioner discussed the legislative intent behind the creation of the specialized knowledge category. 18 I&N Dec. 49 (Comm. 1982). Although the definition of "specialized knowledge" in effect at the time of *Matter of Penner* was superseded by the 1990 Act to the extent that the former definition required a showing of "proprietary" knowledge, the reasoning behind *Matter of Penner* remains applicable to the current matter. The decision noted that the 1970 House Report, H.R. No. 91-851, was silent on the subject of specialized knowledge, but that during the course of the sub-committee hearings on the bill, the Chairman specifically questioned witnesses on the level of skill necessary to qualify under the proposed "L" category. In response to the Chairman's questions, various witnesses responded that they understood the legislation would allow "high-level people," "experts," individuals with "unique" skills, and that it would not include "lower categories" of workers or "skilled craft workers." *Matter of Penner, supra* at 50 (citing H.R. Subcomm. No. 1 of the Jud. Comm., *Immigration Act of 1970: Hearings on H.R. 445*, 91st Cong. 210, 218, 223, 240, 248 (November 12, 1969)).

Reviewing the Congressional record, the Commissioner concluded that an expansive reading of the specialized knowledge provision, such that it would include skilled workers and technicians, is not warranted. The Commissioner emphasized that the specialized knowledge worker classification was not intended for "all employees with any level of specialized knowledge." *Matter of Penner*, 18 I&N Dec. at 53. Or, as noted in *Matter of Colley*, "[m]ost employees today are specialists and have been trained and given specialized knowledge. However, in view of the House Report, it can not be concluded that all employees with specialized knowledge or performing highly technical duties are eligible for classification as intracompany transferees." 18 I&N Dec. at 119. According to *Matter of Penner*, "[s]uch a conclusion would permit extremely large numbers of persons to qualify for the 'L-1' visa" rather than the "key personnel" that Congress specifically intended. 18 I&N Dec. at 53; *see also, 1756, Inc.*, 745 F. Supp. at 15 (concluding that Congress did not intend for the specialized knowledge capacity to extend to all employees with specialized knowledge, but rather to "key personnel" and "executives.")

Thus, based on the intent of Congress in its creation of the of the L-1B visa category, as discussed in *Matter of Penner*, even showing that a beneficiary possesses specialized knowledge does not necessarily establish eligibility for the L-1B intracompany transferee classification. The petitioner should also submit evidence to show that the beneficiary is being transferred to the United States as a crucial employee. As determined by the director, and as discussed below, the beneficiary's job description does not distinguish her knowledge as more advanced or distinct among Korean language instructors employed by the foreign or U.S. entities or by other unrelated educational institutions. The statutory definition of specialized knowledge requires the AAO to make comparisons in order to determine what constitutes specialized knowledge. The term "specialized knowledge" is not an absolute concept and cannot be clearly defined. As observed in *1756, Inc. v. Attorney General*, "[s]imply put, specialized knowledge is a relative . . . idea which cannot have a plain meaning." 745 F.Supp. 9, 15 (D.D.C. 1990).

The Congressional record specifically states that the L-1 category was intended for "key personnel." See generally, H.R. Rep. No. 91-851, 1970 U.S.C.C.A.N. 2750. The term "key personnel" denotes a position within the petitioning company that is "of crucial importance." *Webster's II New College Dictionary* 605 (Houghton Mifflin Co. 2001). In general, all employees can reasonably be considered "important" to a petitioner's enterprise. If an employee did not contribute to the overall economic success of an enterprise, there would be no rational economic reason to employ that person. An employee of "crucial importance" or "key personnel" must rise above the level of the petitioner's average employee. Accordingly, based on the definition of "specialized knowledge" and the Congressional record related to that term, the AAO must make comparisons not only between the claimed specialized knowledge employee and the general labor market, but also between that employee and the remainder of the petitioner's workforce.

