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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

DATE: FEB 25 2014

OFFICE: NEBRASKA SERVICE CENTER FILE: [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)

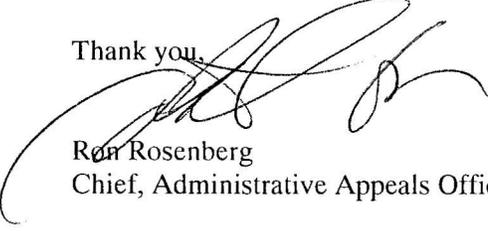
ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

  
Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The preference visa petition was denied by the Director, Nebraska Service Center, and subsequently dismissed by the Administrative Appeals Office (AAO) on appeal. The petitioner filed a motion to reopen and a motion to reconsider. The AAO's previous decision will be withdrawn. The appeal will be sustained. The petition will be approved.

The petitioner is a computer and software development firm. It seeks to employ the beneficiary permanently in the United States as a business systems analyst. As required by statute, an ETA Form 9089, Application for Permanent Employment Certification approved by the Department of Labor (DOL), accompanied the petition. The director determined that the petitioner had not established that the beneficiary possessed the educational credentials required by the terms of the labor certification and denied the petition, accordingly. The director also dismissed the petitioner's motion to reopen and reconsider. The AAO subsequently dismissed the appeal.

The petitioner, through counsel has filed a motion to reopen and a motion to reconsider. Counsel contends that the beneficiary's credentials satisfied the terms of the ETA Form 9089 and that the petition should be approved.

The AAO conducts appellate review on a *de novo* basis. The AAO's *de novo* authority is well recognized by the federal courts. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

The petitioner seeks visa classification of the beneficiary as a second preference advanced degree professional. The petitioner maintains that the beneficiary has an advanced degree which satisfies the terms of the ETA Form 9089 in the position offered as a business systems analyst.

Following a review and reconsideration of the record, the AAO concludes that the beneficiary has the educational credentials required by the terms of the labor certification as he may be deemed to possess a Master's degree in a related major field of study as set forth on the ETA Form 9089.

Based on the foregoing, the previous decision will be withdrawn, the appeal will be sustained and the petition will be approved as a member of the professions holding an advanced degree pursuant to Section 203(b) of the Act.

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 been met.

**ORDER:** The June 26, 2013 decision of the AAO will be withdrawn. The appeal is sustained and the petition is approved.