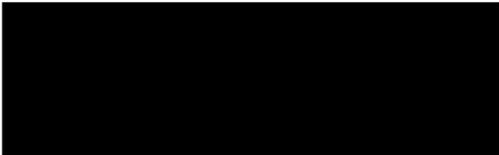


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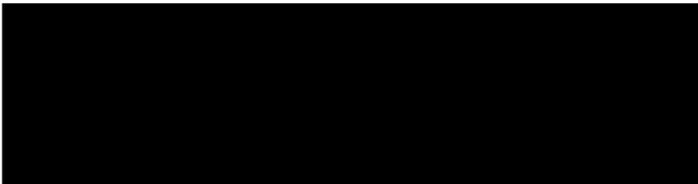
FILE: SRC 06 082 50922 Office: TEXAS SERVICE CENTER Date:

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:



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, 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 dismissed. The petition will be denied.

The petitioner is a wholesaler of hair products and seeks to employ the beneficiary as a public relations manager. 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 manager. 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:

- Direct publicity programs to targeted audiences, especially business clients;
- Use available communication mediums to promote the petitioner's image and products;
- Evaluate advertising and promotion programs for compatibility with public relations efforts and serve as the eyes and ears of management;
- Observe social, economic, and political trends that might ultimately affect the company, and make recommendations to enhance the company's image on the basis of those trends;
- Confer with labor relations managers to produce internal company communications, such as newsletters about employee-management relations, and with financial managers to produce company reports;
- Assist company executives in drafting speeches, arranging interviews, and maintaining other forms of public contact;
- Oversee company archives; and
- Respond to requests for information.

The petitioner requires a bachelor's degree in a related field for entry into the proffered position, but does not state that the degree need be in any particular discipline.

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, and in support of that assertion submits copies of six job advertisements. The advertisements, however, are of little evidentiary value as they are not from organizations similar in nature to the petitioner. Further, the advertisements do not indicate that a degree in a specific specialty is required for entry into the advertised positions. One advertisement requires a degree, but does not indicate that the degree need be in any specific educational discipline. Two require degrees, but again, do not require a degree in a specific discipline, indicating only that degrees in journalism, English, or a communication field are preferred. The remaining advertised positions require degrees in communications, public relations, marketing, business, or journalism. The advertisements do not establish that a degree in a specific specialty is common to the industry in parallel positions among similar organizations and 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. Accordingly, 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. The petitioner refers to education and training codes assigned to public relations managers by the Department of Labor to establish that the duties of the position are so specialized, complex or unique that a college degree is required to normally perform them. Those codes, however, indicate only that the position normally requires a bachelor's degree. They do not indicate or otherwise state that the degree need be in any specific educational discipline. As noted in the *Handbook*, positions requiring a degree accept

degrees in a wide range of educational disciplines. Also, the record of proceeding contains no evidence that demonstrates that, in contrast to the usual range of public relations positions discussed in the *Handbook*, the position proffered here includes specific duties with such complexity and specialization as to require knowledge usually associated with at least a bachelor's degree in a specific specialty. The record does not establish that the duties to be performed by the beneficiary require a course of study in a specific educational discipline. 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 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.