Although the Immigration Act of 1990 provided a statutory definition of the term "specialized knowledge," Congress did not give any indication that it intended to expand the field of aliens that qualify as possessing specialized knowledge. Although the statute omitted the term "proprietary knowledge" that was contained in the regulations, the statutory definition still calls for "special knowledge" or an "advanced level of knowledge," similar to the original regulation. Neither the 1990 House Report nor the amendments to the statute indicate that Congress intended to expand the visa category beyond the "key personnel" that were originally mentioned in the 1970 House Report. Considered in light of the original 1970 statute and the 1990 amendments, it is clear that Congress intended for the class of nonimmigrant L-1 aliens to be narrowly drawn and carefully regulated, and to this end provided a specific statutory definition of the term "specialized knowledge" through the Immigration Act of 1990.

On appeal, counsel relies on the 1994 Puleo memorandum, asserting that it represents current USCIS policy of specialized knowledge criteria. Counsel also notes that the memorandum specifically disallows a test of the U.S. labor market in making a determination as to whether the beneficiary's knowledge is specialized. However, upon review, the director applied the appropriate standard in this case. The Puleo memorandum allows USCIS to compare the beneficiary's knowledge to the general United States labor market and the petitioner's workforce in order to distinguish between specialized and general knowledge. The Acting Associate Commissioner notes in the memorandum that "officers adjudicating petitions involving specialized knowledge must ensure that the knowledge possessed by the beneficiary is not general knowledge held commonly throughout the industry but that it is truly specialized." Puleo memo, *supra*. A comparison of the beneficiary's knowledge to the knowledge possessed by others in the field is therefore necessary in order to determine the level of the beneficiary's skills and knowledge and to ascertain whether the beneficiary's knowledge is advanced. In other words, absent an outside group to which to compare the beneficiary's knowledge, USCIS would not be able to ensure that the knowledge possessed by the beneficiary is not general knowledge held commonly throughout the industry but that it is truly specialized. *Id.* The analysis for specialized knowledge therefore requires a review of the knowledge possessed by the United States labor market, but does not consider whether workers are available in the United States to perform the beneficiary's job duties.

In this matter, the petitioner has provided only general descriptions of the beneficiary's current position of instructor and proposed role as academic dean that convey little understanding of the type or extent of specialized knowledge that would be required to successfully perform the purported job duties. The job

descriptions and supporting evidence provided do not establish that the beneficiary has acquired specialized knowledge of the organization's product, service, research, equipment, techniques or other interests, that she possesses an advanced knowledge or expertise in the company's processes and procedures, or that she would apply "specialized" or "advanced" knowledge in order to perform the duties of the position offered in the United States. *See* 8 C.F.R. § 214.2(l)(1)(ii)(D).

The director correctly observed that the description of the proffered position included duties that are typical for an academic dean position and failed to convey any understanding as to how the beneficiary's claimed specialized knowledge would be applied in fulfilling her proposed duties. The petitioner neglected to respond to the director's specific request that it explain "how the duties the alien . . . will perform in the United States are different from those of other workers employed by the petitioner or other U.S. employers in this type of position." On appeal, counsel suggests that it could be concluded from reading the description that such a "coordinating and supervisory role" requires "refined knowledge of the petitioner's processes and procedures" and "advanced managerial and executive acumen" that are "highly developed or complex," and that the position description "sufficiently depicted a specialized knowledge employee." The AAO is not persuaded by counsel's argument for several reasons. First, the petitioner cannot expect USCIS to speculate as to the specialized knowledge required for the beneficiary's position, particularly when the petitioner was clearly instructed to explain in detail what the requirements for the position are and how the duties require an employee with specialized knowledge. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

Second, the implication of counsel's argument is that any managerial or supervisory position with any multinational institution would require an employee with "specialized knowledge" in that such employees would normally require an advanced knowledge of their particular institution's policies and procedures. Finally, even if the AAO accepted the petitioner's claim that the position requires "the highest levels of knowledge of company policies, procedures and practices," as discussed further below, the petitioner has not established that the beneficiary in fact possesses "the highest level" of knowledge, or advanced knowledge, relative to other employees in the international organization.

