

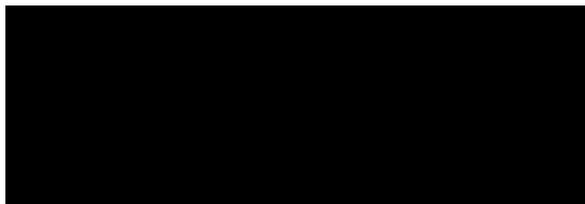
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U.S. Citizenship  
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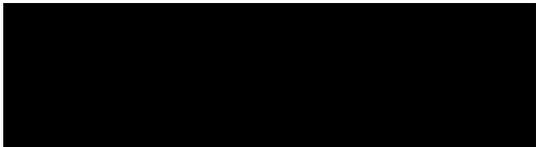
FILE: WAC 03 006 52424 Office: CALIFORNIA SERVICE CENTER Date: JUL 25 2005

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, Director  
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 therapy service provider and seeks to employ the beneficiary as a public relations specialist. 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 a public relations specialist. 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:

- Gather information and write basic materials such as news releases, routine statements, and brief articles for internal and external audiences;
- Research, develop and maintain a mailing list by identifying and targeting appropriate mailing audiences;
- Compile and maintain files of clippings, records of media placements, and pertinent institution resources information such as photographs, institution statistics and reports for distribution to interested parties;
- Respond to inquiries from the public or the media on issues that are not complex or sensitive;
- Make follow up contacts with the media to encourage coverage for programs and activities, and accommodate the media on site;
- Prepare, assemble and distribute media packets;
- Increase the organization's visibility, expanding public awareness of services, and broaden community support;
- Maintain client files and supply client information, schedule appointments and produce correspondence on clients;
- Coordinate materials for print and schedule promotions and projects;

- Provide clients with engaging healthcare information, resources, support and educational tools;
- Develop, manage and implement public relations programs and strategies that enhance and complement marketing programs;
- Make promotions for institutions at various geographical and national conventions; and
- Provide conflict resolution with existing home health contracts.

The petitioner does not state that it requires a degree in a specific specialty for entry into the proffered position, but deems the petitioner qualified for the position by virtue of her foreign education. The petitioner's degree is equivalent to a bachelor's degree in psychology and business management from an accredited institution of higher learning in the United States.

Upon review of the record, the petitioner has failed to establish that a baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the offered position, or that a degree requirement is common to the industry in parallel positions among similar organizations, as asserted by counsel. Factors often considered by CIS when determining these criteria include: whether the Department of Labor's *Occupational Outlook Handbook (Handbook)* reports that the industry requires a degree; whether an industry professional association has made a degree a minimum entry requirement; and whether letters or affidavits from firms or individuals in the industry attest that such firms "routinely employ and recruit only degreed individuals." See *Shanti, Inc. v. Reno*, 36 F. Supp. 2d 1151, 1165 (D. Minn. 1999) (quoting *Hird/Blaker Corp. v. Sava*, 712 F. Supp. 1095, 1102 (S.D.N.Y. 1989)).

The AAO routinely consults the *Handbook* for information about the duties and educational requirements of particular occupations. The duties of the proffered position are varied but generally fall within those noted for advertising, marketing, promotions, public relations and sales managers. These managers coordinate market research, marketing strategy, sales, advertising, promotion, pricing, product development, and public relations activities. The *Handbook* notes that a wide range of educational backgrounds is suitable for entry into the aforementioned positions, but that many employers prefer related experience plus a broad liberal arts background. Bachelor's degrees in sociology, psychology, literature, journalism, philosophy, or other subjects are suitable. Requirements will vary, however, depending on the duties of a particular position. For example, marketing, sales, and promotion management positions may require a bachelor's or master's degree in business administration with an emphasis in marketing. In highly technical industries such as computer and electronics manufacturing a degree in engineering or science combined with a business degree may be preferred. In public relations management positions some employers prefer a bachelor's or master's degree in public relations or journalism. The *Handbook* further notes that most advertising, marketing, promotions, public relations, and sales management positions are filled by promoting experienced staff or related professional or technical personnel. Many managers are former sales representatives, purchasing agents, or promotions specialists. A baccalaureate or higher degree in a specific specialty, or its equivalent, is not, therefore, the minimum requirement for entry into the position. A degree in a wide range of disciplines will suffice. The petitioner has, accordingly, 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. In support of this assertion the petitioner submitted copies of two job advertisements. Neither advertisement, however, states that a degree in a specific specialty is required for entry into the position. Both indicate that a degree is required, but do not state that the degree need be in any particular educational discipline. This is consistent with the findings in the *Handbook* which state that degrees in a wide range of educational disciplines will qualify individuals to work as a public relations manager. The petitioner also submitted documentation from various government/educational institutions to establish a degree requirement. Those documents also indicate that degrees in numerous fields will equip individuals to work in the field of public relations. The petitioner has not established the referenced criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

The petitioner does not assert that it normally requires a degree in a specific specialty for entry into the proffered position, and offers no evidence in this regard. 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 advertising, marketing, promotions, and public relations managers. 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. A degree in a wide range of educational disciplines will qualify an individual to perform the duties of those positions. The petitioner has failed to establish the referenced criteria at 8 C.F.R. §§ 214.2(h)(4)(iii)(A)(2) or (4).

The petitioner provided a copy of the *Dictionary of Occupational Titles (DOT)* description of a public relations representative and highlights the applicable SVP rating for the position. The SVP rating for that position does not establish that the position qualifies as a specialty occupation. The *DOT's* SVP rating does not establish that a particular occupation requires the attainment of a baccalaureate or higher degree, or its equivalent, in a specific specialty as a minimum for entry into the occupation. An SVP rating is meant to indicate only the total number of years of vocational preparation required for a particular position. It does not describe how those years are to be divided among training, formal education, and experience, nor specify the particular type of degree, if any, that a position would require.

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.