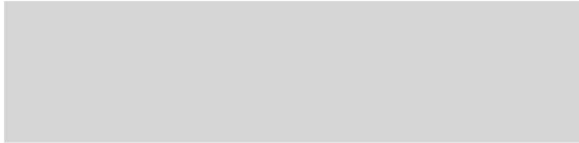


U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: JUL 10 2015

FILE #: [REDACTED]
RECEIPT #: [REDACTED]

IN RE: Petitioner: [REDACTED]
 Beneficiary: [REDACTED]


PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The approval of the employment-based visa petition was revoked by the Director, Nebraska Service Center, (director). The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The petitioner describes itself as a consulting business. It seeks to employ the beneficiary permanently in the United States as a software developer. The petitioner requests classification of the beneficiary as an advanced degree professional pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2).

As required by statute, the petition is accompanied by an ETA Form 9089, Application for Permanent Employment Certification, approved by the United States Department of Labor (DOL). The director determined that the petitioner failed to demonstrate that the beneficiary satisfied the minimum level of education stated on the labor certification. The director revoked the approval of the petition on November 7, 2013.

We conduct appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

Section 203(b)(2) of the Act provides immigrant classification to members of the professions holding advanced degrees, whose services are sought by an employer in the United States.

To be eligible for approval, a beneficiary must have all the education, training, and experience specified on the labor certification as of the petition's priority date. See *Matter of Wing's Tea House*, 16 I&N 158 (Act. Reg. Comm. 1977). The priority date of the petition is May 29, 2012, which is the date the labor certification was accepted for processing by the DOL. See 8 C.F.R. § 204.5(d). The Immigrant Petition for Alien Worker (Form I-140) was filed on February 22, 2013.

Upon review of the entire record, including evidence submitted on appeal and in response to our Request for Evidence, we conclude that the petitioner has established that it is more likely than not that the beneficiary had all the education, training, and experience specified on the ETA Form 9089 as of the priority date. Accordingly, the petition is approved under section 203(b)(2) of the Act, 8 U.S.C. § 1153(b)(2).

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 met that burden.

ORDER: The appeal is sustained, and the petition is approved.