



U.S. Citizenship
and Immigration
Services

(b)(6)

[REDACTED]

DATE: FEB 12 2014 OFFICE: NEBRASKA SERVICE CENTER [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center (director) denied the employment-based immigrant visa petition and the petitioner has appealed that decision to the Administrative Appeals Office (AAO). The appeal will be sustained and the petition will be approved.

The petitioner is a dental clinic. It seeks to employ the beneficiary permanently in the United States as a dentist (materials/reconstructive) pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). As required by statute, the petition is accompanied by an ETA Form 9089, Application for Permanent Employment Certification, approved by the U.S. Department of Labor (DOL). The director determined that the petitioner had not established that the beneficiary was qualified for the offered position.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

Section 203(b)(2) of the Act provides for the granting of preference classification to qualified immigrants who, at the time of petitioning for classification under this paragraph, are members of the professions holding advanced degrees or aliens of exceptional ability.

To be eligible for approval, a beneficiary must have all the education, training, and experience specified on the labor certification as of the petition's priority date. *See Matter of Wing's Tea House*, 16 I&N 158 (Act. Reg. Comm. 1977). The priority date of the petition is February 27, 2012, the date on which the labor certification was accepted for processing by DOL. *See* 8 C.F.R. § 204.5(d). The Form I-140, Immigrant Petition for Alien Worker, was filed on October 23, 2012.

Upon review of the entire record, including the additional evidence submitted by the petitioner on appeal, the AAO concludes that the beneficiary had the educational credentials required by the ETA Form 9089 as of the February 27, 2012 priority date. The record also establishes that the beneficiary possessed the required license to practice dentistry as of the priority date. Accordingly, the appeal will be sustained.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the petitioner has met that burden.

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