U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF K- LLC

DATE: JUNE 26, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, an operator of a preschool, seeks to employ the Beneficiary as a teacher. It requests her classification under the third-preference immigrant category as a skilled worker. Immigration and Nationality Act (the Act) section 203(b)(3)(A)(i), 8 U.S.C. § 1153(b)(3)(A)(i). This employment-based, "EB-3" category allows a U.S. business to sponsor a foreign national with at least two years of training or experience for lawful permanent resident status.

The Director of the Texas Service Center denied the petition. The Director concluded that the Petitioner did not demonstrate the Beneficiary's possession of the minimum education required for the offered position or the company's required ability to pay the proffered wage.

On appeal, the Petitioner submits additional evidence and asserts that the record demonstrates the Beneficiary's qualifications for the offered position and the company's ability to pay.

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

The Director found that, contrary to the requirements stated on the accompanying certification from the U.S. Department of Labor, the record did not establish the Beneficiary's foreign degree as the equivalent of a U.S. associate's degree in a required field. On appeal, the Petitioner submitted extensive evidence to demonstrate that the Beneficiary's foreign educational credential is in fact the foreign equivalent degree of a U.S. associate's degree and that it is in a field required by the labor certification. As such, we find that a preponderance of evidence establishes the Beneficiary's possession of the minimum education required for the offered position.

Also, the record on appeal establishes that the Petitioner either paid the Beneficiary more than the proffered wage or had sufficient net income or net current assets to pay the proffered wage for the years in question. The Petitioner therefore has demonstrated its ability to pay the proffered wage.

ORDER: The appeal is sustained.

Cite as *Matter of K- LLC*, ID# 1237609 (AAO June 26, 2018)