U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF D-&T-

DATE: JULY 25, 2017

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, an accounting, auditing, tax, and consulting company, seeks to employ the Beneficiary as an ERS senior consultant. It requests classification of the Beneficiary as a professional under the third preference immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(3)(A)(ii), 8 U.S.C. § 1153(B)(3)(A)(ii). This employment-based immigrant classification allows a U.S. employer to sponsor a professional with a baccalaureate degree for lawful permanent resident status.

The Director of the Texas Service Center denied the petition on the ground that the Beneficiary did not have a baccalaureate degree in one of the acceptable fields of study identified on the labor certification.

On appeal the Petitioner submits a brief and supporting documentation. The Petitioner asserts that the Director misinterpreted the terms of the labor certification with respect to the educational requirement for the job offered. The Petitioner contends that the Beneficiary meets the minimum educational requirement of the labor certification and should be approved for classification as a professional.

Upon *de novo* review, we will sustain the appeal.

To be eligible for a requested classification and qualified for the job offered the beneficiary must meet all of the educational, experience, and other requirements of the offered position as stated on the labor certification by the priority date. *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 159 (Act. Reg'l Comm'r 1977).

The Petitioner's Form I-140, Immigrant Petition for Alien Worker, was accompanied by a certified ETA Form 9089, Application for Permanent Employment Certification (labor certification), with a priority date of April 11, 2016. Section H of the labor certification states the following with respect to the education required to qualify for the job of ERS senior consultant:

4.	Education: Minimum level required:	Bachelor's degree
4-B.	Major Field of Study:	Accounting
7.	Is an alternate field of study acceptable?	Yes

7-A.	What field(s)?	Finance, Business Administration, Engineering, Management Information Systems, Computer Science
9.	Is a foreign educational equivalent acceptable?	Yes

At H.14 of the labor certification – "Specific skills or other requirements" – the educational requirements for the job are summarized as follows:

> Bachelor's (or higher) degree in Accounting, Finance, Business, Administration, Engineering, Management Information Systems, Computer Science or related field (willing to accept foreign education equivalent).

Section J of the labor certification states that the Beneficiary's highest level of education with respect to the job opportunity at issue was a master's degree in business administration (MBA) from in 2011.

The documentation of record shows that the Beneficiary was awarded the following educational degrees:

- A four-year Bachelor of Science, with a major in applied psychology, from the College of Philosophy and Sociology in China, in 2007; and
- An MBA from in 2011.

In his decision denying the petition the Director found that the labor certification required a bachelor's degree in one of the fields of study identified at H.4-B or H.7-A, that the Beneficiary's bachelor's degree was not in one of the identified fields of study, and that the Beneficiary's MBA did not meet the terms of the labor certification because, although it was in an acceptable field of study, it was not a bachelor's-level degree.

We disagree with the Director's analysis. The labor certification does not specify that a degree in one of the acceptable fields of study – be it accounting, business administration, engineering, management information systems, computer science, or a related field – can only be at the baccalaureate level to qualify the Beneficiary for the job offered. Box H.4 of the labor certification directs the employer to identify the "*minimum level* [of education] required" (emphasis added), which does not mean that the educational requirement can only be met by the lowest possible degree. Moreover, box H.14 of the labor certification expressly states that a "[b]achelor's *(or higher)* degree" (emphasis added) in one of the acceptable fields of study is required. Thus, the labor certification does not exclude a higher degree from satisfying the minimum educational requirement.

The Beneficiary has a master's degree in business administration from This degree meets the terms of the labor certification because it satisfies the minimum educational requirement of a bachelor's degree in one of the specified fields of study. We find, therefore, that the Beneficiary meets the educational requirement of the labor certification.

The Petitioner has established that the Beneficiary possesses all of the requirements for the job offered under the terms of the labor certification and is eligible for classification as a professional. Accordingly, we will withdraw the Director's decision and sustain the appeal.

ORDER: The appeal is sustained.

Cite as *Matter of D-&T-* ID# 576077 (AAO July 25, 2017)