U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 10106671

Date: JULY 1, 2020

Appeal of California Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (H-1B)

The Petitioner seeks to employ the Beneficiary temporarily as a "senior systems analyst, IT application" under the H-1B nonimmigrant classification for specialty occupations.[1] The H-1B program allows a U.S. employer to temporarily employ a qualified foreign worker in a position that requires both: (a) the theoretical and practical application of a body of highly specialized knowledge; and (b) the attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum prerequisite for entry into the position.

The California Service Center Director denied the Form I-129, Petition for a Nonimmigrant Worker, concluding that the record did not establish that that the Beneficiary was qualified to perform services in a specialty occupation. The matter is now before us on appeal. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence.[2] We review the questions in this matter *de novo*.[3] Upon *de novo* review, we will sustain the appeal.

Based upon our review of all of the evidence within the record, we conclude that the Petitioner has demonstrated that the Beneficiary is qualified to occupy the position. We note that to qualify under the degree equivalency regulation at 8 C.F.R. § 214.2(h)(4)(iii)(C)(*4*), petitioners not only must demonstrate the equivalence to completion of a United States baccalaureate or higher degree in the specialty occupation, but also that the alien has "recognition of expertise in the specialty through progressively responsible positions directly related to the specialty." However, a petitioner is not then subject to the "recognition of expertise" provisions found under 8 C.F.R. § 214.2(h)(4)(iii)(D)(*5*), as those provisions are reserved for '[a] determination by the Service . . . ." Here, the Petitioner has satisfied the requirements in accordance with section 214(i)(2) of the Act and 8 C.F.R. § 214.2(h)(4)(iii)(C).

ORDER: The appeal is sustained.

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[1] *See* Immigration and Nationality Act (the Act) section 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b).
[2] Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).
[3] *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).