



U.S. Citizenship
and Immigration
Services

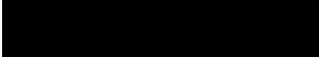
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Date: JUN 18 2012 Office: CALIFORNIA SERVICE CENTER

FILE: 

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:

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,

Perry Rhew
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 an elementary and secondary school with 34 employees. It seeks to employ the beneficiary as a program director and to classify him 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). Finding the proffered position to be that of a preschool administrator, the director denied the petition on the grounds that the petitioner failed to establish that this position qualifies for classification as a specialty occupation.

The record of proceeding before the AAO contains the following: (1) the Form I-129 and supporting documentation; (2) the director's request for additional evidence (RFE); (3) the petitioner's response to the director's RFE; (4) the director's letter denying the petition; and (5) the Form I-290B and supporting documentation. The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Upon review of the entire record, we find that the petitioner has overcome the director's sole ground for denying this petition.

Contrary to the findings of the director, a review of the duties of the proffered position demonstrates that it is most akin to an elementary and middle school principal as listed under the occupational category of Elementary, Middle, and High School Principals set forth in the 2012-2013 edition of the Department of Labor's (DOL's) *Occupational Outlook Handbook*. Further, the evidence of record sufficiently demonstrates that this particular position proffered by the petitioner requires the theoretical and practical application of a body of highly specialized knowledge commensurate with at least a bachelor's degree in the specific discipline of education administration, or its equivalent, for entry into the occupation in the United States. The petitioner has therefore established that the position proffered here qualifies for classification as a specialty occupation. In addition, we have reviewed the qualifications of the beneficiary and find him qualified to perform the duties of the proffered position.

The burden of proof in visa petition 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 October 22, 2010 decision is withdrawn, and the petition is approved.