U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37488153

Date: JUNE 4, 2025

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (Professional)

The Petitioner, a publicly-funded charter school, asks us to reconsider our appellate decision finding the Beneficiary unqualified for the offered job of elementary school teacher because she lacks a bachelor's degree in elementary education. *See In Re: 32252257* (AAO Dec. 23, 2024). The Petitioner contends that the job's alternate requirements allow a bachelor's degree in any field of study and that, because the educational requirements listed on the accompanying certification from the U.S. Department of Labor (DOL) are ambiguous, we should have considered evidence of the school's intent to accept a degree in any field.

Upon review, we conclude that the labor certification unambiguously lists "Elementary Education" as the required degree's exclusive field. We will therefore dismiss the motion.

A. The Job's Alternate Requirements Do Not Clearly Allow a Bachelor's Degree in Any Field

A petitioner must demonstrate a beneficiary's possession of all job requirements by a petition's priority date. *Matter of Wing's Tea House*, 16 I&N Dec.158, 160 (Acting Reg'l Comm'r 1977). When assessing a beneficiary's qualifications, U.S. Citizenship and Immigration Services (USCIS) must examine the job-offer portion of an accompanying labor certification to determine a job's minimum requirements. The Agency may neither ignore a certification term nor impose an unstated requirement. *See, e.g., Madany v. Smith*, 696 F.2d 1008, 1015 (D.C. Cir. 1983) (holding that "DOL bears the authority for setting the *content* of the labor certification) (emphasis in original).

The Petitioner's labor certification states the offered job's primary requirements as a U.S. bachelor's degree or a foreign equivalent degree in "Elementary Education" and two years' experience in the job offered. In response to Question H.8 of the labor certification, "Is there an alternate combination of education and experience that is acceptable?" the school checked the box marked "Yes." In response to Questions H.8-A and H.8-C, the school listed the job's alternate requirements as a bachelor's degree and two years' experience.

The job's alternate requirements contain the same degree and experience criteria as listed in the job's primary requirements. According to the Petitioner, the alternate requirements "logically notif[y] the adjudicator [that] an alternative field of study is contemplated for the required Bachelor's degree."

The school argues that, otherwise, it would have had no need to list alternate requirements. Further, because the labor certification application form lacks designated space to list an alternate degree's field, the school asserts that the certification indicates its acceptance of an alternate degree in any field.

The Petitioner argues that our nonrecognition of an alternate degree requirement in any field:

> reads the responses [to Questions H.8, H.8-A, and H.8-C on the labor certification] out of the form in their entirety. Put another way, the USCIS interpretation effectively says the alternative requirements are the same as the primary requirements at responses [to Questions H.4 and H.4-B]. But if [the Petitioner] intended not to have an alternative education and experience combination . . ., it would simply have indicated "No" [in response to Question H.8] and that would have been the end of it.

The Petitioner's argument, however, effectively asks us to ignore other labor certification terms. When interpreting a labor certification, we review the document in its entirety. *See Matter of Credent Techs., LLC*, 2014-PER-00065, *7 (BALCA Feb. 27, 2018) ("[r]eading the [labor certification] form as a whole" to determine a provision's application to a job's alternate, rather than primary, requirements). In response to Question H.4-B of the labor certification, the school specified the offered job's need for a bachelor's degree in "Elementary Education." In response to Question H.7, "Is there any alternate field of study that is acceptable?" the school checked the box marked "No." The Petitioner has not explained why – if it intended to accept a bachelor's degree in any field – it specified "Elementary Education" as the degree's exclusive field. The Petitioner's motion does not address this issue, casting doubt on the school's claimed acceptance of a bachelor's degree any field. *See Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988) (requiring a petitioner to resolve inconsistencies of record with independent, objective evidence pointing to where the truth lies).

The Petitioner contends that "it was clearly [its] intention from the beginning that the educational requirement be a Bachelor's degree in any field." The school points to its request for a prevailing wage determination, *see* 20 C.F.R. § 656.40, and its recruitment materials during the labor certification application process, *see* 20 C.F.R. § 656.17(e), noting that these documents do not expressly limit the offered job's required bachelor's degree to the elementary education field.

USCIS, however, must determine an offered job's minimum requirements based on a petitioner's statements in the offered job portion of its labor certification application. "The job requirements, as described [on a labor certification application], must represent the employer's actual minimum requirements for the job opportunity." 20 C.F.R. § 656.17(i)(1); *see also Rosedale & Linden Park Co. v. Smith*, 595 F. Supp. 829, 833 (D.D.C. 1984) ("The Court – like the [immigration service] – must examine the certified job offer exactly as it is completed by the prospective employer.")

For the foregoing reasons, the Petitioner has not demonstrated that the offered job has an alternate educational requirement allowing a bachelor's degree in any field.

B. The Job's Educational Requirement Was Not Ambiguous

"[I]n interpreting the labor certification, the agency must start with the plain meaning of the petitioner's language, if such exists." *SnapNames.com, Inc. v. Chertoff*, No. CV 06-65-MO, 2006 WL

3491005, at *6 (D. Or. Nov. 30, 2006). As previously indicated, in response to Question H.4-B of the labor certification, the Petitioner specified the offered job's need for a bachelor's degree in "Elementary Education." In response to Question H.7, "Is there any alternate field of study that is acceptable?" the school checked the box marked "No." The labor certification therefore unambiguously states the job's need for a bachelor's degree in elementary education.

The Petitioner argues that, by listing the alternate bachelor's degree requirement without limiting the field of study to elementary education, the labor certification "create[d], at a minimum, an ambiguity in the educational requirements for the position." The school contends that it would not have rationally listed an alternate degree requirement identical to the primary degree requirement.

But, again, if the Petitioner accepted a bachelor's degree in any field for the job, why – when asked in Question H.4-B for the degree's "Major field of study" – did the school not simply indicate "Any"? It makes no sense that the school would clearly specify the exclusive field of "Elementary Education" only to – in a cryptic alternate educational requirement – indicate its acceptance of a bachelor's degree in any field. We therefore do not find the job's educational requirement to contain an ambiguity.

ORDER: The motion to reconsider is dismissed.