

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

D2



FILE: WAC 03 008 54768 Office: CALIFORNIA SERVICE CENTER Date: MAY 16 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.

For Michael T. Kelly
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 sustained.

The petitioner is a manufacturer of sculptures, wall art, and furniture that seeks to employ the beneficiary as a part-time public relations specialist. The petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to § 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 is not a specialty occupation. On appeal, counsel submits a brief and additional evidence.

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 record of proceeding before the AAO contains: (1) 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) Form I-290B and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as a part-time public relations specialist. Evidence of the beneficiary's duties includes: the I-129 petition; the petitioner's October 4, 2002 letter in support of the

petition; and the petitioner's response to the director's request for evidence. According to this evidence, the beneficiary would perform duties that entail: preparing press releases and contacting people in the media who might print or broadcast the petitioner's exhibitions and products; promoting the petitioner's products and creating good will for the petitioner's customers by writing and selecting favorable publicity material and releasing it through various communications media; coordinating with organizers of trade shows, conferences, and events in regards to the petitioner's exhibitions and schedules of shows; preparing and arranging displays; making speeches; writing, researching, and preparing materials; and making film, slide, or other visual presentations at exhibitions. The petitioner indicated that a qualified candidate for the job would possess a Bachelor of Arts degree with a major in communications or public relations.

The director found that the proffered position was not a specialty occupation because the proposed duties are not so complex as to require a baccalaureate degree. Citing to the Department of Labor's *Occupational Outlook Handbook (Handbook)*, 2002-2003 edition, the director noted that the minimum requirement for entry into the position was not a baccalaureate degree or its equivalent in a specific specialty. The director found further that the petitioner failed to establish any of the criteria found at 8 C.F.R. § 214.2(h)(4)(iii)(A).

On appeal, counsel states, in part, that the petitioner is a successful business with over 60 employees and a gross annual income of over \$3.1 million in 2001. Counsel states further that the proposed duties, which include promoting the petitioner's products among interior designers, art galleries, trade show organizers, media, and consumers through press releases and advertisements placed in communication media, are so complex as to require a related baccalaureate degree.

The AAO routinely consults the *Handbook* for its information about the duties and educational requirements of particular occupations. A review of the Public Relations Specialists job description in the *Handbook*, 2004-2005 edition, finds that although there are no defined standards for entry into a public relations career, many entry-level public relations specialists have a college major in public relations, journalism, advertising, or communication.

It is noted that not all public relations specialist positions may be considered specialty occupations. Each position must be evaluated based upon the nature and complexity of the actual duties. In this instance, the duties are of such complexity as to require a baccalaureate degree in a specialized and related area. The beneficiary holds a bachelor's degree in mass communications-broadcast conferred by a Filipino institution. An evaluator from a company that specializes in evaluating academic credentials concluded that the beneficiary possesses the equivalent of a bachelor's degree in mass communication with a specialization in broadcasting from an accredited U.S. college or university. In view of the foregoing, it is concluded that the petitioner has demonstrated that the proffered position is a specialty occupation within the meaning of regulations.

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 director's order is withdrawn and the petition is approved.