Furthermore, the petitioner's claim fails, in part, on an evidentiary basis, as the record contains no description of the duties performed by the beneficiary during her employment with the foreign entity. The petitioner initially stated that the beneficiary was employed as a Korean language instructor from 1991 until the present time, and submitted a letter from the foreign entity verifying her employment in this position; however, the petitioner offered no position description. When requested to specify any special or advanced duties the beneficiary performed for the foreign entity, the petitioner neglected to provide a description of her duties, and instead emphasized her length of service with the foreign entity as both a student and instructor. Going on 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 Dec. 190 (Reg. Comm. 1972)). Again, failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

In addition, the petitioner stated for the first time in response to the request for evidence that the beneficiary also served as "assistant to the Head of Academic affairs" of the foreign entity for the three years immediately

preceding the filing of the petition, concurrently with her teaching position. The petitioner offered no explanation for the omission of this information at the time of filing, and the AAO will not attribute it to an oversight without some explanation as to why the beneficiary's employment history was revised. Regardless, the petitioner did not provide a description of the duties the beneficiary performed as assistant to the Head of Academic Affairs, so it is unknown whether it was relevant to her claimed specialized knowledge.

The petitioner was also requested to explain how the beneficiary's training or experience was uncommon or noteworthy compared to other employees in the petitioner's group. In response, the petitioner offered no information regarding any specific training or experience, and instead focused on the beneficiary's length of service with the foreign entity, and the fact that she was a student at the foreign university prior to becoming an instructor and thus has had a "multifaceted relationship" with the university. The AAO is not able to differentiate the knowledge held by the beneficiary from that held by any other instructor employed by the foreign entity, and therefore cannot conclude that the beneficiary's knowledge should be considered advanced. The petitioner's claim that the beneficiary's knowledge is "unique and uncommon" due to "prolonged exposure" is unpersuasive, particularly in light of the fact that the petitioner has opted not to explain what duties the beneficiary performed or how they involved the application of specialized knowledge. The fact that the beneficiary attended the university as a student prior to becoming an instructor adds little support to the petitioner's claim that she possesses knowledge that is advanced compared to her peers. There is nothing in the record that would lead to a conclusion that her knowledge is uncommon compared to other similarly employed language instructors in the foreign entity.

With respect to the claimed specialized knowledge, the petitioner claims that the beneficiary's knowledge relates to "department technicalities," the university's "vision and philosophy," "the research conducted within the department," and the university's "language techniques." The petitioner offered no further explanation regarding the foreign entity's departmental technicalities, vision, philosophy, research or language techniques, and therefore it has failed to sufficiently describe the claimed specialized knowledge. Specifics are clearly an important indication of whether a beneficiary's duties involve specialized knowledge, otherwise meeting the definitions would simply be a matter of reiterating the regulations. *See Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990). Again, the petitioner was explicitly requested to "explain, in more detail, exactly what is the equipment, system, product, technique, or service of which the beneficiary has specialized knowledge, and indicate whether it is used or produced by other employers in the United States and abroad." The petitioner responded by emphasizing that the foreign entity is "rich with tradition, prestige and distinction" and is a "pillar of excellence."

As noted in the Puleo memorandum, the mere fact that a petitioner alleges that an alien's knowledge is somehow different does not establish that the alien possesses specialized knowledge. The petitioner bears the burden of establishing through the submission of probative evidence that the alien's knowledge is uncommon, noteworthy, or distinguished by some unusual quality and not generally known by practitioners in the alien's field of endeavor. The petitioner cannot simply rely on its claims that the foreign entity is prestigious and well-respected in lieu of providing the evidence needed to meet its burden of proof. The petitioner's failure to attempt to distinguish its methods and techniques from those offered by other institutions providing similar educational services undermines its claim that the knowledge possessed by the beneficiary and required for the U.S. position is truly specialized. Going on 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 Dec. 190 (Reg. Comm. 1972)).

