



U.S. Citizenship
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Services

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FEB 06 2007

FILE: WAC 05 223 51045 Office: CALIFORNIA SERVICE CENTER Date:

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:

SELF - REPRESENTED

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 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 petition will be approved.

The petitioner is a law firm that 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, and that the beneficiary is not qualified to perform the duties of a specialty occupation. On appeal, the petitioner submits a brief and additional information stating that the offered position qualifies as a specialty occupation, and that the beneficiary is qualified to perform the duties of a specialty occupation.

The first 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 includes the Form I-129 petition with attachment and the petitioner’s response to the director’s request for evidence. According to this evidence the beneficiary would:

- Direct, coordinate and execute all public relations strategies in the promotion of the services offered by the petitioner;
- Build and manage relations with the Chinese and Japanese communities and walk in clients by responding to their questions about the petitioner’s services;
- Create and implement public relations strategies effectively and within budget;
- Analyze problems and opportunities and make appropriate recommendations;
- Organize special events such as press functions and awards; and
- Author press releases and calendar listings, and arrange for interviews, feature stories and/or reviews in all manner of media, including newspapers, magazines, radio, and television in order to create lasting positive impressions of the law firm.

The petitioner requires a minimum of a bachelor’s degree in public relations, English, journalism, communications or a related field for entry into the proffered position.

The AAO routinely consults the Department of Labor’s *Occupational Outlook Handbook (Handbook)* for information about the duties and educational requirements of particular occupations. The duties of the

proffered position fall within those noted for public relations specialists. These individuals serve as advocates for businesses, nonprofit associations, universities, hospitals, and other organizations, and build and maintain positive relationships with the public. They handle organizational functions such as media, community, consumer, industry, and governmental relations; political campaigns; interest-group representation; conflict mediation; and employee and investor relations. Public relations specialists must understand the attitudes and concerns of community, consumer, employee, and public interest groups and establish and maintain cooperative relationships with them and with representatives from print and broadcast journalism. The *Handbook* notes that there is no defined standard for entry into a public relations career. A college degree combined with public relations experience is considered excellent preparation for public relations work. The ability to communicate effectively is essential. Many entry-level applicants have a college major in public relations, journalism, advertising, or communications. Some firms seek college graduates who have worked in electronic or print journalism. Others seek applicants with demonstrated communication skills and training or experience in a field related to the firm's business. 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 failed to establish the first criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A).

The duties of this particular position, however, are more specialized, complex and unique than those of a typical public relations specialist. The record reflects that the petitioner markets its services to, among others, a Chinese market in California, and is actively engaged in negotiations to open an office in China. The beneficiary's duties include public relations efforts in attempting to establish a China office for the firm, and in marketing the petitioner's services to the Chinese market. In doing so, the petitioner writes and creates advertisements, press releases, and other promotional materials in English and Chinese. She is required to conduct events for the firm's Chinese market in forums requiring a knowledge of not only the Chinese language, but Chinese culture as well. These skills are also required of the beneficiary in the petitioner's ongoing attempt to establish a presence in China and in establishing relationships with Chinese law firms and legal organizations. The duties of the proffered position require a knowledge of Chinese culture, governmental and business organizations. Under these circumstances, the petitioner has established that the offered position is so complex or unique that it can only be performed by a individual with a degree, and that the duties of the position are so specialized and complex that they can only be performed by an individual with a baccalaureate or higher degree. The petitioner has established the referenced criteria at 8 C.F.R. §§ 214.2(h)(4)(iii)(A)(2) and (4).

The final issue to be considered is whether the beneficiary is qualified to perform the duties of the proffered position. The beneficiary's foreign education has been determined by a credentials evaluation service to be equivalent to a bachelor's degree in English language and literature from an accredited college or university in the United States. As previously noted, many entry-level public relations specialists have degrees in public relations, journalism, advertising or communications. Other employers seek applicants with demonstrated communications skills. The Universal Accreditation Board accredits public relations specialists who meet certain requirements, including the requirement that an individual seeking accreditation have a bachelor's degree in a communications related field. The International Association of Business Communicators also has an accreditation program for professionals in the communications field, including public relations. One of the requirements for accreditation by this organization is that the person seeking accreditation have a bachelor's degree in a communications field. English is closely related to the field of communications. The California

Occupational Guides (COG), in discussing public relations occupations, note that a college degree combined with public relations experience is considered excellent training for public relations work. Preferred majors are public relations, English, or journalism. The record also reflects that the beneficiary has over three years experience in the public relations field. Under these circumstances, the beneficiary is qualified to perform the duties of the proffered position.

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 and the appeal shall accordingly be sustained.

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