The petitioner also distinguished the beneficiary by noting that she "participated in the development of curriculum and tests," and the beneficiary's resume confirms that she served as a "Test Development Committee Member" in June 2006. However, the petitioner provided no information to elaborate the beneficiary's role within the committee or the composition of the committee, and the AAO cannot determine that this assignment was special or advanced compared to her peers among the foreign entity's faculty. Similarly, the beneficiary's "abundance of experience" with the "exclusive educational materials" developed by the foreign entity has not been shown to equate to specialized knowledge, as all language instructors employed by the foreign entity also utilize the same materials. Although the petitioner stated that "lesser seasoned instructors" would not have the necessary experience with the petitioner's "special procedures and processes" in language instruction, the petitioner offers no explanation as to the amount or type of experience required to reach the beneficiary's claimed level of expertise. Again, going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Id.*

Furthermore, as noted by the director, the fact that the beneficiary is "experienced in teaching the Korean language" and "sublimely skilled at interacting with a diverse contingent of students," are factors that do not relate particularly to the petitioner or the foreign entity. While such skills undoubtedly make the beneficiary a valuable employee, the ability of a Korean university instructor to teach the Korean language and interact with students from other countries does not rise to the level of specialized knowledge of the petitioner's services, techniques or other interests. According to the petitioner, "any instructor" working for the foreign entity gains experience with a diverse student body, and this would be true of instructors at many major universities worldwide. The petitioner's blanket claim that the beneficiary is the only employee of the foreign entity who could possibly function as academic dean for the petitioner is not corroborated by any evidence. Based on the petitioner's statements and the minimal evidence presented, it is impossible to classify the beneficiary's knowledge of the petitioner's processes and procedures as advanced. The AAO cannot conclude that the beneficiary's current role is "of crucial importance" to the organization or that she qualifies as "key personnel" within the petitioner's family of companies based on her training and previous assignments. *See Matter of Penner*, 18 I&N Dec. at 53.

Although knowledge need not be narrowly held within an organization in order to be considered specialized knowledge, the L-1B visa category was not created in order to allow the transfer of all employees with any degree of knowledge of a company's processes. The beneficiary is one of many language instructors employed by the foreign entity and the petitioner has not distinguished her knowledge from similarly employed workers within the company, other than emphasizing her length of service. If all employees are deemed to possess "special" or "advanced" knowledge, then that knowledge would necessarily be ordinary and commonplace. Based on counsel's arguments, anyone who has served for many years as a language instructor for the foreign entity would possess "special knowledge" or an "advanced level of knowledge." Counsel's expansive interpretation of the specialized knowledge provision is untenable, as it would allow virtually any skilled or experienced employee to enter the United States as a specialized knowledge worker.

Finally, the AAO will address counsel's claim that the beneficiary qualifies for classification as a specialized knowledge employee pursuant to characteristics outlined in the 1994 Puleo memo, specifically, that she possesses knowledge that is valuable to the employer's competitiveness in the marketplace and possesses knowledge of a product or process which cannot be easily transferred or taught to another individual. While these factors may be considered, the regulations specifically require that the beneficiary possess an "advanced level of knowledge" of the organization's processes and procedures, or a "special knowledge" of the petitioner's product, service, research, equipment, techniques, or management. 8 C.F.R. § 214.2(l)(1)(ii)(D). As discussed above, the petitioner has not established that the beneficiary's knowledge rises to the level of specialized knowledge contemplated by the regulations.

Based on the above discussion, the petitioner has failed to demonstrate that the beneficiary's training, work experience, or knowledge of the company's methodologies and techniques is more advanced than the knowledge possessed by others employed by the petitioner, or that knowledge of these methodologies and techniques alone constitutes specialized knowledge. The AAO does not dispute the fact that the beneficiary's knowledge has allowed her to successfully perform her job duties for the foreign entity. However, the successful completion of one's job duties does not distinguish the beneficiary as "key personnel," nor does it establish employment in a specialized knowledge capacity. As discussed, the petitioner has not submitted probative evidence to establish that the beneficiary's knowledge is uncommon, noteworthy, or distinguished by some unusual quality and not generally known in the beneficiary's field of endeavor, or that her knowledge is advanced compared to the knowledge held by other similarly employed workers within the petitioner and the foreign entity.

The legislative history for the term "specialized knowledge" provides ample support for a restrictive interpretation of the term. In the present matter, the petitioner has not demonstrated that the beneficiary should be considered a member of the "narrowly drawn" class of individuals possessing specialized knowledge. See *1756, Inc. v. Attorney General, supra* at 16. The record does not establish that the beneficiary has specialized knowledge or that the position offered with the United States entity requires specialized knowledge.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.